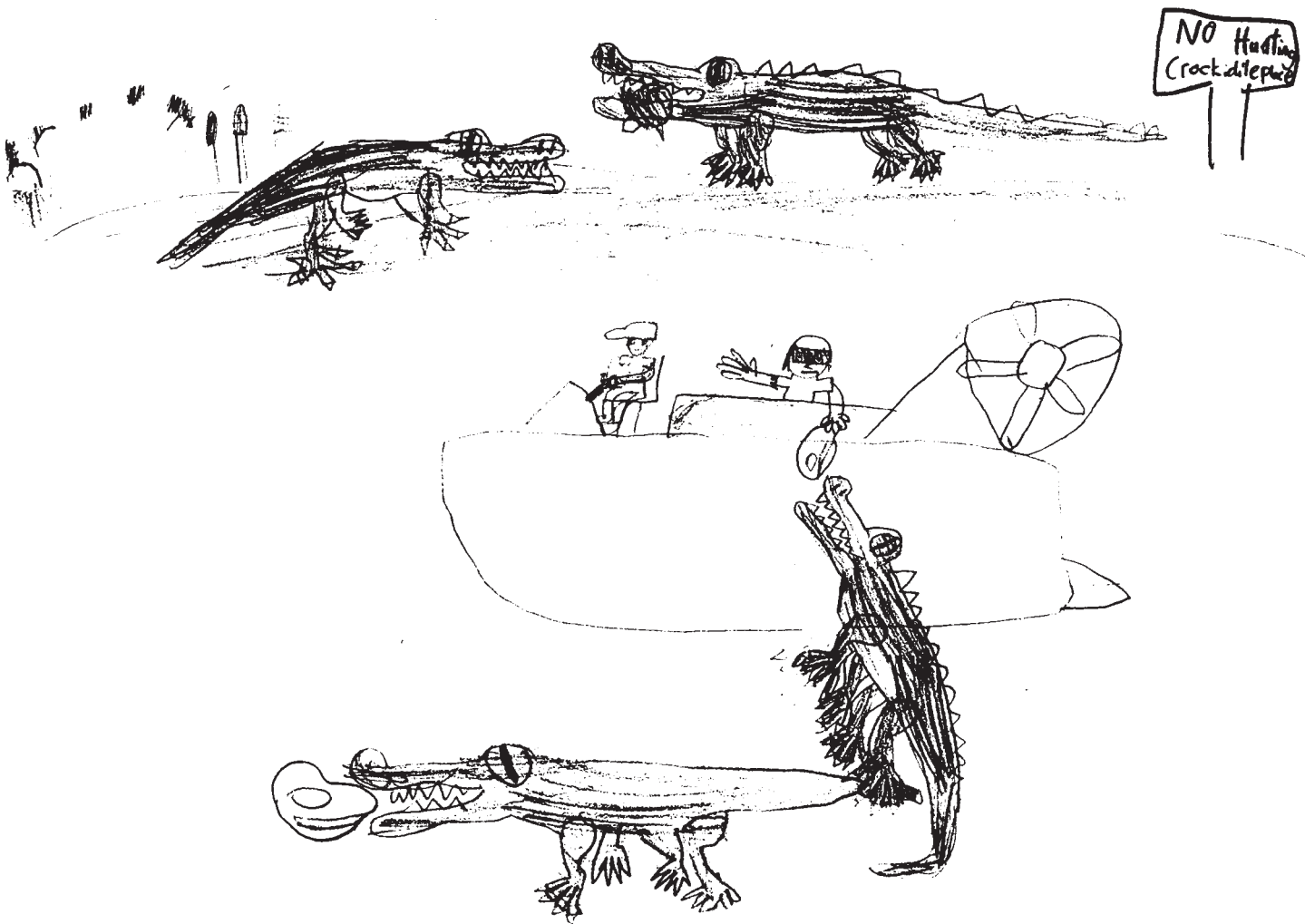


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# TEXAS REGISTER

*Volume 25 Number 2 January 14, 2000*

*Pages 249-326*



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***Artist: Garrett Rhodes***

***3rd Grade***

***Eustace Int. School***

School children's artwork has decorated the blank filler pages of the *Texas Register* since 1987. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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# OFFICE OF THE ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open records decisions are summarized for publication in the *Texas Register*. The attorney general responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the attorney general unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. You may view copies of opinions at <http://www.oag.state.tx.us>. To request copies of opinions, please fax your request to (512) 462-0548 or call (512) 936-1730. To inquire about pending requests for opinions, phone (512) 463-2110.

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## Open Records Request

Parties interested in submitting a brief to the Attorney General concerning this ORQ are asked to please submit the brief no later than February 4, 2000.

**ORQ-48.** NOT A LIVE REQUEST: No requestor. Pursuant to §552.011 of the Texas Government Code, in order to maintain uniformity in the application, operation and interpretation of the Public Information Act, this office will prepare and publish a formal decision on the following issue. RE: If a governmental body seeks an attorney general decision under Texas Government Code §552.301, and if the responsive information (or a portion of the responsive information) is confidential by law but the governmental body fails to raise or brief the exception, what is the proper role of the Office of the Attorney General in raising, evaluating or applying the confidentiality exception? (ID# 132784)

TRD-200000052

Elizabeth Robinson  
Assistant Attorney General  
Office of the Attorney General  
Filed: January 5, 2000



## Opinions

**Opinion #JC-0156.** The Honorable Susan D. Reed, Bexar County, Criminal District Attorney, 300 Dolorosa, Fifth Floor, San Antonio, Texas, 78205-3030, regarding whether a county clerk must accept for filing a "declaration of domestic partnership". (RQ-0084-JC)

**Summary.** "Declarations of domestic partnership" are not "documents required or permitted by law to be recorded." Texas Local Government Code Annotated 192.001 (Vernon 1999). Accordingly, county clerks are not required to accept them for recording.

**Opinion #JC-0157.** The Honorable Edwin E. Powell, Jr., Coryell County Attorney, P.O. Box 796 113, South Seventh Street, Gatesville, Texas, 76528, regarding as to when a county "initially" begins collecting fees and costs pursuant to §51.702 of the Government Code for purposes of the statutory county court judges salary formula of §25.0005(e). (RQ-0093-JC)

**Summary.** A county that wishes to use the salary formula for statutory county court judges set out in §25.0005(e) of the Government Code must, not later than September 1 of the year in which the county initially begins collecting fees and costs under §51.702, increase the salary of each statutory county court judge in the county to an amount that is at least \$28,000 more than the salary the judge was entitled to on May 1 of that year. The term "initially" for purposes of §25.0005(e) means the very first year that a court begins collecting fees and costs upon approval of the collection by the county commissioners court pursuant to §51.702 of the Government Code, even if the court reapproves collection in subsequent years.

**Opinion #JC-0158.** The Honorable Edwin E. Powell, Jr., Coryell County Attorney, P.O. Box 796, Gatesville, Texas, 76528, regarding the allocation by county of fees and costs collected pursuant to §51.702 of the Government Code. (RQ-0094)

**Summary.** Judges' salaries are a court-related purpose for the support of the judiciary for which funds collected pursuant to §51.702 of the Government Code and distributed to a county by the state in accordance with §25.0016 of the Government Code may be used. A county that wishes to compensate a statutory county court judge using the salary formula set out in §25.0005(e) of the Government Code must use at least 50% of the funds distributed to the county pursuant to §25.0016 of the Government Code for statutory county court judges' salaries.

**Opinion #JC-0159.** The Honorable Stephen H. Smith, District Attorney, 119th Judicial District, 124 West Beauregard, San Angelo,

Texas, 76903, regarding the salary of County Court-at-Law Judge in Tom Green County. (RQ-0095-JC)

**Summary.** A county that opts to collect the court costs and fees authorized by §51.702 of the Government Code must set salaries for its county court-at-law judges according to §25.0005(a) of the Government Code, unless the county sets the salaries according to the requirements of §25.0005(e). One requirement of §25.0005(e) is that the county use for the salaries of statutory county court judges at least 50% of certain amounts received from the state each year. Tom Green County, which collects the fees authorized by §51.702 of the Government Code, did not use any of the receipts from the state for the salaries of county court-at-law judges in fiscal years 1997 and 1998. The county therefore did not meet the requirements of §25.0005(e) of the Government Code for those fiscal years. It may not now, after the close of those fiscal years, bring the salaries for those years into compliance with §25.0005(e) of the Government Code by applying 50% of the receipts to salaries paid in those years. The county court-at-law judges of Tom Green County are entitled to receive as salary for fiscal years 1997 and 1998 the amounts required by §25.0005(a) of the Government Code.

**Opinion #JC-0160.** The Honorable Debra Danburg, Chair, Committee on Elections, Texas House of Representatives, P.O. Box 2910, Austin, Texas, 78768-2910, regarding whether an ad hoc intergovernmental working group is subject to the Open Meetings Act, Chapter 551 of the Government Code. (RQ-0096-JC)

**Summary.** An ad hoc intergovernmental working group consisting of non-elected public officials, and whose purpose is to confer with private legal counsel hired by each governmental body regarding the sales and foreclosures of tax judgments on delinquencies within their overlapping jurisdictions, is not as a matter of law a "governmental body" for purposes of the Open Meetings Act.

**Opinion #JC-0161.** Mr. Vernon M. Arrell, Commissioner, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin, Texas, 78751-2399, regarding whether the Texas Council for Developmental Disabilities may engage in lobbying activities. (RQ-0085-JC)

**Summary.** The Texas Council for Developmental Disabilities is a state agency that uses money appropriated by the Legislature. In accordance with the lobbying restrictions of the General Appropriations Act and Chapter 556 of the Government Code, the Council may use appropriated money to provide information to policymakers or to provide information responsive to a request from policymakers. The Council may not, however, use appropriated money to influence the passage or defeat of any legislative measure.

**Opinion #JC-0162.** Mr. G. Granger MacDonald, President, Board of Directors, Upper Guadalupe River Authority, 125 Lehmann Drive, Suite 100, Kerrville, Texas, 78028-5908, regarding whether the Upper Guadalupe River Authority is authorized to compel septic tank users to connect to a sewage disposal system, and related questions; reconsideration of Attorney General Opinion JM-961 (1988). (RQ-0110-JC)

**Summary.** The Upper Guadalupe River Authority is not authorized to compel septic tank users to connect to a sewage disposal system. The River Authority may operate a system serving city residents under contract with a municipality, provided that the municipality does not delegate any of its governmental powers. The municipality may require septic tank users within its jurisdiction to connect to the system. Attorney General Opinion JM-961 (1988) is affirmed. Recently enacted Senate Bill 821, which adds §412.016 to the Local Government Code, does not authorize a county to compel septic tank

users in unincorporated areas of the county to connect to a sewage disposal system. See Act of May 11, 1999, 76th Legislature, Regular Session, Chapter 191, 1, §412.016, 1999 Tex. Sess. Law Serv. 668; Texas Local Government Code Annotated §412.016 (Vernon Supp. 2000).

**Opinion #JC-0163.** The Honorable James Eidson, Taylor County, Criminal District Attorney, 300 Oak Street Abilene, Texas, 79602-1577, regarding whether a county or district clerk may withhold fee from funds deposited as cash bail bond. (RQ-0113-JC)

**Summary.** Section 117.055 of the Local Government Code authorizes a county or district clerk to withhold an administrative fee from the return of funds deposited with the clerk as a cash bail bond pursuant to article 17.02 of the Code of Criminal Procedure.

TRD-9909087

Elizabeth Robinson

Assistant Attorney General

Office of the Attorney General

Filed: December 30, 1999

◆ ◆ ◆

**Opinion Number JC-0164 (RQ-0072-JC).** Requested by The Honorable Tony Garza, Chair, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas, 78711-2967, concerning whether the Railroad Commission's regulatory definition of "unacceptable unsafe location" is inconsistent with the Texas Aggregate Quarry and Pit Act, chapter 133 of the Natural Resources Code, to the extent the rule includes any pit within 200 feet of a roadway edge, and related question.

**Summary.** Title 16, §11.1004(30)(C) of the Texas Administrative Code, which defines the term "unacceptable unsafe location" for purposes of the Texas Aggregate Quarry & Pit Safety Act, chapter 133 of the Natural Resources Code, reasonably construes the Act to state that an inactive pit, the edge of which is located within 200 feet of the edge of a public roadway but beyond 200 feet from a public road intersection, constitutes a substantial dangerous risk to the driving public. Consequently, where the substantial dangerous risk may be "rectified" by the construction of safety barriers, the Commission may determine as a matter of law that such inactive pits are in an unacceptable, unsafe location. With respect to inactive quarries and pits, the Act applies only to sites that include an industrial aggregate extraction plant.

TRD-200000060

Elizabeth Robinson

Assistant Attorney General

Office of the Attorney General

Filed: January 5, 2000

◆ ◆ ◆

#### Request for Opinions

**RQ-0166-JC.** Requested by The Honorable Michael G. Mask, Jack County Attorney, 100 Main Street, Jacksboro, Texas, 76458, concerning state-mandated salary supplement for county judge. (Request Number 0166-JC)

#### Briefs requested by February 5, 2000

**RQ-0167-JC.** Requested by The Honorable William C. Sowder, Lubbock County Criminal District Attorney, 904 Broadway, Second Floor, Lubbock, Texas, 79401, concerning responsibility for burial of indigent persons. (Request Number 0167-JC)

#### Briefs requested by February 4, 2000

TRD-20000061  
Elizabeth Robinson  
Assistant Attorney General  
Office of the Attorney General

Filed: January 5, 2000





# TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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Advisory Opinion Requests

**AOR-468.** The Texas Ethics Commission has been asked about the application of Penal Code Chapter 36 to a law firm's payment of a severance bonus or other benefit to an employee intending to leave private practice temporarily and work for a state agency.

**AOR-469.** The Ethics Commission has been asked about the application of the revolving door provision in Government Code §572.054 to a former employee of a state agency who has the opportunity to contract with a publishing company to write a book that deals with subject matter relevant to the work of the state agency. The state agency may endorse the book and, if it does, it will have the right to approve the editorial content of the book.

**AOR-470.** The Texas Ethics Commission has been asked to consider whether an individual who makes a gift to charity in the name of a legislator or other public official is providing a "benefit" to the public official for purposes of Penal Code Chapter 36.

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

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

TRD-9909092

Tom Harrison  
Executive Director

Texas Ethics Commission

Filed: December 31, 1999



Opinions

**EAO-423.** Whether a legislator may use political contributions to pay the costs associated with membership in a nonprofit organization that helps its members develop leadership skills. (AOR-466)

**SUMMARY.** A legislator may use political contributions to pay the costs of membership in an organization that helps its members acquire leadership skills if the legislator's primary purpose in joining the organization is to facilitate legislative work.

**EAO-424.** Whether §255.001 of the Election Code requires that a political advertising disclosure statement be placed on candy wrappers printed with a candidate's political slogan. (AOR-467)

**SUMMARY.** Section 255.001 of the Election Code does not require that small candy wrappers imprinted with a candidate's political slogan include a political advertising disclosure statement.

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

TRD-9909091

Tom Harrison  
Executive Director  
Texas Ethics Commission  
Filed: December 31, 1999



# EMERGENCY RULES

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing and remaining in effect no more than 120 days. The emergency action is renewable once for no more than 60 additional days.

**Symbology in amended emergency sections.** New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

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**TITLE 22. EXAMINING BOARDS**

**Part 23. TEXAS REAL ESTATE COMMISSION**

**Chapter 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS**

**22 TAC §§537.11, 537.43, 537.44**

The Texas Real Estate Commission is renewing the effectiveness of the emergency adoption of amended §§537.11, 537.43, 537.44, for a 2-day period. The text of amended §§537.11,

537.43, 537.44 was originally published in the September 3, 1999, issue of the *Texas Register* (24 TexReg 6916).

Filed with the Office of the Secretary of State, on December 29, 1999.

TRD-9909068

Mark A. Moseley

General Counsel

Texas Real Estate Commission

Effective date: December 29, 1999

Expiration date: December 31, 1999

For further information, please call: (512) 465-3900



# WITHDRAWN RULES

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An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

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**TITLE 22. EXAMINING BOARDS**

**Part 9. TEXAS STATE BOARD OF MEDICAL EXAMINERS**

**Chapter 167. REINSTATEMENT**

**22 TAC §§167.4-167.6**

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.65(c)(2), the proposed new sections, submitted by the Texas State Board of Medical Examiners have been automatically withdrawn. The new sections as proposed appeared in the July 2, 1999 issue of the *Texas Register* (24 TexReg 4956).

Filed with the Office of the Secretary of State on January 4, 2000.

TRD-200000012



**Part 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY**

**Chapter 507. EMPLOYEES OF THE BOARD**

**22 TAC §507.6**

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.65(c)(2), the proposed new section, submitted by the Texas State Board of Public Accountancy has been automatically withdrawn. The new section as proposed appeared in the June 25, 1999 issue of the *Texas Register* (24 TexReg 4696).

Filed with the Office of the Secretary of State on January 4, 2000.

TRD-200000013



**22 TAC §507.7**

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.65(c)(2), the proposed new section, submitted by the Texas State Board of Public Accountancy has been automatically withdrawn. The new section as proposed appeared in the June 25, 1999 issue of the *Texas Register* (24 TexReg 4697).

Filed with the Office of the Secretary of State on January 4, 2000.

TRD-200000014



**22 TAC §507.8**

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.65(c)(2), the proposed new section, submitted by the Texas State Board of Public Accountancy has been automatically withdrawn. The new section as proposed appeared in the June 25, 1999 issue of the *Texas Register* (24 TexReg 4698).

Filed with the Office of the Secretary of State on January 4, 2000.

TRD-200000015



# ADOPTED RULES

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An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

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## TITLE 1. ADMINISTRATION

### Part 4. OFFICE OF THE SECRETARY OF STATE

#### Chapter 96. ELECTRIC UTILITY TRANSITION PROPERTY NOTICE FILINGS

##### Subchapter A. GENERAL PROVISIONS

###### 1 TAC §§96.1-96.6

The Office of the Secretary of State adopts new Chapter 96, Subchapter A, §§96.1-96.6, relating to electric utility transition property notice filings filed with the secretary of state, with changes to §§96.1-96.3 and without changes to the proposed text of §§96.4-96.6 as published in the November 12, 1999 issue of the *Texas Register* (24 TexReg 9895).

The new sections are adopted in order to implement the new filing responsibilities imposed under Senate Bill 7, as enacted by the 76th Legislature, 1999 [Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Texas Utility Code Annotated §39.309)]. Subchapter A contains general provisions relating to the filing of a transition property notice. New §96.1 defines terms used within the chapter. New §96.2 provides address information and hours of operation of the filing office. New §96.3 relates to document delivery and date and time of filing. New §96.4 describes what is considered a standard form and a nonstandard form. New §96.5 establishes the fees for filings, information requests and copies. New §96.6 sets forth the policy regarding underpayment and overpayment of fees.

Written comments and recommendations were received from Neil D. Anderson and Jody Roberts of Worsham, Forsyth & Wooldridge, L.L.P. and Hugh Dougan of Winthrop, Stimson, Putnam & Roberts. The written comments had the concurrence of Worsham, Forsyth & Wooldridge, L.L.P., Thelen, Reid & Priest, counsel to TXU Electric Company, Sidley & Austin, counsel to CSW and Williams & Anderson, counsel to Entergy Gulf States, Inc.

The commenters expressed concern regarding some of the definitional sections found in the new chapter. Specifically, the commenters suggested that the definitions of "filing" and "filing date" contained in §96.1 and the definition of filing contained in §96.60, were inconsistent and implied a procedural gap in the filing process that would not be suitable for implementing the financing needs of Subchapter G of the Utilities Code. In order to eliminate this perceived procedural gap, it was

suggested that an additional provision was needed to clarify that the filing officer could not refuse an indexed document. In addition, the commenters believed that, in the interest of clarity, the definitional section should include a definition of the term "person", and that the definition of the term "transition property notice" should contain a cross-reference to the relevant sections contained in new Subchapter D of these rules. The commenters also remarked upon an apparent error in the definition of "termination notice" regarding an inappropriate use of the term "assignee".

While the secretary of state believes that the definition of filing contained in §96.60 reflects the process by which the filing officer accepts a document for purposes of filing, the secretary of state agrees to modify the definitional sections to eliminate any unintended implication of a procedural gap or uncertainty in the filing process. With these modifications it is believed that the inclusion of an additional provision regarding the refusal of an indexed document is unnecessary. The secretary of state also agrees that the addition of a cross-reference in the definition of "transition property notice" may further clarify the defined term and has revised §96.1 accordingly. The secretary of state has included a definition of the term "person" suggested by the commenters and renumbered the definitional sections accordingly. The secretary of state also has revised the definition of "termination notice" to delete the term "assignee."

The commenters also pointed out that although §96.2 included the place of filing in its caption, the rule did not expressly require filing at the filing office or state its location. The secretary of state has inserted the omitted language to §96.2 to make such information clear. The secretary of state also revised §96.3 to include a provision regarding receipt of payment for notices transmitted by facsimile transmission.

No comments were received with regard to new §§96.4-96.6; consequently, the text of these rules will not be republished.

The new sections are adopted under Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Texas Utility Code Annotated §39.309), which provides the secretary of state with the authority to establish and maintain a system of records for the filing of transition property notices under §39.309 of the Utilities Code and with the authority to prescribe the rules for those filings.

###### §96.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, except as the context otherwise clearly requires:

(1) "Assignee" has the meaning accorded to such term by §39.302 of the Texas Utilities Code.



(2) "Assignor" means an electric utility or other person who transfers an interest in transition property to an assignee.

(3) "Certificate" means a document establishing, based upon the file number and financing order docket number, whether there is on file with the filing officer on the date and time stated a transition property notice.

(4) "Commission" means the Public Utility Commission of Texas, including a duly appointed successor entity.

(5) "File Number" means the numerical sequence assigned to an original transition property notice filing by the filing officer for the purpose of identifying the transition property notice and all filings relating to that transition property notice in the filing officer's information management system.

(6) "Filing" means the presentation of a transition property notice or other document described in this chapter to the filing officer, which is evidenced by the indication of a file number and filing date and filing time.

(7) "Filing Date" means the date at which the filing officer receives a filing, as described by these rules.

(8) "Filing Officer" means the secretary of state, including an appointed successor entity or office.

(9) "Filing Party" means a person who makes a filing pursuant to this chapter.

(10) "Filing Time" means the time of day that a document is presented for filing at the filing office and is determined by the method of delivery.

(11) "Financing Order" has the meaning accorded to such term by §39.302 of the Texas Utilities Code.

(12) "Financing Order Docket Number" means the financing order file number established by the Public Utility Commission of Texas.

(13) "Financing Party" has the meaning accorded to such term by §39.302 of the Texas Utilities Code.

(14) "Grantor" means an electric utility or other person who grants a security interest in transition property to another person.

(15) "Person" means an individual, partnership, corporation, public authority or trust (including a business trust), unincorporated association, limited liability company, joint stock company or any other legal entity, whether public or private, existing under the laws of the State of Texas, another state, the United States, or a foreign country.

(16) "Release" means an amendment intended to indicate an action by a financing party to alter a right, duty, or obligation concerning the perfection of a security interest.

(17) "Retransfer" means an amendment intended to indicate an action by an assignee to return to an assignor all or a portion of the interest of the assignee in transition property.

(18) "Security Interest" means an interest in transition property securing the payment or performance of an obligation.

(19) "Submitter" means the person who presents or tenders a transition property notice to the filing officer for filing, whether the person is a filing party, an agent of a filing party, or a service provider acting as a filing party's representative in the filing process.

(20) "Termination Notice" means an amendment intended to indicate the termination of the interest of a financing party in the security interest.

(21) "Transition Property" has the meaning accorded to such term by §39.302 of the Texas Utilities Code.

(22) "Transition Property Notice" means (as more fully described in §§96.61-96.65):

(A) a notice of a security interest in transition property, and all amendments to such notice; or

(B) a notice of a transfer to an assignee of an interest in transition property, and all amendments to such notice.

*§96.2. Place of Filing and Filing Office Information.*

(a) A transition property notice and each document filed pursuant to this chapter shall be filed with the filing officer at the filing office by the filing party and be accompanied by the payment of any required fees. Acceptable methods of payment are the same as those identified in Chapter 95, §95.113 of this title.

(b) Information on the procedures and forms for filing pursuant to this chapter, submittals, requests, and other information or instructions can be obtained upon request directed to the Office of the Secretary of State, Statutory Filings Division, Uniform Commercial Code Section. The street and mailing addresses, telephone and fax numbers of the filing office are the same as those identified in Chapter 95, §95.104 of this title. The secretary of state will disseminate information of its location, mailing address, telephone and fax numbers, and its website and other electronic "addresses" through usual and customary means.

(c) The filing office is open to the public between the hours of 8:00 AM and 5:00 PM (CT), Monday through Friday, except for state holidays.

*§96.3. Document Delivery.*

A transition property notice filing may be presented for filing at the filing office as follows:

(1) A filing may be delivered in person at the street address of the filing office during business hours. The filing time for a transition property notice delivered in person is the time at which the filing office receives the document.

(2) A filing may be delivered by courier delivery at the street address of the filing office. The filing time for a transition property notice delivered by courier delivery is 8:00 AM (CT) the business day on which the filing office receives the delivery. A transition property notice delivered after regular business hours or on a day the filing office is not open for business will have a filing time of 8:00 AM (CT) on the next day the filing office is open for business.

(3) A filing may be delivered by postal service delivery to the mailing address of the filing office. The filing time for a transition property notice delivered by postal service delivery is 8:00 AM (CT) on the day of delivery to the filing office. A transition property notice delivered on a day the filing office is not open for business will have a filing time of 8:00 AM (CT) on the next day the filing office is open for business.

(4) A filing may be delivered by facsimile transmission to the filing office's fax filing telephone number. The filing time for a transition property notice delivered by this method is the time the document is examined by a filing officer for processing, notwithstanding the time of receipt or transmission indicated by an activity report or facsimile transmission device. Filings delivered by

facsimile transmission must be accompanied by payment of the filing fees by credit card.

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

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## Subchapter B. DUTIES OF THE FILING OFFICER

### 1 TAC §§96.20-96.23

The Office of the Secretary of State adopts new Chapter 96, Subchapter B, §§96.20-96.23, relating to electric utility transition property notice filings filed with the secretary of state, with changes to §96.21 and §96.22 and without changes to the text of §96.20 and §96.23, as published in the November 12, 1999 issue of the *Texas Register* (24 TexReg 9897).

The new sections are adopted in order to implement the new filing responsibilities imposed under Senate Bill 7, as enacted by the 76th Legislature, 1999 [Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Texas Utility Code Annotated §39.309)]. Subchapter B contains provisions relating to the duties and responsibilities of the filing officer with respect to the filing of a transition property notice. New §96.20 provides a statement of policy regarding the ministerial nature of the filing officer's duties and responsibilities. New §96.21 sets forth various duties of the filing officer. New §96.22 describes the types of forms the filing officer will prescribe and publicly disseminate. New §96.23 provides that the filing officer will deliver a copy of a filed transition property notice to the Utility Commission.

Written comments and recommendations were received from Neil D. Anderson and Jody Roberts of Worsham, Forsyth & Wooldridge, L.L.P. and Hugh Dougan of Winthrop, Stimson, Putnam & Roberts. The written comments had the concurrence of Worsham, Forsyth & Wooldridge, L.L.P., Thelen, Reid & Priest, counsel to TXU Electric Company, Sidley & Austin, counsel to CSW and Williams & Anderson, counsel to Entergy Gulf States, Inc.

The commenters strongly urged that it was the duty of the secretary of state to establish by rule a separate system of records relating to transition property notices, arguing that, from the standpoint of document security, it was undesirable to disperse the only copy of a filed transition property notice and related filings among a large body of extraneous records maintained by the secretary of state.

Although the commenters argue that §39.309(d) calls for the secretary of state to establish a physically separate system of records for transition property notices, the secretary of state must accommodate these new filings within the limitations of

the information system currently established and maintained by the secretary of state for the filing and indexing of security interests and liens. The secretary of state believes that the use of the unique transaction code (T) described in §96.21 should achieve the functional equivalent of a "separate system of records." In addition, there should not be any concern with regard to the ability to retrieve a copy of the record, as it is the practice of the secretary of state to retain a microfilm record of each document after such document has been filed and indexed in the information management system maintained by the secretary of state.

Also recommended by the commenters was the inclusion of a provision to §96.21 to clarify the duties of the filing officer regarding the indexing of subsequent notices relating to a filed transition property notice. The secretary of state agrees that such a provision would be useful and has revised §96.21 to clarify the duties of the filing officer with regard to subsequent notices relating to a filed transition property notice.

In adopting §96.22 the secretary of state deleted reference to the form identified as TPN 11. It is unnecessary to design and formulate a specific form for requesting and obtaining copies of transition property notices when the standardized form currently used to request certificates and copies of documents will be sufficient to accommodate such requests.

No comments were received with regard to §96.20 or §96.23; consequently, the text of such rules will not be republished.

The new sections are adopted under Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Texas Utilities Code Annotated §39.309), which provides the secretary of state with the authority to establish and maintain a system of records for the filing of transition property notices under §39.309 of the Utilities Code and with the authority to prescribe the rules for those filings.

#### §96.21. Duties of the Filing Officer.

(a) Provided there is no ground to refuse a transition property notice under §96.40 of this chapter (relating to Grounds for Refusal of a Transition Property Notice), the filing officer shall file a transition property notice upon receipt of the document with the filing fee and shall index the document in the information management system maintained by the filing officer. The filing officer will index the transition property notice according to the name of the grantor or assignor and will mark in the index the file number and the address of the grantor or assignor.

(b) The filing officer will maintain a unique computer index of transition property notices along with financing statements and other security interest notice filings by assignment of a unique identifying transaction code ("T").

(c) The filing officer will mark each transition property notice and each subsequent related filing (more fully described in §96.62-96.65) with a file number, indicating the date and time of filing. The record created by the filing officer for each subsequent related filing will be indexed and linked to the record of the original transition property notice by entry of the identification number of the original transition property notice.

(d) If the filing officer has received a duplicate copy of a transition property notice for such purpose, the filing officer will mark the duplicate copy with the date and time of filing and return the duplicate copy to the submitter.

(e) The filing officer will make any transition property notice and each subsequent related filing or microfilm or other photographic or electronic copy of such documents available for public inspection.

§96.22. *Forms.*

The filing officer will prescribe and disseminate forms to the public, which will include the following:

- (1) TPN 1 for use in filing a transition property notice;
- (2) TPN 3 for use in filing an amendment, assignment, release, retransfer, or termination of interest in a transition property notice;
- (3) Any established fee schedule; and
- (4) Any other forms as may be necessary to effectively and efficiently administer the filing officer's duties under §39.309 of the Texas Utilities Code and these rules.

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

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## Subchapter C. STANDARDS OF REVIEW AND INDEXING

### 1 TAC §§96.40 - 96.44

The Office of the Secretary of State adopts new Chapter 96, Subchapter C, §§96.40 - 96.44, relating to electric utility transition property notice filings filed with the secretary of state, with changes to §96.40, §96.42, and §96.44, and without changes to §96.41 and §96.43 as published in the November 12, 1999, issue of the *Texas Register* (24 TexReg 9897).

The new sections are adopted in order to implement the new filing responsibilities imposed under Senate Bill 7, as enacted by the 76th Legislature, 1999 (Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Tex. Util. Code Ann. §39.309)). Subchapter C contains provisions relating to the standards of review and indexing of a transition property notice. New §96.40 sets forth the sole grounds for refusal of a transition property notice. New §96.41 outlines the filing officer's procedure upon refusal of a document. New §96.42 sets forth the minimal information required for indexing a transition property notice. New §96.43 clarifies that the name of a grantor or assignor of record, who is not an individual, should be the full legal name of the grantor or assignor of record. New §96.44 sets forth the terms used in the information management system to identify the parties in a transition property notice.

Written comments and recommendations were received from Neil D. Anderson and Jody Roberts of Worsham, Forsyth & Wooldridge, L.L.P. and Hugh Dougan of Winthrop, Stimson, Putnam & Roberts. The written comments had the concurrence of Worsham, Forsyth & Wooldridge, L.L.P., Thelen, Reid &

Priest, counsel to TXU Electric Company, Sidley & Austin, counsel to CSW and Williams & Anderson, counsel to Entergy Gulf States, Inc.

The commenters argued that new §96.44, which relates to the identification and indexing of parties as "debtor" and "secured party," should be deleted as being incompatible with the specificity of terms used in Subchapter G of the Utilities Code and the new rules. In the alternative, the commenters suggested the addition of a provision clarifying that the use of such nomenclature was solely for the convenience of the filing officer. Due to the current parameters and limitations of the information management system, the identification and indexing of parties of record as "debtor" and "secured party" is administratively necessary. The secretary of state believes that the retention of §96.44 is important in that it informs the public that for purposes of information retrieval, the identified terms are used to identify parties in the information management system currently maintained by the filing officer. However, the secretary of state agrees with the inclusion of the suggested additional language clarifying the purpose for such nomenclature.

The comments identified an apparent duplication in §96.40(3) and (4) (relating to grounds for refusal of a transition property notice), which made the provision confusing. The secretary of state agrees that the duplication should be deleted and has revised the section accordingly. The commenters also pointed out various typographical errors and apparent omissions in §96.40 and §96.42, which have been corrected in the adoption of these sections.

No written comments were received on §96.41 and §96.43; consequently, the text of these rules will not be republished.

The new sections are adopted under Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Tex. Util. Code Ann. §39.309), which provides the secretary of state with the authority to establish and maintain a system of records for the filing of transition property notices under §39.309 of the Utilities Code and with the authority to prescribe the rules for those filings.

#### §96.40. *Grounds for Refusal of a Transition Property Notice.*

The following grounds are the sole grounds for the filing officer's refusal to issue a filing date upon receipt of a transition property notice filing. For purposes of this section, the term "legible" means a writing that is capable of being readily deciphered or read and that is capable of reproduction or interpretation by use of present technology. The term "legible" includes a machine-readable or otherwise readily decipherable electronic transmission.

(1) Grantor or Assignor Name. A transition property notice that is required to name a grantor or assignor name under §96.42 (relating to Information Required for Indexing) shall be refused if the document fails to include a legible grantor or assignor name.

(2) Financing Party or Assignee Name. A transition property notice that is required to name a financing party or assignee of record under §96.42 shall be refused if the document fails to include a legible financing party or assignee of record name.

(3) Financing Party or Assignee Address. An original transition property notice shall be refused if it fails to include a legible address for each named financing party or assignee.

(4) Lack of Identification of an Original Transition Property Notice Filing. A transition property notice, other than an

original transition property notice, shall be refused if the document's identification of the original transition property notice does not correspond to the identification number of a transition property notice in the information management system maintained by the filing officer.

(5) **Insufficient Identification of Original Transition Property Notice.** A transition property notice, other than an original transition property notice, shall be refused if it fails to identify one or more authorizing financing parties or assignees of record. A transition property notice, other than an original transition property notice, shall be refused if identification of the original transition property notice corresponds to an original transition property notice in the filing officer's index, and the document identifies as the authorizing financing party(ies) of record no financing party of record that corresponds to a financing party of record on the identified transition property notice. For this purpose, an authorizing financing party of record shall be deemed to so correspond if its name matches that of a name (ignoring punctuation and "business endings" such as "Inc.," "Co.," "Corporation," "L.P.," "LLC" and the like), or its address matches that of an address of a financing party of record on the identified transition property notice. This rule shall not provide grounds for refusal of a document if a submitter or a financing party provides a satisfactory written explanation for the discrepancy between the name of a financing party on the document and the name of a financing party on the corresponding transition property notice.

(6) **Other Required Information.** A transition property notice that does not identify itself as an original transition property notice or another type of transition property notice shall be refused.

(7) **Fee.** A document shall be refused if the document is accompanied by less than the full filing fee tendered by a method described in §95.113 of this title (relating to Methods of Payment).

#### §96.42. *Information Required for Indexing*

(a) **Original Transition Property Notice.** An original transition property notice must contain the following information for the purpose of maintaining an index of transition property notice information.

- (1) Identification of the document as a transition property notice.
- (2) The name of the grantor or assignor of record.
- (3) The name and address of the financing party or assignee of record.

(b) **Notice of Amendment of a Transition Property Notice.** An amendment of a filed transition property notice must contain the following information for the purpose of maintaining an index of transition property notice information.

- (1) Identification of the document as a notice of amendment to a transition property notice.
- (2) Identification of the original transition property notice to be amended by the notice.
- (3) The name of the financing party or assignee of record whose interest is affected by the notice of amendment.

(c) **Notice of Assignment of Interest in Transition Property.** A notice of assignment of interest in transition property must contain the following information for the purpose of maintaining an index of transition property information.

- (1) Identification of the document as a notice of assignment.

(2) A designation whether the assignment is a full or partial assignment of rights under the transition property notice. The designation shall apply only to the financing party or assignee of record affected by the notice of assignment.

(3) Identification of the original transition property notice to which the notice of assignment relates.

(4) The name of each financing party or assignee of record whose interest is to be assigned.

(5) The name and address of each transferee.

(d) **Termination Notice.** A termination notice must contain the following information for the purpose of maintaining an index of transition property information.

(1) Identification of the document as a termination notice.

(2) Identification of the original transition property notice to which the termination notice relates.

(3) The name of the financing party whose interest is terminated.

(e) **Notice of Release or Retransfer of Interest in Transition Property.** A notice of release or retransfer of interest in transition property must contain the following information for the purpose of maintaining an index of transition property notice information.

(1) Identification of the document as a notice of release or retransfer of transition property.

(2) Identification of the original transition property notice to which the notice of release or retransfer relates.

(3) The name of the financing party or assignee of record whose interest is affected by the release or retransfer.

(f) **Other Amendments.** A document intended to reflect an amendment to a filed transition property notice must contain the following information for the purpose of maintaining an index of transition property notice information.

(1) Identification of the document as an amendment to a filed transition property notice.

(2) Identification of the original transition property notice to which the amendment relates.

(3) The name of the financing party or assignee of record whose interest is affected by the amendment.

#### §96.44. *Identification and Indexing of Parties*

(a) The name of a grantor or assignor of record of a transition property notice is identified, indexed, stored and retrieved by use of the term "debtor" in the information management system maintained by the filing officer.

(b) The name of each financing party or assignee of record of a transition property notice is identified, indexed, stored, and retrieved by use of the term "secured party" in the information management system maintained by the filing officer.

(c) The nomenclature used in subsections (a) and (b) of this section is solely for the convenience of the filing officer, and shall not be a factor in determining whether a particular assignment should be treated as a "true sale" or as a secured financing transaction.

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

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## Subchapter D. FILINGS

### 1 TAC §§96.60 - 96.66

The Office of the Secretary of State adopts new Chapter 96, Subchapter D, §§96.60 - 96.66, relating to electric utility transition property notice filings filed with the secretary of state, without changes to §96.66 and with changes to the proposed text of §§96.60, 96.61, 96.62, 96.63, 96.64, and 96.65 as published in the November 12, 1999, issue of the *Texas Register* (24 TexReg 9901).

The new sections are adopted in order to implement the new filing responsibilities imposed under Senate Bill 7, as enacted by the 76th Legislature, 1999 (Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Tex. Util. Code Ann. §39.309)). Subchapter D contains provisions relating to a transition property notice, and all amendments to such notice. New §96.60 describes when a filing is made. New §96.61 sets forth the information contained in a transition property notice. New §96.62 provides that a transition property notice may be amended to reflect a change to information relating to the transition property notice amended and provides the information required for an amendment. New §96.63 relates to the assignment of all or a part of the rights of a financing party or assignee of record under a transition property notice and sets forth the information to be contained in the notice of assignment. New §96.64 provides that a financing party or an assignee of record may release or retransfer all or a part of its interest in transition property and sets forth the information to be contained in the notice evidencing such release or retransfer. New §96.65 relates to the information to be contained in a notice of termination of interest in transition property. New §96.66 provides that a transition property notice is sufficient even if it contains minor errors that are not seriously misleading.

Written comments and recommendations were received from Neil D. Anderson and Jody Roberts of Worsham, Forsyth & Wooldridge, L.L.P. and Hugh Dougan of Winthrop, Stimson, Putnam & Roberts. The written comments had the concurrence of Worsham, Forsyth & Wooldridge, L.L.P., Thelen, Reid & Priest, counsel to TXU Electric Company, Sidley & Austin, counsel to CSW and Williams & Anderson, counsel to Entergy Gulf States, Inc.

The commenters expressed concern regarding the definitions of "filing" contained within the new chapter. Specifically, the commenters suggested that the definitions of "filing" and "filing date" contained in §96.1 and the definition of filing contained in §96.60, were inconsistent and implied a procedural gap in the filing process that would not be suitable for implementing the financing needs of Subchapter G of the Utilities Code. In order to eliminate this perceived procedural gap, it was suggested

that an additional provision was needed to clarify that the filing officer could not refuse an indexed document.

While the secretary of state believes that the definition of filing contained in proposed §96.60 reflects the process by which the filing officer accepts a document for purposes of filing, the secretary of state has modified the definitional sections in an effort to eliminate any unintended implication of a procedural gap or uncertainty in the filing process. With these modifications it is believed that the inclusion of an additional provision regarding the refusal of an indexed document proposed by the commenters is unnecessary.

The commenters also advocated that the rules be changed to include a provision setting forth the required contents of a notice amending a filed transition property notice by modifying new §96.62, and that new §96.60 be revised to include a new provision regarding the duration of a transition property notice. Another desired change was the addition of a new subsection to §96.60, which would be similar to §9.402 of the Business & Commerce Code regarding filing sequence. The inclusion of the provision would facilitate the closing of financing transactions under Subchapter G of the Utilities Code. The secretary of state agrees and has revised the rules accordingly utilizing the suggested language of the commenters.

The commenters submitted for consideration a new provision relating to the effect of a possible recharacterization of a transfer of an interest in transition property. The commenters believed that such a provision would be useful and relevant to accommodate the filings contemplated under Subchapter G of the Utilities Code, which include both assignments intended to constitute a "true sale" and security interests. The secretary of state agrees to include such a provision, which is similar to §9.408 of the Business & Commerce Code as adapted to the needs of filings pursuant to Subchapter G of the Utilities Code, and has added the provision as a subsection to §96.61.

The secretary of state also has revised §96.63 to delete subsection (b)(2), which provided that the name and address of the grantor or assignor be included as information on a notice of assignment. As only a financing party or assignee of record may assign all or a part of its rights under a transition property notice, such information was superfluous to the purpose of the filing. In addition, the commenters found the wording of subsection (b)(5) confusing and suggested that the provision be reworded for purposes of clarifying the provision.

The commenters noted some omission of language in §96.64 and misplaced subsections in §96.64 and §96.65, which have been revised and corrected in the adopted sections.

No written comments were received on §96.66; consequently, the text of §96.66 is adopted without changes and will not be republished.

The new sections are adopted under Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Tex. Util. Code Ann. §39.309), which provides the secretary of state with the authority to establish and maintain a system of records for the filing of transition property notices under §39.309 of the Utilities Code and with the authority to prescribe the rules for those filings.

§96.60. *What Constitutes a Filing, Duration, and Filing Sequence.*

(a) A filing under §39.309 of the Texas Utilities Code is made when:

(1) a transition property notice is presented to and received by the filing officer; and

(2) the filing officer indicates a file number and filing date and filing time thereon.

(b) Except to the extent amended, assigned, or released pursuant to §§96.62 - 96.65, a security interest remains effective until terminated pursuant to §96.65.

(c) A transition property notice may be filed before a security interest is made or a security interest otherwise attaches or before a transfer of an interest in transition property to an assignee becomes effective.

*§96.61. Transition Property Notice.*

(a) The filing officer has promulgated a form for the filing of a transition property notice. A filing party may use the form or submit a document identified as a transition property notice that contains:

(1) The name of the grantor or assignor;

(2) The address of the grantor or assignor;

(3) A signature of the grantor or the assignor, or an authorized person acting on behalf of the grantor or assignor, unless the transition property notice states that it is being submitted in accordance with a security agreement or an agreement effecting a transfer signed by the grantor or assignor that authorizes the filing of a transition property notice by the financing party or the assignee;

(4) The name of the financing party or assignee;

(5) The address of the financing party or assignee from which information concerning the security interest or transfer of an interest in transition property may be obtained;

(6) A signature of the financing party or assignee, or an authorized person acting on behalf of the financing party or assignee;

(7) A statement setting forth whether all or a portion of the recovery permitted under the financing order (from which the transition property is derived) is covered by the transition property notice. If the portion covered by a transition property notice relates to less than all of the financing order, the portion or the amount thereof to which the transition property notice relates shall be stated;

(8) A statement of whether the transition property notice is intended to be filed to perfect a security interest in transition property or to give notice of a transfer of an interest in transition property to an assignee; and

(9) The financing order docket number from which the transition property is derived.

(b) *Effect of Possible Recharacterization.* If a filed transition property notice is intended to give notice of a transfer of an interest in transition property to an assignee, and the transfer is thereafter held for any reason or purpose to constitute the grant of a security interest in such transition property, the filed transition property notice will be considered a filing with respect to that security interest, for purposes of these regulations, from and as of the filing date of the original transition property notice, without the necessity of any amendment or other action by the parties with respect thereto.

*§96.62. Amendments to a Transition Property Notice.*

A transition property notice may be amended to change information relating to a filed transition property notice. An amendment to a transition property notice includes an assignment, release, retransfer, or termination of interest in a transition property notice. Except as more specifically provided in §96.63, §96.64, and §96.65 of

this subchapter, an amendment to a transition property notice may be made on standard form promulgated by the filing officer for evidencing a change to a transition property notice or by a document that identifies itself as an amendment to a filed transition property notice and contains:

(1) Identification of the document as a notice of amendment to a transition property notice;

(2) Identification of the original transition property notice to be amended by the notice;

(3) The name and address of the financing party or assignee of record whose interest is affected by the amendment;

(4) The name and address of the grantor or assignor;

(5) A description of the amendment to the transition property notice; and

(6) The signature of the grantor and the financing party of record, or the assignor and the assignee of record, as applicable.

*§96.63. Assignment.*

(a) *Disclosed in Transition Property Notice.* An original transition property notice signed by the financing party or assignee of record may disclose an assignment of a security interest of a financing party or of the interest of an assignee in the transition property described in the transition property notice by indicating the name and address of the transferee.

(b) *Separate Notice of Assignment.* A financing party or assignee of record may assign all or a part of its rights under a transition property notice by submitting a standard form for evidencing an amendment to a transition property notice or by submitting a copy of the assignment or a document identified as a notice of assignment that contains:

(1) The name and address of the financing party or assignee of record;

(2) The file number and the filing date of the transition property notice;

(3) The name and address of the transferee;

(4) A description of the interest in the transition property being assigned and a statement whether the interest represents an assignment of all or part of the rights of the financing party or assignee of record under the transition property notice;

(5) The financing order docket number for the financing order from which the transition property is derived; and

(6) The signature of the financing party or assignee of record.

(c) *Status of Transferee.* After the filing of an assignment under this section, the transferee becomes the financing party or assignee of record as to the interest assigned.

*§96.64. Release or Retransfer of Interest in Transition Property.*

(a) By its signed notice, a financing party of record may release, and an assignee of record may retransfer all or a part of its interest in transition property described in a filed transition property notice. The filing officer has promulgated a form for an amendment to a transition property notice that may be used to indicate a release or retransfer of interest in transition property. A filing party may use the form or submit a document identified as a notice of release or retransfer that contains:

- (1) A description of the transition property being released or retransferred;
- (2) The name and address of the grantor or assignor;
- (3) The name and address of the financing party or assignee of record;
- (4) The file number of the transition property notice to which the release or retransfer relates;
- (5) The financing order docket number for the financing order from which the transition property is derived.

(b) A notice of release or retransfer signed by a person other than the financing party or assignee of record is to be accompanied by a separate written notice of assignment of the interest in transition property signed by the financing party or assignee of record.

§96.65. *Termination Notice.*

The filing officer has promulgated a form for an amendment to a transition property notice that may be used to indicate a termination of a security interest of a financing party. A filing party may use the form or submit a document identified as a termination notice that contains:

- (1) The file number of the transition property notice issued by the filing officer;
- (2) The financing order docket number relating to such filing;
- (3) The name and address of the financing party of record whose interest is terminated;
- (4) A statement that the financing party of record no longer claims a security interest in the transition property described in the original transition property notice; and
- (5) The signature of the financing party of record whose interest is terminated.

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

Filed with the Office of the Secretary of State on December 31, 1999.

TRD-9909096  
 Jeffrey H. Eubank  
 Assistant Secretary of State  
 Office of Secretary of State  
 Effective date: January 20, 2000  
 Proposal publication date: November 12, 1999  
 For further information, please call: (512) 463-5562

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**Subchapter E. SEARCH AND INFORMATION REQUESTS**

**1 TAC §§96.80-96.82**

The Office of the Secretary of State adopts new Chapter 96, Subchapter E, §§96.80 - 96.82, relating to requests for transition property notice information made to the secretary of state, without changes to the proposed text as published in the November 12, 1999, issue of the *Texas Register* (24 TexReg 9902), and will not be republished.

The new sections are adopted in order to implement the new filing responsibilities imposed under Senate Bill 7, as enacted by the 76th Legislature, 1999 [Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Tex. Util. Code Ann. §39.309)]. New §96.80 sets forth the information to be contained in a search request for transition property notice information. New §96.81 provides that the filing officer will issue a certificate regarding the results of the search request and, upon request, will provide copies of the documents described. New §96.82 indicates that the standardized search logic applied to requests for information on Uniform Commercial Code documents will be applied to requests for transition property notice.

No written comments were received on the sections.

The new sections are adopted under Act of June 18, 1999, Chapter 405, §39, 76th Legislature, Regular Session, (to be codified at Tex. Util. Code Ann. §39.309), which provides the secretary of state with the authority to establish and maintain a system of records for the filing of transition property notices under §39.309 of the Utilities Code and with the authority to prescribe the rules for those filings.

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

Filed with the Office of the Secretary of State on December 31, 1999.

TRD-9909097  
 Jeffrey H. Eubank  
 Assistant Secretary of State  
 Office of the Secretary of State  
 Effective date: January 20, 2000  
 Proposal publication date: November 12, 1999  
 For further information, please call: (512) 463-5562

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**TITLE 10. COMMUNITY DEVELOPMENT**  
**Part 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**Chapter 1. ADMINISTRATION**

**Subchapter A. GENERAL POLICIES AND PROCEDURES**

**10 TAC §1.2**

The Texas Department of Housing and Community Affairs (Department) adopts amendment to §1.2 concerning the Department's complaint system without changes to the proposed text as published in the November 26, 1999, issue of the *Texas Register* (24 TexReg 10462).

This rule amendment changes the person to whom complaints are submitted.

No comments were received regarding adoption of this amendment.

The amended section is adopted pursuant to the Texas Government Code, §2306.066, which provides Texas Department

of Housing and Community Affairs with the authority to develop procedures by which complaints are filed with the department.

The Texas Administrative Code, Title 10, will be affected by this adopted repeal. The Texas Government Code, Chapter 2306, will not be affected by this adopted repeal.

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

Filed with the Office of the Secretary of State on December 29, 1999.

TRD-9909083

Daisy Stiner

Executive Director

Texas Department of Housing and Community Affairs

Effective date: January 18, 2000

Proposal publication date: November 26, 1999

For further information, please call: (512) 475-3726



## TITLE 16. ECONOMIC REGULATION

### Part 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

#### Chapter 77. SERVICE CONTRACT PROVIDERS

##### 16 TAC §§77.1, 77.21, 77.70, 77.80, 77.90

The Texas Department of Licensing and Regulation adopts new §§77.1, 77.21, 77.70, 77.80, and 77.90 concerning the regulation of certain service contract providers. These sections are adopted without changes to the proposed text as published in the November 26, 1999, issue of the *Texas Register* (24 TexReg 10472) and will not be republished.

These rules are adopted to implement Senate Bill 1775, Acts of the 76th Legislature, Regular Session 1999 and establish requirements and set fees necessary for the registration and regulation of certain service contract providers.

Texas Revised Civil Statutes, Article 9034 and the Texas Occupations Code, Chapter 51 provide the department with the authority to license and regulate certain service contract providers who operate in this state.

The department received one comment that was in favor of the proposed rules.

The new rules are adopted under Texas Revised Civil Statutes, Article 9034 (1999) which authorizes the Texas Department of Licensing and Regulation to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purpose of the Article.

The Articles affected by the new rules are Texas Revised Civil Statutes, Article 9034 and Texas Occupations Code, Chapter 51.

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

Filed with the Office of the Secretary of State on December 29, 1999.

TRD-9909082

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Effective date: January 18, 2000

Proposal publication date: November 26, 1999

For further information, please call: (512) 463-7348



## TITLE 28. INSURANCE

### Part 1. TEXAS DEPARTMENT OF INSURANCE

#### Chapter 21. TRADE PRACTICES

##### Subchapter O. NOTICE OF AVAILABILITY OF COVERAGE UNDER THE TEXAS HEALTH INSURANCE RISK POOL

##### 28 TAC §§21.2302 - 21.2306

The Commissioner of Insurance adopts amendments to §§21.2302 - 21.2306 concerning notice of availability of coverage under the Texas Health Insurance Risk Pool (Health Pool). Section 21.2305 is adopted with changes to the proposed text as published in the November 19, 1999, issue of the *Texas Register* (24 TexReg 10270). Sections 21.2302 - 21.2304 and 21.2306 are adopted without changes and will not be republished.

The amendments are necessary to implement House Bills 1097 and 1924 enacted during the 76th Legislative Session, 1999, which modify the definitions and notice requirements regarding the mandatory and permissive Health Pool notice provisions. Both bills amend Chapter 3, Subchapter G, Article 3.77 of the Texas Insurance Code. House Bill 1097 amended §10(a), Article 3.77 of the Insurance Code by adding a new provision for Health Pool eligibility. House Bill 1924 amended §2(7) by increasing the types of coverage that do not meet the definition of "Health Insurance" under the article. This bill also amended Article 3.77 by adding §16 which allows a health carrier to provide notification to its covered individuals regarding the existence of coverage available through the Health Pool. The amendments to the rules modify the definitions, notice requirements, and form used for notification of an individual's eligibility in the Health Pool.

The amendments to §21.2302 modify the definition of "health coverage" by adding "substantially similar health coverage" to the term being defined, by clarifying that the definition is applicable only to individual coverage, and by expanding the types of coverage that do not fall under the definition. Also, a definition for a "covered individual" is added. The amendments to §21.2303 clarify instances when a health carrier is required to provide written notice of Health Pool availability to an eligible individual who has applied for health coverage from the health carrier. This section also adds a new permissive notice provision which allows a health carrier to provide its covered individuals with information about the Health Pool.

The amendments to §21.2304 reflect changes in the criteria used to determine eligibility for Health Pool coverage for the mandatory Health Pool notice provisions. Furthermore, the



amendments describe the Health Pool Notice Form provided in §21.2305, or its substitute notice provisions, that the health carrier should use when providing either the mandatory or permissive notice.

The amendments to §21.2305 modify the Health Pool Notice Form. The changes in this section are necessary to comply with legislative amendments concerning eligibility for Health Pool coverage. The department corrected the address of the Risk Pool in this section based on public comment. The amendments to §21.2306 explain the different application dates that pertain to the sections.

Comment: A commenter pointed out that the address of the Texas Health Insurance Risk Pool in §21.2305(b), Figure 1 is incorrect.

Agency Response: The department agrees and has changed the address.

For with changes: Texas Health Insurance Risk Pool.

Against: None.

The amendments are adopted under the Insurance Code, Article 3.77 and §36.001 (former Article 1.03A). Article 3.77 §8 provides that the commissioner may adopt rules as are necessary and proper to implement the article. Article 3.77 §16(b) states that an insurer providing notice under §16(a) shall provide such notice as prescribed by the commissioner and that the commissioner may promulgate rules to implement this section. Section 36.001 provides that the Commissioner of Insurance may adopt rules necessary for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by statute.

§21.2305. *Form.*

(a) Form Health Pool Notice is included in subsection (b) of this section in its entirety and has been filed with the Office of the Secretary of State. The address and phone numbers are variable to encompass any future changes. The form can be obtained from the Texas Department of Insurance, Life/Health Division, MC 106-1A, P.O. Box 149104, Austin, Texas 78714-9014.

(b) Form Health Pool Notice, Figure 1:  
Figure: 28 TAC §21.2305(b)

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 3, 2000.

TRD-200000002

Lynda Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 23, 2000

Proposal publication date: November 19, 2000

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



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part 1. TEXAS DEPARTMENT OF HUMAN SERVICES

## Chapter 18. NURSING FACILITY ADMINISTRATORS

The Texas Department of Human Services (DHS) adopts the repeal of §§18.3 - 18.10 and §§18.15 - 18.16 and new §§18.3 - 18.10 and §§18.15 - 18.16 without changes to the proposed text published in the November 12, 1999, issue of the *Texas Register* (24 TexReg 9971).

The repeals and new sections are justified in that they will ensure that applicants attain the necessary academic and clinical training in long term care administration and ensure that currently licensed administrators maintain the necessary skills and competency to care for the elderly and disabled population. The adopted rules will help ensure the protection, health, and safety of all individuals residing in nursing facilities.

The new sections will function by increasing the late renewal and reinstatement of licensure fees as required by Senate Bill 374, passed during the 76th Regular Session of the Texas Legislature, and upgrading professional standards for licensure of nursing facility administrators. The adopted rules will no longer allow an administrator to practice with an expired license or falsely post a license during the period of expiration. An administrator that practices with an expired license will be subject to a sanction. Academic and internship waivers will no longer be granted to applicants. Nursing facility administrators must still acquire 40 hours of continuing education biennially, but will no longer have to complete a specific number of hours in a prescribed category. The nursing facility administrator must now complete 40 hours of continuing education in ethics and one or more of the five domains of the National Association of Boards of Examiners of Long Term Care Administrators, Inc. (NAB). Effective January 1, 2000, all continuing education provided to nursing facility administrators must be approved by the National Continuing Education Review Services (NCERS), an affiliate of the NAB. The adopted amendments also require an administrator to report a change of home and employment address to DHS if employed by a nursing facility within 30 days, or the administrator may be subject to the imposition of a sanction. Additionally, the adopted amendments update the requirements for default orders and licensure criteria for persons with criminal backgrounds.

The department received one written comment during the comment period which addressed items that pertain to issues not involved with this particular set of rules, and thus are not discussed herein. The commenter was the Texas Association of Residential Care Communities.

#### 40 TAC §§18.3-18.10, 18.15, 18.16

The repeals are adopted under the Texas Health and Safety Code, Chapter 242, Subchapter I, (Nursing Facility Administration, §§242.301, added by Acts 1997, 75th Legislature, Chapter 1280, §1.01), which authorizes the department to license nursing facility administrators.

The repeals implement the Texas Health and Safety Code, Chapter 242.302, as added by Acts 1997, 75th Legislature, Chapter 1280, §1.01.

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

Filed with the Office of the Secretary of State on December 30, 1999.

TRD-9909088  
Paul Leche  
General Counsel, Legal Services  
Texas Department of Human Services  
Effective date: February 1, 2000  
Proposal publication date: November 12, 1999  
For further information, please call: (512) 438-3108



The new sections are adopted under the Texas Health and Safety Code, Chapter 242, Subchapter I, (Nursing Facility Administration, §§242.301, added by Acts 1997, 75th Legislature, Chapter 1280, §1.01), which authorizes the department to license nursing facility administrators.

The new sections implement the Texas Health and Safety Code, Chapter 242.302, as added by Acts 1997, 75th Legislature, Chapter 1280, §1.01.

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

Filed with the Office of the Secretary of State on December 30, 1999.

TRD-9909089  
Paul Leche  
General Counsel, Legal Services  
Texas Department of Human Services  
Effective date: February 1, 2000  
Proposal publication date: November 12, 1999  
For further information, please call: (512) 438-3108



# == REVIEW OF AGENCY RULES ==

This Section contains notices of state agency rules review as directed by the 75th Legislature, Regular Session, House Bill 1 (General Appropriations Act) Art. IX, Section 167. 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.

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## Proposed Rule Reviews

Texas Commission for the Blind

### Title 40, Part 4

The Texas Commission for the Blind files this notice of its intent, beginning February 1, to review all sections in Chapter 164 pertaining to Independent Living Program in accordance with the Appropriations Act, Article IX, §167, passed by the 75th Texas Legislature (1997), and now found in Article IX, §9-10.13, passed by the 76th Texas Legislature (1999).

The Commission will be considering whether the reasons for adopting these rules still exist and whether amendments are needed. The public is invited to make comments on the rules as they stand in the Title 40 of the Texas Administrative Code, Part 4, Chapter 164. The comment period will last 30 days beginning with the publication of this notice of intention to review.

The Commission's Board will consider comments received in response to this notice at a meeting tentatively scheduled in May 2000. Any changes to the rules proposed by the Commission after considering comments received in response to this notice will appear thereafter in the proposed rules section of the *Texas Register* and will be adopted in accordance with state rule-making requirements.

Comments or questions regarding this rule review may be submitted in writing to Jean Crecelius, Policy and Rules Coordinator, Texas Commission for the Blind, P.O. Box 12866, Austin, Texas, 78711 or via facsimile at (512) 377-0682.

TRD-200000034

Terrell I. Murphy  
Executive Director  
Texas Commission for the Blind  
Filed: January 4, 2000



Texas Department of Health

### Title 25, Part 1

The Texas Department of Health (department) will review and consider for re-adoption, revision or repeal Title 25, Texas Administrative Code, Part I, Chapter 97, Communicable Diseases, Subchapter

A. Control of Communicable Diseases, §§97.1 - 97.13; Subchapter B. Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education, §§97.61 - 97.63, 97.65, 97.67, 97.71- 97.77, Subchapter C. Consent for Immunization, §§97.91 - 97.92, Subchapter D. Statewide Immunization of Children by Hospitals, Physicians, and Other Health Care Providers, §§97.101 - 97.102, Subchapter E. Provision of Anti-Rabies Biologicals, §§97.121, 97.123 - 97.125, Subchapter F. Sexually Transmitted Diseases Including Acquired Immunodeficiency Syndrom (AIDS) and Human Immunodeficiency Virus (HIV), §§97.131- 97.146, Subchapter G. Vaccination Stamps, §§97.151 - 97.156, and Subchapter H. Tuberculosis Screening for Jails and other Correctional Facilities, §§97.171 - 97.180, and 97.190 - 97.191.

This review is in accordance with the requirements of the Texas Government Code, §2001.039, the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999.

An assessment will be made by the department as to whether the reasons for adopting or readopting these rules continue to exist. This assessment will be continued during the rule review process. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the department. The review of all rules must be completed by August 31, 2003.

Comments on the review may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Linda Wiegman, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Any proposed changes to these rules as a result of the review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional 30 day public comment period prior to final adoption or repeal by the department.

TRD-200000075

Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: January 5, 2000



## Adopted Rule Review

Texas On-Site Wastewater Treatment Research Council

**Title 31, Part 9**

Pursuant to the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999 (formerly 1997 Texas General Appropriations Act, Article IX, §167), the Texas On-site Wastewater Treatment Research Council (Council) has reviewed all of its rules, which are contained in Chapter 286. No comments were received to the "Proposed Notice of Intent to Review," which was published in the October 29, 1999, issue of the *Texas Register* (24 TexReg 9653).

Except as described in the following paragraphs, the Council finds the reasons for originally adopting the rules continue to exist. The Council readopts its rules in their entirety.

The Council finds that the reasons for adopting the following rules no longer continue to exist, and the Council proposes their repeal. The proposed repeals will appear in the "Proposed Rules" section of the *Texas Register*. The rules the Council proposes to repeal are: §286.3 (relating to Meetings), §286.4 (relating to Transaction of Official Business), §286.5 (relating to Attendance), §286.6 (relating to Agendas), §286.7 (relating to Minutes), §286.8 (relating to Elections), §286.10 (relating to Committees), §286.11 (relating

to Executive Secretary), §286.12 (relating to Reimbursement for Expenses), §286.13 (relating to Official Records), §286.14 (relating to Impartiality and Non-discrimination), and §286.33 (relating to Funding).

The Council finds that the reasons for adopting the following rules continue to exist, but that they should be readopted with the Council initiated changes: Subchapter A, §286.2 (relating to Definitions); Subchapter B, §286.34 (relating to Indemnification), §286.51 (relating to Applied Research Grants), §286.52 (relating to Demonstration and Monitoring Grants), §286.53 (relating to Technology Transfer Grants), §286.74 (relating to Mailing Address), §286.91 (relating to Receipt of Proposals), §286.92 (relating to Council Review), §286.93 (relating to Discussions of Proposals), and §286.96 (relating to Awards); and Subchapter C, §286.131 (relating to Grants and Donations). The proposed changes to the rules will appear in the "Proposed Rules" section of the *Texas Register*.

TRD-200000054

Warren Samuelson

Executive Secretary

Texas On-Site Wastewater Treatment Research Council

Filed: January 5, 2000



# TABLES & GRAPHICS

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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

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FIGURE 1

**NOTICE OF AVAILABILITY OF COVERAGE UNDER THE  
TEXAS HEALTH INSURANCE RISK POOL**

**This notice is to advise you that you may be eligible for coverage from the Texas Health Insurance Risk Pool (Health Pool).**

- To be eligible for Health Pool coverage, you must have documentation of at least one of the following:
- a written refusal or rejection, based on health reasons, by a health carrier, for substantially similar individual hospital, medical, or surgical coverage.
- a certification from an agent or salaried representative of a health carrier on the Health Pool's certification form, stating that the agent or salaried representative is unable to obtain substantially similar individual hospital, medical, or surgical coverage for you from a health carrier the agent or salaried representative represents because, based on that health carrier's underwriting guidelines, you will be declined for coverage as a result of a medical condition.
- an offer of substantially similar individual hospital, medical, or surgical coverage with riders excluding certain health conditions you have (For example, a health carrier will provide coverage to you with an exclusion of coverage of your diabetes, heart disease, cancer, etc.).
- a rate quote from a health carrier offering to provide substantially similar individual hospital, medical, or surgical coverage at rates that are higher than the rates of the Health Pool.

Figure: 28 TAC 21.2305(b)

- diagnosis of one of the medical conditions specified by the Texas Health Pool Board of Directors.
- proof that health coverage has been maintained for the previous 18 months with no gap in coverage greater than 63 days, with the most recent coverage with an employer-sponsored plan, government plan, or church plan.

For additional information concerning eligibility, coverages, cost, limitations, exclusions, and termination provisions, call or write:

**Texas Health Insurance Risk Pool  
P. O. Box 6089  
Abilene, TX 79608-6089  
1-888-398-3927  
www.txhealthpool.com**

**Hearing and speech impaired users may call: 1-800-735-2989.**

This is the number for Relay Texas.

(A public service of the Texas Public Utility Commission.)

Health Pool Notice



# IN ADDITION

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The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

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## Texas Department of Agriculture

### Request for Proposals

Pursuant to the Texas Agriculture Code, §§46.001 - 46.005 and 4 Texas Administrative Code §§1.800 - 1.804, relating to agricultural projects in certain urban schools, the Texas Department of Agriculture (the department) hereby requests proposals for demonstration agricultural projects for the period of April 1, 2000, through March 31, 2001, in certain Texas urban school districts. A total amount of up to \$2,500 may be awarded to an eligible elementary school in a school year and only one grant per urban school district may be awarded.

*Eligibility.* Proposals must be submitted by a Texas public elementary school from an urban school district with an enrollment of at least 49,000 students.

*Proposal Requirements.* Each proposal must include the following: a description of the proposed project; a schedule of projected costs for the project; and a statement of the educational benefits of the project, including how the project will improve the students' understanding of agriculture. The entire proposal may not exceed six pages, including cover letter and attachments. Please send one original with ten additional copies.

All approved projects must be completed by March 31, 2001. Upon completion of the project, a project summary of the educational results of the project and pictures to document such results will be due within four weeks. The quality of these reports may be used to evaluate further funding requests. All awards will be subject to audit and periodic reporting requirements.

*Proposals should be submitted to:* Carol Funderburgh, Texas Department of Agriculture, 1700 North Congress Avenue, 9th Floor, Austin, Texas 78701. Ms. Funderburgh may be contacted by telephone at (512) 463-8536 or by fax at (512) 463-8170, for additional information about preparing the proposal. Proposals must be received by the department no later than **5:00 p.m., Central Standard Time, March 1, 2000.**

All proposals will be evaluated by community group panels appointed by the Commissioner of the Texas Department of Agriculture. These panels shall consist of representatives from the following: the urban school district submitting the request, the Texas Department of Agriculture, livestock industry, specialty crop industry, row crop

industry, horticulture industry, and the Texas Agricultural Extension Service. Proposals will be evaluated based on the requirements set forth above. The announcement of the grant awards will be made by March 31, 2000.

TRD-200000009

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Filed: January 4, 2000



## Brazos Valley Workforce Development Board

### Request for Proposal for Brazos Valley Workforce Center Operator

**Request for Proposal (RFP).** The Brazos Valley Workforce Development Board is seeking proposals for the operation and management of its workforce centers serving the following Texas counties: Brazos, Burleson, Grimes, Leon, Madison, Robertson, Washington. The Board has one certified workforce center in Bryan, Texas and seven satellite offices in Bryan, Brenham, Madisonville, Hearne, Jewett, Caldwell and Navasota.

The workforce center and satellite offices provide area residents with access to programs and services funded by the Workforce Investment Act including Worker Profiling, Temporary Assistance to Needy Families (Choices), Food Stamp Employment and Training, and Welfare to Work programs.

**Funding.** The approximate funding is \$1,798,000. Any contract resulting from the RFP will be a cost reimbursement contract, for up to 15 months with an option for renewal based upon satisfactory performance at the Board's discretion.

**Copies.** Copies of the RFP may be obtained by calling the Workforce Board at (409) 361-4520. A request for a copy of the RFP may also be faxed to (409) 361-4200.

**Deadline.** Proposals will be accepted until **Friday, February 25, 2000, at 4:00 p.m. CST.**

A bidder's conference will be held on January 25, 2000, at 10:00 a.m. at Blinn College - Townshire, 1905 South Texas Avenue, Room

37, Bryan, Texas. The bidder's conference is not mandatory but the conference will be the only opportunity for prospective bidders to ask questions concerning the RFP. All entities receiving a copy of the RFP will also receive a faxed copy of questions and answers from the bidder's conference.

The Brazos Valley Workforce Development Board reserves the right to accept or reject any or all proposals.

Contact person for the RFP process is Richard Rogers, (512) 899-3688 or email at [plannergy@aol.com](mailto:plannergy@aol.com).

TRD-200000050

Patty Groff

Interim Director

Brazos Valley Workforce Development Board

Filed: January 5, 2000

## 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 received for the following project(s) during the period of December 15, 1999, through December 21, 1999:

### FEDERAL AGENCY ACTIONS:

Applicant: Texas Department of Transportation - Brazoria County; Location: The project site is located on the Old Brazos River, mile 4.6 on Velasco Street in the City of Freeport, Brazoria County, Texas. CCC Project Number 99-0436-F1; Description of Proposed Action: The applicant proposes to construct a new fixed-span bridge to replace an existing fixed-span bridge on the same alignment. The total length of the project is 1,260 feet. The replacement bridge will be 596 feet in length and 63.8 feet wide. The construction is in a floodplain with a 100-year flood elevation of 5.5 feet above mean sea level. Low steel elevation of the proposed bridge is 21.1 feet above mean sea level. Type of Application: United States Coast Guard permit application number CGD8-18-99 under §401 of the General Bridge Act (33 U.S.C.A. §525).

Applicant: Aimcor, Inc. Location: The project site is located in the Texas City Ship Channel in Texas City, Galveston County, Texas. CCC Project Number 99-0437-F1; Description of Proposed Action: The applicant is requesting an amendment to their existing permit to allow them to construct a 55-by-55-foot crane platform, with an associated ramp located within their existing facility. No dredging or placement of fill material is proposed. Type of Application: U.S.A.C.E. permit application number 16686(07) under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403).

Applicant: Houston Marine Services, Inc. Location: The project site is located on the Houston Ship Channel approximately 0.5 mile east of the north landing of the Lynchburg Ferry in Harris County, Texas. CCC Project Number 99-0438-F1; Description of Proposed Action: The applicant is requesting an extension of time to perform their authorized work. The original permit authorized the extension of an existing bulkhead, the construction of a dock and access road, the installation of mooring and breasting dolphins, cranes, pipelines and protective structures, the placement of fill material,

and dredging. Type of Application: U.S.A.C.E. permit application number 19115(04) 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. §§125-1387).

Applicant: Barry Industrial Sand, Inc. Location: The project site is located on Lake Tristan approximately 3 1/2 miles east of the Interstate Highway 10 (IH-10) bridge over the Neches River north of IH-10 and adjacent to the westbound service road at Mile Marker 859 in Orange County, Texas. CCC Project Number 99-0439-F1; Description of Proposed Action: The applicant is requesting an extension of time to perform the authorized work. The original permit authorized the hydraulic dredging of sand from Lake Tristan. The lake is being dredged to a depth of approximately 70 feet. Type of Application: U.S.A.C.E. permit application number 20518(01) under §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Vintage Petroleum, Inc. Location: The project site is located State Tract 46 in Trinity Bay, Chambers County, Texas. CCC Project Number 99-0440-F1; Description of Proposed Action: The applicant proposes to install a 2-7/8-inch O.D. gas pipeline from their No. 1 Well in State Tract 2-3A to the existing C-1 Complex Production Platform in State Tract 46, in Trinity Bay, Chambers County, Texas. The state tracts proposed for work under this permit are not included in the Texas Antiquity Committee's list of tracts containing State Archaeological Landmarks. Therefore, the proposed activities are not likely to affect pre-20th-century shipwrecks. Type of Application: U.S.A.C.E. permit application number 09161(14)/182 under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403).

Applicant: Equilon Pipeline Company LLC; Location: The project site is located on Hillebrandt Bayou approximately 5 miles south of Beaumont and 1 mile west of Hillebrandt Road in Jefferson County, Texas. CCC Project Number 99-0441-F1; Description of Proposed Action: The applicant proposes to abandon, in place, approximately 550 feet of 12-inch steel pipeline. The pipeline will be abandoned once a new pipeline has been directionally drilled under Hillebrandt Bayou, General Permit Number 14114(04)/600. Type of Application: U.S.A.C.E. permit application number 21872 under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. 403).

Applicant: Henry R. Stevenson, Jr. Location: The project is located on Tiger Creek and associated wetlands at the 1000 block of West Freeway Boulevard situated southwest of the intersection of Interstate Highway 10 with Church Road at Latitude 30o07'06" and Longitude 94o01'58" in Vidor, Orange County, Texas. CCC Project Number 99-0442-F1; Description of Proposed Action: The applicant is seeking authorization to relocate approximately 1,500 feet of Tiger Creek and to fill approximately 10 acres of adjacent wetlands for the purpose of developing a 33.19-acre tract into a hotel, convention center, and retail sales complex. Type of Application: U.S.A.C.E. permit application number 21859 under §404 of the Clean Water Act (33 U.S.C.A. §§125-1387).

Applicant: Sanchez Oil & Gas Corporation; Location: The project is located in Burnet Bay approximately 2,700 feet west of the eastern shoreline and 3,900 feet north of the southern shoreline in Harris County, Texas. CCC Project Number 99-0443-F1; Description of Proposed Action: The applicant proposes to install, operate, and maintain structures necessary for oil/gas drilling and production for the State Lease M099150, Well Number 1. This project would include a typical drilling barge and keyway with a 240-foot by 100-foot shell or gravel foundation pad. Additional activities may include foundations for navigational aids, construction of moorings and markers, driving of test pilings and coring operations. No dredging would be required. Type of Application: U.S.A.C.E.

permit application number 21814(Rev.) 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. §§125-1387). 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 for the applications listed above may be obtained from Ms. Janet Fatheree, Council Secretary, Coastal Coordination Council, 1700 North Congress Avenue, Room 617, Austin, Texas 78701-1495, or janet.fatheree@glo.state.tx.us. Persons are encouraged to submit written comments as soon as possible within 30 days of publication of this notice. Comments should be sent to Ms. Fatheree at the above address or by fax at (512) 475-0680.

TRD-9909090  
Larry R. Soward  
Chief Clerk  
General Land Office  
Filed: December 30, 1999

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## Comptroller of Public Accounts

### Notice of Request for Proposals

**Notice of Request for Proposals:** Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces the issuance of its Request for Proposals (RFP) from qualified firms to provide duplicating and mailing services to the Comptroller. The successful respondent, if any, will provide duplicating and mailing services to the Comptroller on an as needed basis as described in the RFP. The successful respondent will begin performance of the contract on about March 1, 2000.

**Contact:** Parties interested in submitting a proposal should contact Pamela Ponder, Senior Legal Counsel, Comptroller of Public Accounts, 111 E. 17th St., Room G-24, Austin, Texas, 78744, telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP was made available for pick-up at the above-referenced address on Tuesday, January 4, 2000, after 2 p.m., Central Zone Time (CZT), and is available at such address during normal business hours. The Comptroller also made the complete RFP available electronically on the Texas Marketplace after Tuesday, January 4, 2000, 2 p.m. (CZT).

**Closing Date:** Proposals must be received in Senior Legal Counsel's Office at the address specified above no later than 2 p.m. (CZT), on February 3, 2000. Proposals received after this time and date will not be considered.

**Evaluation and Award Procedure:** All proposals will be subject to evaluation by a committee based on the evaluation criteria and procedures set forth in the RFP. The Comptroller will make the final decision.

The Comptroller reserves the right to accept or reject any or all proposals submitted. The Comptroller of Public Accounts is under no legal or other obligation to execute any contracts on the basis of this notice or the release of any RFP. The Comptroller shall pay for no costs incurred by any entity in responding to this Notice or the RFP.

**The anticipated schedule of events is as follows:** Issuance of RFP - January 4, 2000, 2 p.m. CZT; Proposals Due - February 3, 2000, 2 p.m. CZT; Contract Execution - February 25, 2000, or as soon thereafter as practical; Commencement of Work - March 1, 2000.

TRD-9909081  
David R. Brown  
Legal Counsel  
Comptroller of Public Accounts  
Filed: December 29, 1999

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## 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 01/10/00 - 01/16/00 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup>/credit thru \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.09 for the period of 01/10/00 - 01/16/00 is 18% for Commercial over \$250,000.

<sup>1</sup>Credit for personal, family or household use.

<sup>2</sup>Credit for business, commercial, investment or other similar purpose.

TRD-200000018  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: January 4, 2000

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## Deep East Texas Workforce Development Board, Inc.

### Request for Proposals

The Deep East Texas Workforce Development Board is seeking proposals from qualified organizations to provide training services for in-school and out-of-school youth ages 14 through 21 under Title I of the Workforce Investment Act. Proposals may be submitted for projects to be operated during the school year (or until June 30) and/or summer.

The Deep East Texas Local Workforce Development Board plans, oversees and evaluates employment and training services to Angelina, Jasper, Newton, Nacogdoches, Houston, Trinity, Shelby, Polk, San Augustine, San Jacinto, Sabine and Tyler Counties.

Programs funded through this RFP must attain at least one of the following outcomes for youth age's 14-18 years:

- attainment of basic skills, and as appropriate, work readiness or occupational skills
- attainment of Secondary Diploma or equivalent (GED certificate)
- placement and retention (six month) in post-secondary education, advanced training, qualified apprenticeships, military service or employment.

Programs funded through this RFP must attain at least one of the following outcomes for youth age's 19-21 years:

- entry into unsubsidized employment

- retention in unsubsidized employment six months after entry into employment
- earnings received in unsubsidized employment six months after entry into the employment.

Proposers may include other outcomes appropriate to their program.

**RFP release date:** Thursday, January 20, 2000

**Bidder's Conference:** 10:00 a.m., January 31, 2000 in Room 102 of Lufkin City Hall, 300 E. Shepherd, Lufkin, Texas. Technical assistance will be limited to information at the Bidder's Conference.

**Deadline for submission of proposals:** 12:00 Noon CST, Tuesday, February 29, 2000

Requests for copies of the RFP can be made to:

Chris Gaston, Staff Services Officer, Deep East Texas Local Workforce Development Board, Inc., 1318 S. John Redditt Drive, Lufkin, Texas 75904, (409) 639-8898, FAX: (409) 633-7491, Email: [chris.gaston@twc.state.tx.us](mailto:chris.gaston@twc.state.tx.us)

TRD-200000044

Harry Green

Executive Director

Deep East Texas Workforce Development Board, Inc.

Filed: January 5, 2000



## Texas Education Agency

Request for Applications for Cycle 2 of the Prekindergarten and Kindergarten Grant Program, Planning and Facilities Improvement Grants, School Years 1999 - 2000 and 2000 - 2001

**Eligible Applicants.** The Texas Education Agency (TEA) is requesting Cycle 2 grant applications under Request for Applications (RFA) number 701-00-018 from school districts and open-enrollment charter schools for: (1) planning grants for new prekindergarten or expanded (half-day to full-day) prekindergarten and kindergarten programs; and (2) facilities improvement grants to improve or modify existing facilities to render them age appropriate for prekindergarten and kindergarten populations. If eligible, school districts and open-enrollment charter schools may apply for both a planning grant and a facilities improvement grant. School districts and open-enrollment charter schools that received Cycle 1 prekindergarten expansion grants (expansion of half-day prekindergarten programs to a full day) are not eligible for planning grants in Cycle 2 of the Prekindergarten and Kindergarten Grant Program. They are eligible for facilities improvement grants.

**Description.** The second funding cycle of this grant program will be used to award funds for: (1) planning activities related to new and/or expanded (full-day) prekindergarten and kindergarten programs; and (2) facilities modifications to render them age-appropriate for prekindergarten and kindergarten populations. Grant awards are subject to negotiation and are at the discretion of the commissioner of education. Facilities modification grant funds may not be used to purchase portable buildings or other temporary facilities, construct new classroom space, or make cosmetic improvements.

**Objective.** The TEA's objective for this grant program is to provide funding for prekindergarten and kindergarten programs that are designed to develop the skills necessary for success in the regular public school curriculum, including language, especially the development of cognitive skills, with a focus on pre-reading, language, and mathematics.

**Future Funding Cycles.** Future funding cycles for the 2000 - 2001 school year will be used to award grants for new prekindergarten programs at campuses which previously did not offer such a program and grants to expand existing half-day prekindergarten programs to a full day. Information regarding future funding cycles of this grant program will be distributed via letter to all school district superintendents and open-enrollment charter school chief operating officers, in addition to notice in the *Texas Register*.

**Dates of Project.** The Prekindergarten and Kindergarten Grant Program (Cycle 2: Planning and Facilities Improvement Grants) will be implemented during the 1999 - 2000 and 2000 - 2001 school years. If applicable, Cycle 2 grants may be renewed for the 2000 - 2001 school year, provided all terms and conditions of 1999 - 2000 funding awards have been met and subject to continued availability of funds.

**Project Amount.** Planning grant awards will be calculated at the maximum rate of \$100 per student to be served in the prekindergarten or kindergarten program to be planned, with a minimum funding level (per school district or open-enrollment charter school) of \$10,000 and a maximum funding level of \$200,000. The maximum funding level may be exceeded in certain justified situations. Facilities improvement grants may be requested at a minimum rate of \$2,000 per classroom to be remodeled and a maximum rate of \$15,000 per classroom to be remodeled.

**Selection Criteria.** Applications must address each requirement as specified in the RFA to be considered for funding. Priority will be given to school districts and open-enrollment charter schools where student performance on the Grade 3 Texas Assessment of Academic Skills (TAAS) tests falls below the state average. If funds are available, additional priority may be given to school districts and open-enrollment charter schools that serve the highest percentages of eligible children (limited English proficient, educationally disadvantaged, and homeless). "Educationally disadvantaged" is defined as those children eligible to participate in the national free or reduced-price lunch program.

The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

**Requesting the Application.** A complete copy of RFA number 701-00-018, Prekindergarten and Kindergarten Grant Program, Cycle 2: Planning and Facilities Improvement Grants, will automatically be mailed to every school district superintendent and open-enrollment charter school chief operating officer in the state. Additional copies of the RFA may be obtained by writing to the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701; by calling the Document Control Center at (512) 463-9304; by faxing the Document Control Center at (512) 463-9811; or by e-mailing the Document Control Center at "[dcc@mail.tea.state.tx.us](mailto:dcc@mail.tea.state.tx.us)". Please refer to the RFA number (701-00-018) and title (Prekindergarten and Kindergarten Grant Program, Cycle 2: Planning and Facilities Improvement Grants) in your request. Provide your name, complete mailing address, and telephone number, including area code. The RFA for Cycle 2 of the Prekindergarten and Kindergarten Grant Program, Planning and Facilities Improvement Grants, will also be posted on the Grant Information page in the School Finance and Grants section of the TEA web site on the Internet at <http://www.tea.state.tx.us>. The RFA will be removed from the TEA web site shortly after the closing date of February 23, 2000.

**Further Information.** For clarifying information about the Cycle 2 RFA, Planning and Facilities Improvement Grants, or the Prekindergarten and Kindergarten Grant Program, contact Cathy Cox, Division of School Finance and Fiscal Analysis, Texas Education Agency, (512) 463-8994. Questions regarding prekindergarten and kindergarten curriculum and programs should be directed to Cami Jones, Curriculum and Professional Development, Texas Education Agency, (512) 463-9501. Questions regarding student eligibility for free or reduced-price lunch programs should be directed to the Division of Child Nutrition Programs, Texas Education Agency, (512) 997-6550.

**Deadline for Receipt of Applications.** Applications must be received in the Document Control Center of the Texas Education Agency by **5:00 p.m. (Central Time), Wednesday, February 23, 2000**, to be considered for funding. Faxes or electronic mail submissions will not be accepted. Funding decisions will be communicated via letter to school district superintendents and open-enrollment charter school chief operating officers.

TRD-200000049

Criss Cloudt

Associate Commissioner, Policy Planning and Research

Texas Education Agency

Filed: January 5, 2000



## Texas Department of Health

### Cancellation of a Notice of Request for Proposals for the Medical Transportation Program

The Texas Department of Health is canceling the Notice of Request for Proposals for the Medical Transportation Program that was published in the December 31, 1999, issue of the *Texas Register* (24 Tex Reg 12122), TRD No. 9908973. This was published in error because the dates have changed and will be published at a later date.

TRD-200000076

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: January 5, 2000



### Notice of Emergency Cease and Desist and Impoundment Order on Welco Incorporated

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Welco Incorporated (licensee-L04787, expired) of Lubbock to immediately cease and desist use of all licensable radioactive material it owns or possesses. The order also requires the licensee to immediately transfer, for storage or disposal, the radioactive material possessed under the license to a company authorized to possess the radioactive material. The bureau determined that continued unauthorized possession and/or use of the radioactive material without a valid license constitutes an immediate threat to public health and safety, and the existence of an emergency. The order will remain in effect until the licensee has either properly transferred or disposed of the radioactive material, and has provided the bureau with documentation on the actions taken, or has obtained a radioactive material license authorizing possession of the radioactive material.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200000038

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: January 5, 2000



### Notice of Emergency Cease and Desist Order on The Doctor's In

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered The Doctor's In (registrant-R25189) of El Paso to cease and desist performing abdomen (KUB) x-ray procedures with the Bennett x-ray unit (Model Auto-Tech; Serial Number B15672) until the exposure at skin entrance meets the Texas radiation requirements. The bureau determined that continued radiation exposure to patients in excess of that required to produce a diagnostic image constitutes an immediate threat to public health and safety, and the existence of an emergency. The order will remain in effect until the bureau authorizes the registrant to perform the procedure.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200000039

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: January 5, 2000



### Notice of Emergency Impoundment Order on Millennium Diagnostic Imaging

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Millennium Diagnostic Imaging (registrant-M00521) of Duncanville to immediately surrender to the bureau for impoundment all mammography records at or near its Arlington facility. The bureau determined that mammography exams noted in these records may not have been properly performed. Improperly performed mammograms may result in the patient(s) having precancerous or cancerous growths that have gone undetected, which prevents early treatment. This constitutes an immediate threat to public health and safety, and the existence of an emergency.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200000040

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: January 5, 2000



### Notice of Intent to Revoke the Certificate of Registration of Griffin Veterinary Hospital

Pursuant to 25 Texas Administrative Code §289.205, the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following registrant: Griffin Veterinary Hospital, Temple, R24444.

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of such radiation machine(s); order the registrant to divest himself of such equipment; and order the registrant to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Texas Health and Safety Code, Chapter 401. If the items in the complaint are corrected within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the items in the complaint are not corrected, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200000042  
Susan K. Steeg

General Counsel  
Texas Department of Health  
Filed: January 5, 2000



#### Notice of Revocation of the Certificate of Registration of Griffin Veterinary Hospital

The Texas Department of Health having duly filed complaints pursuant to 25 Texas Administrative Code §289.205, has revoked the following certificate of registration: Griffin Veterinary Hospital, Temple, R24444, December 10, 1999.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200000041  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: January 5, 2000



#### Schedules of Controlled Substances

## SCHEDULES OF CONTROLLED SUBSTANCES

PURSUANT TO THE TEXAS CONTROLLED SUBSTANCES ACT, HEALTH AND SAFETY CODE, CHAPTER 481, THESE SCHEDULES, ESTABLISHED JANUARY 1, 2000, SUPERCEDE PREVIOUS SCHEDULES AND CONTAIN THE MOST CURRENT VERSION OF THE SCHEDULES OF ALL CONTROLLED SUBSTANCES FROM THE PREVIOUS SCHEDULES AND MODIFICATIONS.

January 1, 2000

Changes to the schedules are designated by an asterisk (\*). Additional information can be obtained by contacting the Texas Department of Health, Bureau of Food and Drug Safety, 1100 West 49th Street, Austin, Texas 78756. The telephone number is (512) 719-0237 and the website address is <http://www.tdh.state.tx.us/bfds/bfds-hom.htm> .

### SCHEDULES

Nomenclature: Controlled substances listed in these schedules are included by whatever official, common, usual, chemical, or trade name they may be designated.

#### SCHEDULE I

Schedule I consists of:

- Schedule I opiates

the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Allylprodine;
- (3) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (4) Alpha-methylfentanyl or any other derivative of Fentanyl;
- (5) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide);



- (6) Benzethidine;
- (7) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (8) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]- N-phenylpropanamide);
- (9) Betaprodine;
- (10) Clonitazene;
- (11) Diampromide;
- (12) Diethylthiambutene;
- (13) Difenoxin;
- (14) Dimenoxadol;
- (15) Dimethylthiambutene;
- (16) Dioxaphetyl butyrate;
- (17) Dipipanone;
- (18) Ethylmethylthiambutene;
- (19) Etonitazene;
- (20) Etoxidine;
- (21) Furethidine;
- (22) Hydroxypethidine;
- (23) Ketobemidone;
- (24) Levophenacymorphan;
- (25) Meprodine;
- (26) Methadol;
- (27) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide), its optical and geometric isomers;
- (28) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (29) Moramide;
- (30) Morpheridine;
- (31) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (32) Noracymethadol;
- (33) Norlevorphanol;
- (34) Normethadone;
- (35) Norpipanone;

- (36) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide);
- (37) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (38) Phenadoxone;
- (39) Phenampromide;
- (40) Phencyclidine;
- (41) Phenomorphan;
- (42) Phenoperidine;
- (43) Piritramide;
- (44) Proheptazine;
- (45) Properidine;
- (46) Propiram;
- (47) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (48) Tilidine; and
- (49) Trimeperidine;

- Schedule I opium derivatives

the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;

- (14) Methyldihydromorphine;
- (15) Monoacetylmorphine;
- (16) Morphine methylbromide;
- (17) Morphine methylsulfonate;
- (18) Morphine-N-Oxide;
- (19) Myrophine;
- (20) Nicocodeine;
- (21) Nicomorphine;
- (22) Normorphine;
- (23) Pholcodine; and
- (24) Thebacon;

- Schedule I hallucinogenic substances

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation (for the purposes of this Schedule I hallucinogenic substances section only, the term "isomer" includes optical, position, and geometric isomers):

- (1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; AET);
- (2) 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);
- (3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: Nexus; 2C-B; 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB);
- (4) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);
- (5) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);
- (6) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (7) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);
- (8) 1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP);
- (9) 4-methyl-2,5-dimethoxyamphetamine (some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methyl-phenethylamine; "DOM"; and "STP");
- (10) 3,4-methylenedioxy-amphetamine;

- (11) 3,4-methylenedioxy-methamphetamine (MDMA, MDM);
- (12) 3,4-methylenedioxy-N-ethylamphetamine (some trade or other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-ethyl MDA; MDE; MDEA);
- (13) 3,4,5-trimethoxy amphetamine;
- (14) N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);
- (15) Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine);
- (16) Diethyltryptamine (some trade and other names: N,N-Diethyltryptamine; DET);
- (17) Dimethyltryptamine (some trade and other names: DMT);
- (18) Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)-ethylamine; cyclohexamine; PCE);
- (19) Ibogaine (some trade or other names: 7-Ethyl-6,6-beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido[1',2':1,2] azepino [5,4-b] indole; tabernanthe iboga);
- (20) Lysergic acid diethylamide;
- (21) Marijuana;
- (22) Mescaline;
- (23) N-ethyl-3-piperidyl benzilate;
- (24) N-methyl-3-piperidyl benzilate;
- (25) Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
- (26) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora*, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;
- (27) Psilocybin;
- (28) Psilocin;
- (29) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
- (30) Tetrahydrocannabinols;
- (31) Synthetic equivalents of the substances contained in the plant *Cannabis*, or in the resinous extractives of that plant, and synthetic substances, derivatives, and

their isomers with similar chemical structure and pharmacological activity such as: delta-1 cis or trans tetrahydrocannabinol, and their optical isomers; delta-6 cis or trans tetrahydrocannabinol, and their optical isomers; delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers; (Compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized);

- (32) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)cyclohexyl] piperidine; 2-thienyl analog of phencyclidine; TPCP); and
- (33) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (some trade or other names: TCPy);

- Schedule I stimulants

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Aminorex (some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);
- (2) Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone and norephedrone);
- (3) Fenethylamine;
- (4) Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432);
- (5) 4-methylaminorex;
- (6) N-ethylamphetamine; and
- (7) N,N-dimethylamphetamine (some other names: N,N-alpha-trimethylbenzene-ethanamine; N,N-alpha-trimethylphenethylamine);

- Schedule I depressants

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant on the

central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone; and
- (2) Methaqualone.

## SCHEDULE II

Schedule II consists of:

- Schedule II substances, vegetable origin or chemical synthesis

the following substances, however produced, except those narcotic drugs listed in other schedules:

(1) Opium and opiate, and a salt, compound, derivative, or preparation of opium or opiate, other than thebaine-derived butorphanol, naloxone and its salts, naltrexone and its salts, and nalmefene and its salts, but including:

- (1-1) Codeine;
- (1-2) Ethylmorphine;
- (1-3) Etorphine hydrochloride;
- (1-4) Granulated opium;
- (1-5) Hydrocodone;
- (1-6) Hydromorphone;
- (1-7) Metopon;
- (1-8) Morphine;
- (1-9) Opium extracts;
- (1-10) Opium fluid extracts;
- (1-11) Oxycodone;
- (1-12) Oxymorphone;
- (1-13) Powdered opium;
- (1-14) Raw opium;
- (1-15) Thebaine; and
- (1-16) Tincture of opium;

(2) a salt, compound, isomer, derivative, or preparation of a substance that is chemically equivalent or identical to a substance described by Paragraph (1) of Schedule II substances, vegetable origin or chemical synthesis, other than the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Cocaine, including:

(4-1) its salts, its optical, position, and geometric isomers, and the salts of those isomers; and

(4-2) coca leaves and a salt, compound, derivative, or preparation of coca leaves that is chemically equivalent or identical to a substance described by this paragraph, other

than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine; and

(5) Concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy;

- Opiates

the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Carfentanil;
- (6) Dextropropoxyphene, bulk (nondosage form);
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levo-alpha-acetylmethadol (some trade or other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;

- (25) Racemorphan;
- (26) Remifentanil; and
- (27) Sufentanil;

- Schedule II stimulants

unless listed in another schedule and except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;
- (3) Methylphenidate and its salts; and
- (4) Phenmetrazine and its salts;

- Schedule II depressants

unless listed in another schedule, a material, compound, mixture or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Glutethimide;
- (3) Pentobarbital; and
- (4) Secobarbital;

- Schedule II hallucinogenic substances

- (1) Nabilone (Another name for nabilone:  $(\pm)$ -trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one);

- Schedule II precursors

unless specifically excepted or listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances:

- (1) Immediate precursor to methamphetamine;
- (2) Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine;



- (3) Immediate precursor to amphetamine and methamphetamine:
- (4) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone); and
- (5) Immediate precursors to phencyclidine (PCP):
- (6) 1-phenylcyclohexylamine; and
- (7) 1-piperidinocyclohexanecarbonitrile (PCC).

### SCHEDULE III

Schedule III consists of:

- Schedule III depressants

unless listed in another schedule and except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) a compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any of their salts and one or more active medicinal ingredients that are not listed in a schedule;
- (2) a suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any of their salts and approved by the Food and Drug Administration for marketing only as a suppository;
- (3) a substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances that are specifically listed in other schedules;
- (4) Chlorhexadol;
- \* (5) Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine:
  - (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane; and
- (12) Tiletamine and zolazepam or any salt thereof. Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or

other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethyl-pyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrzapon;

- Nalorphine
- Schedule III narcotics

a material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any of their salts:

- (1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (3) not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
- (4) not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (5) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (6) not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and
- (8) not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

- Schedule III stimulants

unless listed in another schedule, a material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific

chemical designation:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Clortermine; and
- (4) Phendimetrazine;

● Schedule III anabolic steroids and hormones

anabolic steroids, including any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes the following:

- (1) Boldenone;
- (2) Chlorotestosterone (4-chlortestosterone);
- (3) Clostebol;
- (4) Dehydrochlormethyltestosterone;
- (5) Dihydrotestosterone (4-dihydrotestosterone);
- (6) Drostanolone;
- (7) Ethylestrenol;
- (8) Fluoxymesterone;
- (9) Formebolone;
- (10) Mesterolone;
- (11) Methandienone;
- (12) Methandranone;
- (13) Methandriol;
- (14) Methandrostenolone;
- (15) Methenolone;
- (16) Methyltestosterone;
- (17) Mibolerone;
- (18) Nandrolone;
- (19) Norethandrolone;
- (20) Oxandrolone;
- (21) Oxymesterone;
- (22) Oxymetholone;
- (23) Stanolone;
- (24) Stanozolol;

- (25) Testolactone;
- (26) Testosterone; and
- (27) Trenbolone.

- Schedule III hallucinogenic substances \*

\* (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-tri-methyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol).

#### **SCHEDULE IV**

Schedule IV consists of:

- Schedule IV depressants

except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alprazolam;
- (2) Barbital;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Chloral betaine;
- (6) Chloral hydrate;
- (7) Chlordiazepoxide;
- (8) Clobazam;
- (9) Clonazepam;
- (10) Clorazepate;
- (11) Clotiazepam;
- (12) Cloxazolam;
- (13) Delorazepam;
- (14) Diazepam;
- (15) Estazolam;

- (16) Ethchlorvynol;
- (17) Ethinamate;
- (18) Ethyl loflazepate;
- (19) Fludiazepam;
- (20) Flunitrazepam;
- (21) Flurazepam;
- (22) Halazepam;
- (23) Haloxazolam;
- (24) Ketazolam;
- (25) Loprazolam;
- (26) Lorazepam;
- (27) Lormetazepam;
- (28) Mebutamate;
- (29) Medazepam;
- (30) Meprobamate;
- (31) Methohexital;
- (32) Methylphenobarbital (mephobarbital);
- (33) Midazolam;
- (34) Nimetazepam;
- (35) Nitrazepam;
- (36) Nordiazepam;
- (37) Oxazepam;
- (38) Oxazolam;
- (39) Paraldehyde;
- (40) Petrichloral;
- (41) Phenobarbital;
- (42) Pinazepam;
- (43) Prazepam;
- (44) Quazepam;
- (45) Temazepam;
- (46) Tetrazepam;
- (47) Triazolam; and
- (48) Zolpidem;

- Schedule IV stimulants

unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of those isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine [(+)-norpseudoephedrine];
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenfluramine;
- (5) Fenproporex;
- (6) Mazindol;
- (7) Mefenorex;
- \* (8) Modafinil;
- (9) Pemoline (including organometallic complexes and their chelates);
- (10) Phentermine;
- (11) Pipradrol;
- (12) SPA [(-)-1-dimethylamino-1,2-diphenylethane]; and
- (13) Sibutramine

- Schedule IV narcotics

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs or their salts:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and
- (2) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

- Schedule IV other substances

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances, including the substance's salts:

- (1) Butorphanol, including its optical isomers; and

- (2) Pentazocine, its salts, derivatives, compounds, or mixtures.

## **SCHEDULE V**

Schedule V consists of:

- Schedule V narcotics

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts:

- (1) Buprenorphine;

- Schedule V narcotics containing non-narcotic active medicinal ingredients

a compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs that also contain one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer on the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;
- (2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
- (3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (5) Not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams;  
and
- (6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

- Schedule V stimulants

unless specifically exempted or excluded or unless listed in another schedule, a compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- (1) Pyrovalerone.

## HOME Investment Partnerships Program Notice of Funding Availability

### FY 2000 Funding Cycle

The Texas Department of Housing and Community Affairs (Department), through its HOME Investment Partnerships (HOME) Program, is accepting applications for FY 2000 HOME funding. The Department will award loans or grants to provide decent, safe, and sanitary housing for low, very-low, and extremely-low income households. Funds may be used for: rehabilitation or reconstruction of single-family owner-occupied housing; down payment and closing cost assistance for homebuyers; acquisition, construction, or rehabilitation of multifamily housing; and rental subsidy and security deposits for tenants. Funds will be awarded in accordance with the rules and procedures as set forth in the State of Texas HOME Program Rules, 10 TAC §§53.5 - 53.62. Funds will not be awarded until the FY 2000 HOME written agreement is executed between the Department and the U.S. Department of Housing and Urban Development (HUD). The Department anticipates receiving approximately thirty-seven million (\$37,000,000) for FY 2000.

### Eligible Applicants: (further limited in the application guidelines)

Nonprofit Organizations

State Certified Community Housing Development Organizations (CHDO)

Units of General Local Government

For-profit Entities and/or Sole Proprietors

Public Housing Agencies

The Federal HOME rules require that 15% of the Department's total allocation be awarded to CHDOs. Eligible CHDO activities are Rental Housing Development and Homebuyer Assistance if the CHDO is also developing the property.

The Department will set aside 10% of the Department's total allocation for applicants assisting Special Needs populations. All HOME activities are eligible under the Special Needs set-aside. The applicant must target 100% of the HOME assisted units to persons with special needs (as defined in the HOME application) to qualify as a Special Needs application.

### Percentage Allocation by HOME Activity

The following percentages apply to the HOME program budget for housing activities:

Owner-Occupied Assistance—40%

Rental Housing Development—27%

Homebuyer Assistance—20%

Tenant-Based Rental Assistance—8%

The remaining 5% is for the HOME Demonstration Fund, which is not a part of this NOFA.

Final determination of funding will be based on the FY 2000 HOME allocation from HUD for the State of Texas, and approval of the State of Texas Consolidated Plan—One Year Action Plan by HUD.

Funding for Owner Occupied Housing Assistance and Homebuyer Assistance will be awarded through regional competition. (*Note: a portion of the Homebuyer Assistance allocation will be available later through a statewide reservation process*). Rental Housing

Development and Tenant-Based Rental Assistance will be awarded through statewide competition.

Applications may be obtained by written or telephone request, at the application workshops, or from the TDHCA web-site; see below for information.

Applications must be received by the Department no later than **5:00 pm March 17, 2000**. Applications sent by facsimile will not be accepted. Applicants are required to remit a non-refundable application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30.00 per application. Please send a check, cashier's check or money order; do not send cash. The application fee must be paid at the time of application submission. The Department is authorized to waive application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. Nonprofit organizations must include evidence of their exempt status in lieu of the application fee. For additional information, contact the HOME Program at (512) 475-3109, or visit our web-site at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Applications must be mailed to:

Texas Department of Housing and Community Affairs

HOME Investment Partnerships Program

P.O. Box 13941

Austin, Texas 78711-3941

Physical address:

507 Sabine

Austin, Texas 78701

TRD-200000033

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 4, 2000



### Notices of Public Hearings

#### Multifamily Housing Revenue Bonds (Aspen Villas Apartments ) Series 2000

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at Kenneth D. Black Elementary School, 160 Mill Stream Lane, Houston, Texas, 77060-4199, at 5:30 p.m. on February 10, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$9,750,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Aspen Villas, Ltd. (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 240 unit multifamily residential rental development to be constructed on approximately 11.5 acres of land located on the west side of the 16,000 block of Imperial Valley Drive, north of the shopping center on Aldine-Bender Road and across from the North Oaks Apartments, Houston, Harris County, Texas, 77060. The Project will be owned and operated by Aspen Villas, Ltd. The Project will be managed by M-DG Group Inc., dba Alpha Management.



All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas, 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000067

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 5, 2000



#### **Multifamily Housing Revenue Bonds (Creek Point Apartments ) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at Wilson Creek Banking Center, 2800 Virginia Parkway, McKinney, Texas at 12:00 p.m. on February 11, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$7,500,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Creek Point Limited Partnership (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 200 unit multifamily residential rental development to be constructed on approximately 13 acres of land located at the northeast corner of Wilmeth Road and McDonald Drive (SR 5), McKinney, Texas. The Project will be owned and operated by Creek Point Limited Partnership. The Project will be managed by Picerne Management Corporation.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512)

475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000069

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 5, 2000



#### **Multifamily Housing Revenue Bonds (Deerwood Pine Apartments ) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at Wood Bayou Apartments, 12380 Wood Bayou Drive, Houston, Texas 77013, at 12:00 p.m. on Thursday, February 10, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$7,800,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Maxey Houston Apartments, L.P. (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 199 unit multifamily residential rental development to be constructed on approximately 9.3084 acres of land located on the west side of Maxey Road 381 feet south of Nola Court and North of Woodforest Drive, Houston, Harris County, Texas 77013. The Project will be owned and operated by Maxey Houston Apartments L.P. The Project will be managed by Greater Coastal Management, L.L.C.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000065

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 5, 2000

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**Multifamily Housing Revenue Bonds (Hickory Bend Apartments ) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at Polk Wisdom Public Library, 7151 Library Lane, Dallas, Texas, 75232, at 5:30 p.m. on February 9, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$11,700,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Hickory Bend Apartment Limited Partnership (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 250 unit multifamily residential rental development to be constructed on approximately 20 acres of land located in the 8700 block of Old Hickory Road approximately one-quarter mile south of the intersection of Old Hickory and Wheatland Road, Dallas, Texas 75237-3913. The Project will be owned and operated by Hickory Bend Apartment Limited Partnership. The Project will be managed by National Realty Management, Inc.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000064  
Daisy A. Stiner  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: January 5, 2000

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**Multifamily Housing Revenue Bonds (Ledbetter Apartments) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at Highland Hills Branch Public Library, 3624 Simpson Stuart Road, Dallas, Texas 75241, at 12:00 p.m. on Wednesday, February 9, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$7,250,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the

Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to TCR Ledbetter Limited Partnership (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, rehabilitation and equipping of a multifamily housing project (the Project) described as follows: 192 unit multifamily residential rental development located at 2965 East Ledbetter Drive, Dallas, Dallas County, Texas 75216. The Project will be owned and operated by TCR Ledbetter Limited Partnership. The Project will be managed by TCRS.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000066  
Daisy A. Stiner  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: January 5, 2000

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**Multifamily Housing Revenue Bonds (Oaks At Hampton Apartments ) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at Keist Park Recreation Center, 3080 S. Hampton Road, Dallas, Texas 75224-3007, at 5:30 p.m. on February 16, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$9,535,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Texas Hampton Senior Housing, L.P. (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 250 unit multifamily residential rental development to be constructed on approximately 21 acres of land located on the west side of the 2900 block of Hampton Road, Dallas, Texas 75224-3007. The Project will be owned and operated by Texas Hampton Senior Housing, L.P. The Project will be managed by Southwest Housing Management.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and

Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000062

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 5, 2000



#### **Multifamily Housing Revenue Bonds (Timber Point Apartments) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at High Meadows Public Library, 4500 Aldine Mail Road, Houston, Texas 77039, at 5:15 p.m. on Friday, February 11, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$8,520,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Timber Point Apartments Limited Partnership (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 240 unit multifamily residential rental development to be constructed on approximately 12.77 acres of land located at the south side of Greens Road, 1/4 mile west of Highway 59 in Houston, Harris County, Texas 77396. The Project will be owned and operated by Timber Point Apartments Limited Partnership. The Project will be managed by Picerne Management Corporation.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000068

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 5, 2000



#### **Multifamily Housing Revenue Bonds (Westmoreland Gardens Apartments ) Series 2000**

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the Department) at DeSoto City Hall, Pecan Meeting Room I, 211 E. Pleasant Run Road, DeSoto, Texas 75115, at 12:00 p.m. on February 16, 2000, with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$9,535,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the Bonds), by the Texas Department of Housing and Community Affairs (the Issuer). The proceeds of the Bonds will be loaned to Westmoreland Gardens Senior Housing, L.P. (or a related person or affiliate thereof) (the Borrower), to finance a portion of the acquisition, construction and equipping of a multifamily housing project (the Project) described as follows: 250 unit multifamily residential rental development to be constructed on approximately 13 acres of land located at the 800 block of Kirmwood Drive, DeSoto, Texas 75115. The Project will be owned and operated by Westmoreland Gardens Senior Housing, L.P. The Project will be managed by Southwest Housing Management.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Arenas, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1- (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

Individuals who require child care to be provided at this meeting should contact Dina Gonzalez at (512) 475-3757 at least five days before the meeting so that appropriate arrangements can be made.

TRD-200000063

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 5, 2000



#### **Houston-Galveston Area Council**

Request for Information

Houston-Galveston Area Council (H-GAC) solicits information from organizations and individuals interested in providing technical services to support industry training committees. Prospective proposers may obtain a copy of the Request for Information package by contacting Carol Kimmick at (713) 627-3200 or by sending email to [ckimmick@hgac.cog.tx.us](mailto:ckimmick@hgac.cog.tx.us). Responses are due at H-GAC offices by **5:00 p.m. on Thursday, January 27, 2000**. Late proposals will not be accepted. There will be no exceptions.

TRD-200000019  
Jack Steele  
Executive Director  
Houston-Galveston Area Council  
Filed: January 4, 2000



## Department of Information Resources

Request for Offer for Consulting Services for a Licensing System Requirements Analysis

**Notice of Request for Offers:** Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Department of Information Resources (DIR) announces the issuance of its Request for Offer (RFO) for consulting services for a Licensing System Requirements Analysis for fourteen regulatory agencies.

**Contact:** Parties interested in submitting an offer should contact Tamra Gilbert, Contract Administrator, Department of Information Resources, 300 W. 15th Street, Suite 1300, Austin, Texas 78701, telephone number (512) 475-3320. The RFO will be available electronically on the Texas Marketplace after January 4, 2000.

**Closing Date:** Offers must be received by DIR at the address specified above no later than 1 p.m. (CST), on Friday, February 4, 2000. Proposals received after this time and date will not be considered.

**Evaluation and Award Procedure:** Proposals will be subject to evaluation by a committee based on the evaluation criteria and procedures set forth in the RFO.

TRD-200000001  
C.J. Brandt, Jr.  
General Counsel  
Department of Information Resources  
Filed: January 3, 2000



## Texas Department of Insurance

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application to do business in the State of Texas by SETON INSURANCE SERVICES COMPANY, a non-profit group hospital service company. The home office is in Austin, Texas.

Application to change the name of THE SECURITY MUTUAL LIFE INSURANCE COMPANY OF LINCOLN, NEBRASKA to SECURITY FINANCIAL LIFE INSURANCE CO., a foreign life company. The home office is in Lincoln, Nebraska.

Application to change the name of NEW LIFE INSURANCE COMPANY to COMPDENT INSURANCE COMPANY, a domestic life company. The home office is in Houston, Texas.

Application to change the name of LAWRENCEVILLE PROPERTY AND CASUALTY CO., INC. to LAWRENCEVILLE PROPERTY AND CASUALTY COMPANY, a foreign fire and casualty company. The home office is in Arlington, Virginia.

Any objections must be filed with the Texas Department of Insurance, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-200000089  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance  
Filed: January 5, 2000



Notice of Hearing Pursuant to the Insurance Code Article 21.49-3, Medical Liability Insurance Underwriting Association Act

Under Docket Number 2439, the Commissioner of Insurance will hold a public hearing on February 1, 2000, at 9:00 a.m. in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street in Austin, Texas. This hearing will be for the purpose of considering a petition by the Staff of the Texas Department of Insurance to consider including not-for-profit nursing homes as a category of health care provider. This would provide eligibility to obtain medical liability insurance coverage from the Texas Medical Liability Insurance Underwriting Association (JUA). Interested persons or entities and the public may present comments at the hearing.

Copies of the petition are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angela Arizpe at (512) 463-6326 (refer to Ref. No. P-0100-01-I).

Any written statements or comments may also be submitted prior to the hearing to the Office of the Chief Clerk, MC 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the written statement or comment should be submitted to Marilyn Hamilton, Deputy Commissioner, Commercial Property/Casualty Division, Mail Code 104-PC, P.O. Box 149104, Austin, Texas, 78714-9104.

This notification is made pursuant to the Insurance Code, Article 21.49-3, Section 3A, which provides that if a category of physicians or health care providers has been excluded from eligibility to obtain coverage from the JUA, the Commissioner may determine, after notice of at least 10 days and a hearing, that medical liability insurance is not available, and on that determination, the category of physicians or health care providers is eligible to obtain insurance coverage from the JUA.

TRD-200000035  
Bernice Ross  
Deputy Chief Clerk  
Texas Department of Insurance  
Filed: January 4, 2000



Third Party Administrator Application

The following third party administrator (TPA) application has been filed with the Texas Department of Insurance and is under consideration.

Application for admission to Texas of PacificCare International Limited, a foreign third party administrator. The home office is Dublin, Ireland.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

TRD-200000036

Bernice Ross

Deputy Chief Clerk

Texas Department of Insurance

Filed: January 4, 2000



## Texas Natural Resource Conservation Commission

### Correction of Error

The Texas Natural Resource Conservation Commission (TNRCC) proposed revisions to Chapter 117, specifically 30 TAC §§117.10, 117.131, 117.133-117.135, 117.138, 117.141, 117.143, 117.145, 117.147, 117.149, 117.260, 117.261, 117.265, 117.273, 117.279, 117.283, 117.512, and 117.524 which appeared in the December 31, 1999, issue of the *Texas Register* (24 TexReg 11959). The following errors were as submitted by TNRCC.

1. Under BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES, paragraph 5, third sentence, the words "in the Tyler-Longview area" should be deleted. In the fourth sentence, the word "Longview" should be replaced with the words "some areas." In paragraph 6, seventh sentence, "and the surrounding eight consolidated metropolitan statistical area (CMSA) counties" should be added to the end of the sentence. Paragraph 9, third sentence, reads as follows: "...would reduce 1997 EGF NOx emissions in the attainment counties of east and central Texas by about 55%...." The reference to 55% should be 50%.

2. Under SECTION BY SECTION ANALYSIS, paragraph 26, the following sentences should be added to the end of the paragraph. "A comprehensive trading system is contemplated for proposal during summer 2000. The commission believes it is appropriate to develop a holistic approach to emission trading, as opposed to a piecemeal approach. However, the commission is open to accepting all ideas regarding an emission trading program. Comments on emission trading will not be addressed as part of this rulemaking, but will be addressed when the commission considers its banking and trading program during summer 2000." The following phrase should be added to the end of the last sentence in Paragraph 31: ", estimated to occur sometime during summer 2000."

3. The FISCAL NOTE and the PUBLIC BENEFIT sections should be entirely replaced with the following text.

#### FISCAL NOTE

Bob Orozco, a technical specialist in the Strategic Planning and Appropriations Section, has determined that for the first five-year period the proposed amendments are in effect there will be no significant fiscal implications for units of state government as a result of administration or enforcement of the proposed amendments. However, there will be significant fiscal implications for units of local government and river authorities that own and operate EGFs (including electric utility boilers and/or stationary gas turbines used to generate electric power) located in 31 counties in east and central Texas. The affected units of government are the Lower Colorado

River Authority and the cities of Austin, Bryan, Denton, Garland, and Greenville.

The proposed amendments to Chapter 117 would require reductions in emissions of NOx from certain electric generating facilities and cement kilns located in 34 attainment counties in east and central Texas as part of the strategy to reduce emissions of NOx necessary for the counties in the BPA, DFW, and HGA ozone nonattainment areas to be able to demonstrate attainment with the NAAQS for ozone. The proposed amendments are one element of the proposed DFW, BPA, and HGA Attainment Demonstration SIP. A SIP is a plan developed for any region where existing (measured and estimated) ambient levels of pollutant exceeds the levels specified in a national standard. The plan sets forth a control strategy that provides emission reductions necessary for attainment and maintenance of the national standards.

The proposed amendments to Chapter 117 require electric power boilers and gas fired turbines to reduce NOx to an emission rate of 0.165 lb/MMBtu or less. In addition, the proposed amendments would require cement kilns to reduce NOx emissions to levels specified in the EPA's notice of proposed rulemaking concerning Federal Implementation Plans to Reduce the Regional Transport of Ozone which was published in the October 21, 1998, issue of the Federal Register (63 FR 56394). These levels of emissions are consistent with plans to attain and maintain the requirements of the NAAQS.

The proposed amendments to Chapter 117 may require certain units of local government, river authorities, and other major electric power producers located in 31 attainment counties in east and central Texas that own and operate EGFs (including electric utility boilers and/or stationary gas turbines used to generate electric power) to reduce NOx emissions from those facilities. It is anticipated that the following EGFs will be affected by the proposed amendments: Welsh units 1, 2, and 3; Coletto Creek unit 1; J.K. Spruce unit 1; J.T. Deely units 1 and 2; Sam Seymour units 1, 2, and 3; Dansby unit 1; Monticello unit 3; Pirkey unit 1; San Miguel; Gibbons Creek unit 1; Limestone units 1 and 2; Martin Lake units 1, 2, and 3; and Sandow unit 4. It is also anticipated that the following EGFs will not be affected because further control is either not required and/or they already meet the proposed emission standards: Powerlane unit 3; Barney M. Davis unit 2; Decker Creek unit 2; TNP One units 1 and 2. It is also anticipated that the following stationary gas turbines will not be affected because they meet an exemption, based either on annual operation below 850 hours per year or heat input below 2.2 10(11) Btu: City of Bryan Atkins unit 7, Decker Creek units 1A/B-4A/B, DeCordova units 1-4, and Newgulf unit 1. In addition, it is anticipated that Tenaska units 1 and 2 will not be affected because these units are currently permitted at 42 parts per million NOx, which is equivalent to the proposed limit of 0.15 lb NOx/MMBtu.

The proposed amendments will also require Portland cement kilns in five counties in east and central Texas area to reduce NOx emissions. The five counties in east and central Texas affected by the proposed amendments are Bexar, Comal, Ellis, Hays, and McLennan Counties.

Applicability of the proposed amendments is limited to cement kilns and major electricity producers such as electric cooperatives, independent power producers, municipalities, river authorities or investor owned utilities in the specified counties. The proposed amendments would not apply to small auxiliary boilers or owners or operators of commercial, institutional, and industrial sources, some of whom may provide electric power to an electric grid for compensation. Gas turbine cogeneration facilities located at certain chemical plants and refineries in the affected counties are examples of sources that are not affected by the proposed amendments.

The fiscal implications for units of local government and the Lower Colorado River Authority with affected electric generating facilities will be significant and similar to those for business in general. It is estimated that emission reductions by the Lower Colorado River Authority at the Sam Seymour EGF units 1, 2, and 3 will cost approximately \$1,261 annually per ton of NOx reduced or approximately \$5.8 million to reduce emissions by 4,580 tons. It is estimated that the cities of Bryan, Denton, Garland, and Greenville, which share ownership of the Gibbons Creek unit 1, will incur annual costs of approximately \$1,111 per ton of NOx reduced or approximately \$1.8 million to reduce emissions by 1,610 tons. The Dansby EGF, which is owned by the city of Bryan, will have to reduce emissions by 76 tons, but an estimated annual cost per ton of NOx reduced is not available at this time. If the weighted annual cost for combustion modifications at other utilities is used for the Dansby plant, the annual cost would be approximately \$800 per ton of NOx reduced or approximately \$60,800 annually to reduce emission by 76 tons. It is anticipated that the gas turbines will not be affected by the proposed amendments because they are not operated above the proposed exemption levels or are already meeting the proposed emission limit. However, if any of the turbines were required to operate above the exemption levels, the estimated cost of control is \$30/kilowatt and \$400/ton, based on the low range of cost estimates in "Electric Utility Nitrogen Oxides Reduction Technology Options for Application by the Ozone Transport Assessment Group," EPA, January 1996. The low range is selected since the units operated at levels approaching the exemption levels are DeCordova units 1-4 and Newgulf unit 1. These units already operate with water or steam injection, and therefore the costs would involve additional water or steam production costs rather than costs to modify the turbines for wet injection. There will be no costs for compliance with the proposed amendments to Chapter 117 for EGFs which are subject to SB 7 because these facilities will be required to comply with the SB 7 reductions, adopted on December 16, 1999, and expected to be published in the January 7, 2000, issue of the *Texas Register*, in Chapters 101, concerning General Rules, and 116, concerning Control of Air Pollution by Permits for New Construction or Modification.

The cement plants and EGFs which will have to comply with the proposed rules are currently subject to air permits and/or to other requirements under federal rules, and therefore are already being inspected for compliance. Consequently, no additional EGFs and cement kilns will need to be inspected for compliance with the proposed rules. The commission anticipates that the Field Operations Division inspectors will inspect for compliance with the proposed requirements when conducting their routine inspections. However, these rules will cause a minor increase in workload when inspecting the affected facilities.

#### PUBLIC BENEFIT - EGFs

Mr. Orozco has determined that for each year of the first five years the proposed amendments to Chapter 117 are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be a reduction of public exposure to NOx emitted from affected EGFs and the concomitant reduced risks to human health and safety from ozone, a reduction of ground-level ozone in near-attainment areas and ozone nonattainment areas and surrounding counties, and conformance with the requirements of the FCAA. In addition, the public benefit includes increased flexibility for affected EGFs in planning and determining the most economical mix of control technology alternatives.

The proposed amendments apply to any EGF located in any of the 31 attainment counties in east and central Texas as listed in proposed §117.131. The proposed emission reductions may be met by installing

control technologies to reduce emissions. For purposes of this fiscal note, the estimated total annualized cost to EGFs of implementing the provisions of the proposed amendments consists of the cost of installing and operating the control technology sufficient to insure that emission allowances are not exceeded. The emission monitoring requirements in the proposed amendments cross reference federal regulations concerning acid rain requirements. No additional costs are anticipated for monitoring requirements because utilities are already required to comply with acid rain regulations.

A worksheet was prepared by the commission staff in which an emission control technology was assigned to each affected utility and costs estimated on a dollars per ton of NOx reduced basis to achieve the proposed NOx reductions. The worksheet was based on the EPA cost model, "NOx Cost Tool," available on the Internet at <http://www.epa.gov/acidrain/nox/noxtech.htm>. The EPA cost model is based on cost information contained in Chapter 5 of Regulatory Impact Analysis of NOx Regulations, EPA (October 1996) and Analyzing Electric Power Generation Under the CAA, EPA (July 1996). The EPA cost model limits SCR reductions to 70% on coal-fired units, a conservative assumption which was modified to 80% based on case studies documented in Status Report on NOx Control Technologies and Effectiveness for Utility Boilers, Northeast States for Coordinated Air Use Management (1998). Utilities were either anticipated to use SCR, low-NOx combustion modifications, or low-NOx burner and over-fired air technologies. The annual average weighted cost per ton of NOx reduced varied from \$365 per ton of NOx reduced for low-NOx burner and over-fired air technologies at the San Miguel plant to \$2,161 per ton for SCR at the Monticello plant. The annual average weighted cost for plants using SCR controls were calculated at approximately \$1,600 per ton of NOx reduced while the annual average weighted cost for plants using combustion modifications was approximately \$800 per ton of NOx reduced. The combined annual average weighted cost for all plants with required reductions was \$1,242 per ton of NOx reduced. The total reductions required by utilities in the proposed amendments was approximately 84,192 tons of NOx with a total annual fiscal impact of approximately \$104.6 million.

In February 1999, the Public Utility Commission of Texas (PUCT) and the commission published a report entitled, "Electric Restructuring and Air Quality: A Preliminary Analysis of Reductions and Costs of Nitrogen Oxides Controls from Electric Utility Boilers in Texas." What was stated in that study also applies to the estimates in this fiscal note. Reductions were estimated and generic cost factors were used in this estimate, but individual companies and specific units will most likely have different costs. This variability in cost depends on the amount of emission reductions, the specific processes involved, the size of the facility, and control methodologies employed for emission reductions. The data also indicates that EGFs with the largest required emission reductions have the lowest cost per ton of emissions reduced. In general, the annualized cost for emission reductions is inversely proportional to the amount of emissions required because when larger emission reductions are required, the average cost is spread over more tons reduced.

The intent of the amendments to Chapter 117 is to reduce regional levels of ozone, thereby moving nonattainment and near-nonattainment areas closer to achieving attainment of the NAAQS. These revisions are an integral part of the commission's overall goal of reducing ozone precursors, and complement other strategies already adopted or soon to be proposed. Other strategies include control requirements for other industries as well as controls for mobile and area sources of emissions.

#### PUBLIC BENEFIT - CEMENT KILNS

Mr. Orozco has also determined that for each year of the first five years the proposed amendments to Chapter 117 are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be a reduction of public exposure to NOx emitted from affected cement kilns and the concomitant reduced risks to human health and safety from ozone, a reduction of ground-level ozone in near-attainment areas and ozone nonattainment areas and surrounding counties, and conformance with the requirements of the FCAA.

There are no fiscal implications for units of state and local government associated with the proposed amendments concerning cement kilns because there are no cement kilns owned by state or local units of government.

The proposed amendments apply to nine existing cement plants located in five counties (Bexar, Comal, Ellis, Hayes, and McLennan Counties) in east and central Texas. The proposed emission reductions may be met by a variety of control technologies and/or process controls to reduce emissions. The rules do not mandate a specific method to be used to meet the emission limits, but instead allow the owner or operator to determine the method which is most cost-effective for each cement kiln. In Ellis County, the proposed rules are estimated to require a NOx emission reduction of approximately 40% from baseline at two of the three cement plants. The third cement plant in Ellis County has already reduced its NOx emission rate by approximately 50% from baseline. A summary of the nine existing cement plants and the estimated emission reductions are as follows: Figure 1: 30 TAC Chapter 117-preamble (FIGURE REMAINS UNCHANGED FROM PROPOSAL).

The commission estimates the average cost-effectiveness (the cost per ton of NOx emissions reduced) to be approximately \$1,458 per ton, based upon the EPA's Regulatory Impact Analysis for the NOx SIP Call, FIP, and Section 126 Petitions, Volume 1: Costs and Economic Impacts (EPA-452/R-98-003, September 1998). Based upon this document, the average annual control costs are approximately \$5.3 million per kiln, with average annual monitoring/administrative costs estimated at \$975,000 per kiln. It should be noted that because the EPA grouped all kilns together in their cost estimates, the costs for some kilns may be significantly higher, while others will be significantly lower. Because the cost for certain kilns may be too high to be considered reasonable, the commission is proposing the availability of §117.283, concerning Source Cap, for such situations.

The commission estimates the initial cost of a CEMS which monitors NOx, oxygen, and flow to be approximately \$137,400 to \$179,600, with total annual costs of \$64,800 to \$66,000, based upon U.S. Environmental Protection Agency's Continuous Emission Monitoring System Cost Model, Version 3.0. It should be noted that this cost model provides the initial costs (including capital and installation costs) and annual costs (operating costs) for a single CEMS installed to monitor emissions from one source at a plant. In the cost model's user manual, the EPA notes that the cost model is not intended for use in estimating the costs for multiple CEMS to monitor multiple sources at a plant. Simply multiplying the number of CEMS by the model's result will overestimate the total cost since some of the costs are not repeated with the addition of a second CEMS or more.

Based on vendor quotes, it appears that the cost of CEMS has been dropping, such that the EPA cost model overestimates both the initial and annual costs. In addition, the proposed rule allows multiple kilns to share one CEMS, as well as allowing PEMS as an alternative to CEMS, which should further reduce the costs of complying with the proposed rule. It is generally recognized that a PEMS, which consists of equipment necessary for the continuous determination

and recordkeeping of process gas concentrations and emission rates using process or control device operating parameters measurements and a conversion equation, graph, or computer program to produce results in units of the applicable emission limitation, are generally less expensive than a CEMS. Therefore, the costs estimated by the EPA's cost model could be expected to represent an upper bound of the monitoring costs.

4. Under SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSES, paragraph 1, last sentence, the words "\$4,000 per ton of emissions reduced would appear to be an acceptable estimate." should be replaced with "\$800 per ton of NOx reduced for combustion modifications and approximately \$1,600 per ton of NOx reduced for SCR would appear to be a reasonable cost estimate." The following sentence should be added to the end of paragraph 2: "However, if there are cement kilns which may be classified as small businesses or micro-businesses, the average cost of \$1,458 per ton of NOx emissions reduced, which was estimated for the industry at large, would appear to be a reasonable estimate of costs for small or micro-businesses."

5. Under DRAFT REGULATORY IMPACT ANALYSIS, paragraph 2, the next to the last sentence should read as follows: "...established under federal law as the NAAQS and authorized under Texas Clean Air Act (TCAA), §§382.011, 382.012, and 382.017."

6. Under TAKINGS IMPACT ASSESSMENT, paragraph 2, the fifth sentence should read as follows. "Although the rule revisions do not directly prevent a nuisance or prevent an immediate threat to life or property, they do prevent a real and substantial threat to public health and safety and fulfill a federal mandate under §110 of the 1990 Amendments to the FCAA."

7. In §117.138(b), the reference to §117.10 should be §117.10(11)(B). In §117.138(k), the reference to "subsection (d) of this section" should be "subsection (e) of this section."



#### Enforcement Orders

An agreed order was entered regarding BATESVILLE WATER SUPPLY CORPORATION, Docket Number 1997-1000-PWS-E; TNRC PWS ID Number 2540005 on December 20, 1999 assessing \$6,450 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Subhash Jain, Enforcement Coordinator at (512) 239-5867 or Scott McDonald, Staff Attorney at (512) 239-6005, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF CROWELL & FOARD COUNTY, Docket Number 1998-0666-MSW-E; TNRC MSW Permit Number 1401 on December 20, 1999 assessing \$21,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Otten, Staff Attorney at (512) 239-0600 or Timothy Haase, Enforcement Coordinator at (512) 239-6007, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WAYNE BOOHER DBA BORDER TANK & OIL, Docket Number 1998-1025-IHW-E; Enforcement ID Number 12470 on December 20, 1999 assessing \$5,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting J. Craig Fleming, Enforcement Coordinator at (512) 239-5806 or Booker Harrison, Staff Attorney at (512) 239-4113, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding ANTHONY J. JOHNSTON, Docket Number 1998-1366-MSW-E on December 20, 1999 assessing \$9,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Randy Norwood, Enforcement Coordinator at (512) 239-1879 or Lisa Lemaczyk, Staff Attorney at (512) 239-6939, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LESLIE ANDREW WARD-LAW, Docket Number 1998-0498-OSI-E; Installer Certification No. 3404 (Expired) on December 20, 1999 assessing \$500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Scott McDonald, Staff Attorney at (512) 239-6005 or Karen Berryman, Enforcement Coordinator at (512) 239-2172, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HA VAN NGUYEN DBA WINDY HILLS ESTATES AND BURNET HILLS MOBILE HOME PARKS, Docket Number 1998-1167-PWS-E; TNRC PWS ID Nos. 0270090 and 0260042 on December 20, 1999 assessing \$3,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ali Abazari, Staff Attorney at (512) 239-5915 or Gloria Stanford, Enforcement Coordinator at (512) 239-1871, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding K-FARMING ENTERPRISES, INC., Docket Number 1999-0359- PWS-E; TNRC PWS No. 0550016 on December 20, 1999 assessing \$2,188 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting John Wright, Staff Attorney at (512) 239-2269 or Steven Lopez, Enforcement Coordinator at (512) 239-1896, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF PORTLAND, Docket Number 1998-1517-PWS-E; PWS No. 2050005 on December 20, 1999 assessing \$3,675 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Clint Pruet, Enforcement Coordinator at (512) 239-2042, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF KIRBYVILLE, Docket Number 1999-0357-PWS-E; PWS No. 1210002 on December 20, 1999 assessing \$3,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Gross, Staff Attorney at (512) 239-1736 or Jayme Brown, Enforcement Coordinator at (512) 239-1683, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FARMERS DAIRIES, LTD., Docket Number 1999-0417-PWS-E; PWS No. 0710168 on December 20, 1999 assessing \$1,063 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kim McGuire, Enforcement Coordinator at (512) 239-4761, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF CEDAR PARK, Docket Number 1998-1078-MWD-E; WQ Permit Number 12308-001; Enforcement ID Number 8746-2 on December 20, 1999 assessing \$22,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laura Kohansov, Staff Attorney at (512) 239-2029 or Craig Carson, Enforcement Coordinator at (512) 239-2175, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding FRONTIER PARK, INC., Docket Number 1999-0499-MWD-E; WQ Permit Number 11328-001 (Expired) on December 20, 1999 assessing \$4,000 in administrative penalties with \$800 deferred.

Information concerning any aspect of this order may be obtained by contacting Erika Fair, Enforcement Coordinator at (512) 239-6673, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF ROCKPORT, Docket Number 1999-0659-MWD-E; NPDES No. TX0022152 on December 20, 1999 assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lynda Clayton, Enforcement Coordinator at (512) 239-5917, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PORT OF HOUSTON AUTHORITY, Docket Number 1998-1304- MWD-E; WQ Permit Number 12375-001 on December 20, 1999 assessing \$16,875. in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Eric Reese, Enforcement Coordinator at (512) 239-2611, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF CHINA, Docket Number 1999-0033-MWD-E; WQ Permit Number 12104-001 on December 20, 1999 assessing \$7,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Karen Berryman, Enforcement Coordinator at (512) 239-2172, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding VANCOUVER MANAGEMENT, INC., Docket Number 1999-0596- MWD-E; WQ Permit Number 11051-001 on December 20, 1999 assessing \$11,375 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (512) 239-2359, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF HARLINGEN, Docket Number 1998-1073-MWD-E; WQ Permit Number 10490-003 on December 20, 1999 assessing \$41,250 in administrative penalties.



Information concerning any aspect of this order may be obtained by contacting John Wright, Staff Attorney at (512) 239-2269 or Pamela Campbell, Enforcement Coordinator at (512) 239-4493, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding TOBY HAWKINS DBA H & H TIRE DBA HAWKINS TIRE, Docket Number 1999-0921-MSW-E; Enforcement ID Number 13627 on December 20, 1999 assessing \$4,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Gross, Staff Attorney at (512) 239-1736 or John Mead, Enforcement Coordinator at (512) 239-6010, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF DEL RIO, Docket Number 1999-0619-MSW-E; MSW Permit Number 207-A on December 20, 1999 assessing \$2,750 in administrative penalties with \$550 deferred.

Information concerning any aspect of this order may be obtained by contacting Kent Heath, Enforcement Coordinator at (512) 239-4575, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LEE STAFFORD DBA LUB-BOCK WASTE TIRE RECYCLING; Docket Number 1999-0666-MSW-E; Used and Scrap Tire Transporter, Processor and Storage Site Registration Numbers MSW-26920, MSW-79540 and MSW-44154 on December 20, 1999 assessing \$7,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tim Haase, Enforcement Coordinator at (512) 239-6007, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding JIM OMER, ZAK OMER, BASEL SAAD AND KHALED SAAD DBA ZAK'S MUFFLER AND INSPECTION, Docket Number 1998-0769-AIR-E; TNRCC ID Number DB-4695-V; Enforcement ID Number 12702 on December 20, 1999 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Scott McDonald, Staff Attorney at (512) 239-6005 or Stacey Young, Enforcement Coordinator at (512) 239-1899, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding SALEH SHUWIB DBA AUTO MERCHANTS, Docket Number 1998- 1411-AIR-E; Air Account Number CP-0290-Q on December 20, 1999 assessing \$625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ali Abazari, Staff Attorney at (512) 239-5915 or Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JOSE OLGUIN DBA CUERNAVACA LANDSCAPING, Docket Number 1999-0654-AIR-E; Air Account Number TH-0712-P on December 20, 1999 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elvia Maske, Enforcement Coordinator at (512) 239-0789, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RAFIQMOHAMMED DHUKA & ROYAL PRICE CORP DBA ROCKING H GROCERY & FEED, INC., Docket Number 1999-0627-PST-E; TNRCC ID Number 25015 on December 20, 1999 assessing \$4,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Nathan Block, Staff Attorney at (512) 239-4706 or Robbie Allen, Enforcement Coordinator at (512) 239-2545, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RUHEE ENTERPRISES, INCORPORATED, Docket Number 1998- 0616-PST-E; PST Facility ID Number 0036586; Enforcement ID Number 12612 on December 20, 1999 assessing \$8,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding OOZI ENTERPRISES, INC. DBA FINA FOODS, Docket Number 1999-0634-PST-E; PST Facility ID Number 38759 on December 20, 1999 assessing \$6,300 in administrative penalties with \$1,260 deferred.

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

An agreed order was entered regarding JOHN J. HEBERT DISTRIBUTOR, INC. & MR. JIM MATLOCK AND MRS. CAROL MATLOCK, Docket Number 1999-0683-PST-E; PST Facility ID Number 0045944 on December 20, 1999 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (512) 239-2359, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAM RO DBA OK TEXACO, Docket Number 1999-0638-PST-E; PST Facility ID Number 0039635 on December 20, 1999 assessing \$5,625 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 Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SANTA FE INTERESTS, INC., Docket Number 1999-0681-PST-E; PST Facility ID Number 0016539 on December 20, 1999 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Erika Fair, Enforcement Coordinator at (512) 239-6673, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RIVER FRONT SUPERETTE, INC., Docket Number 1999-0023-PST-E; PST Facility ID Number 0055230 on December 20, 1999 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting Mohammed Issa, Enforcement Coordinator at (512) 239-

1445, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WILLIAM J. HECK, Docket Number 1999-0498-OSI-E; OSS Facility Registration Number 5184 on December 20, 1999 assessing \$500 in administrative penalties with \$100 deferred.

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

An agreed order was entered regarding ALPHA OMEGA RECYCLING, INC., Docket Number 1999-0922- IHW-E; TNRCC ID Number HW50203-001 on December 20, 1999 assessing \$26,000 in administrative penalties with \$22,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Tracy Gross, Staff Attorney at (512) 239-1736 or Mac Vilas, Enforcement Coordinator at (512) 239-2557, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding QUALA SYSTEMS, INC., Docket Number 1997-1188-IHW-E; TNRCC ID Numbers 83828, 83778 & 83712 on December 20, 1999 assessing \$87,490 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Gross, Staff Attorney at (512) 239-1736 or Randy Norwood, Enforcement Coordinator at (512) 239-1879, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BP AMOCO OIL COMPANY (FORMERLY KNOWN AS "AMOCO OIL COMPANY"), Docket Number 1999-0636-IWD-E; WQ Permit Number 00443 and TPDES Permit Number TX 0003522 on December 20, 1999 assessing \$3,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Michelle Harris, Enforcement Coordinator at (512) 239-0492, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AMERICALF, INC., Docket Number 1998-1397-AGR-E; No Permit Number on December 20, 1999 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gilbert Angelle, Enforcement Coordinator at (512) 239-4489, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200000072

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: January 5, 2000



### Invitation to Comment on the 2000 Clean Water Act §303(d) List

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of the draft 2000 Clean Water Act (CWA) §303(d) List of impaired and threatened water bodies in the state. The §303(d) list is developed and promulgated pursuant to the

requirements of §303(d) of the federal CWA. The list is used to select water bodies for which total maximum daily load (TMDL) analyses and management actions will be initiated during the next two years. A secondary list of water bodies that demonstrate some cause for concern (Concerns List) is also available; these water bodies may, with additional data, be added to the final §303(d) list. In addition, a draft list of water bodies that will be removed from the §303(d) list (Draft List of Water Bodies Proposed for Removal from the §303(d) List) is available for comment.

Local residents, interest groups, or other organizations may have knowledge of specific problems, programs, or conditions unknown to TNRCC staff that should be considered to finalize the list. Useful information may include additional threats to water quality and water resources or additional data that depicts the quality of the water body. Anyone interested in submitting data or information should access the TNRCC website (see following address) for detailed guidance on how to submit data to the TNRCC.

Additional information may result in: removal of a water body from the draft §303(d) list; addition to the final §303(d) list of other water bodies not on the draft §303(d) list or the Concerns List; movement of a water body from the Concerns List to the final §303(d) list; or change in the priority ranking assigned to each water body for TMDL development.

After the 45-day public comment period, the TNRCC will evaluate any additional data or information received. If any additional data or information submitted influences the draft list in one of the four ways listed above, this will be reflected in the final §303(d) list. The final §303(d) list will be sent to the United States Environmental Protection Agency (EPA) for approval in April 2000.

In accordance with the TNRCC's five-year water quality management cycle, the 2000 list focuses on water bodies in the following river basins and their associated coastal basins: Canadian, Red, Sulphur, Cypress, Sabine, and Neches. Comments on these water bodies are encouraged.

Comments on the draft 2000 CWA §303(d) List, the Concerns List, and the Draft List of Water Bodies Proposed for Removal from the §303(d) List must be provided in written form and sent to Patrick Roques, MC-150, TNRCC, Water Permits and Resource Management Division, P.O. Box 13087, Austin, Texas 78711-3087. For overnight mail packages, send to Patrick Roques, TNRCC, Water Permits and Resource Management Division, MC-150, 12100 Park 35 Circle, Building F, Austin, Texas 78753. Comments may also be faxed to Patrick Roques at (512) 239-4420, or e-mailed to [proques@tnrcc.state.tx.us](mailto:proques@tnrcc.state.tx.us). Comments will be accepted for 45 days after publication of this notice, i.e., comments must be received by TNRCC no later than **5:00 p.m. on February 28, 2000**. Information must be submitted in writing and cannot be accepted by telephone. TNRCC's responses to all comments will be summarized and published six weeks after final approval of the list by EPA.

A copy of the draft 2000 CWA §303(d) List, the Concerns List, and the Draft List of Water Bodies Proposed for Removal from the §303(d) List can be obtained via the Internet at <http://www.tnrcc.state.tx.us/water/quality/>. The lists may also be obtained upon written or verbal request from Louanne Jones, TNRCC, Water Permits and Resource Management Division, MC-150, P.O. Box 13087, Austin, Texas 78711-3087, [email lojones@tnrcc.state.tx.us](mailto:lojones@tnrcc.state.tx.us), or telephone number (512) 239-2310.

TRD-200000007

Margaret Hoffman

Director, Environmental Law Division



### Notice of Application for Industrial Hazardous Waste Permits/Compliance Plans

Attached are Notices of Applications issued during the period of December 29, 1999.

ChemSep, Inc., located at 10020 Bayport Boulevard, near the intersection of Bay Area Boulevard and Red Bluff Road, 1 1/2 miles west of State Highway 146 on approximately 2.5 acres in Pasadena, Harris County, Texas, currently operates an oil recycling facility which produces fuel oil, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a commercial nonhazardous waste permit (Proposed Permit Number SW-39068) for storage and processing of nonhazardous industrial solid waste in tanks and containers. The Executive Director of the TNRCC has prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination Council and has determined that the action is consistent with the applicable CMP goals and policies. **PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest. **CONTESTED CASE HEARING.** The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days from the date of 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) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the granting of the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit your proposed adjustments to the application/permit which would satisfy your concerns. 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. If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TNRCC 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. **INFORMATION.** Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Office of Public Interest Counsel, MC 103, the same address as above. Individual members of the general public may contact the Office of Public Assistance, c/o Office of the Chief Clerk, at the address above, or by calling 1- (800) 687-4040 to: (a) review or obtain copies of available documents (such as draft permit, technical summary, and application); (b) inquire about

the information in this notice; or (a) inquire about other agency permit applications or permitting processes. General information regarding the TNRCC can be found at our web site at [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us).

TRD-200000071  
LaDonna Castañuela  
Chief Clerk  
Texas Natural Resource Conservation Commission  
Filed: January 5, 2000



### Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC or commission) staff is providing an opportunity for written public comment on the listed Default Orders. The TNRCC staff proposes a Default Order when the staff has sent an Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance, and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPR. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the TNRCC pursuant to the Texas Water Code (the Code), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 14, 2000**. The TNRCC will consider any written comments received and the TNRCC may withdraw or withhold approval of a Default Order if a comment discloses facts or considerations that indicate that the proposed Default Orders is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the TNRCC's jurisdiction, or the TNRCC's orders and permits issued pursuant to the TNRCC's regulatory authority. Additional notice of changes to a proposed Default Order is not required to be published if those changes are made in response to written comments.

A copy of each of the proposed Default Orders is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable Regional Office listed as follows. Written comments about the Default Order should be sent to the attorney designated for the Default Order at the TNRCC's Central Office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 14, 2000**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The TNRCC attorneys are available to discuss the Default Orders and/or the comment procedure at the listed phone numbers; however, comments on the Default Orders should be submitted to the TNRCC in **writing**.

(1) COMPANY: Salvador Arauz dba Arauz Auto Repair; DOCKET NUMBER: 1999-0072-AIR- E; TNRCC IDENTIFICATION (ID) NUMBER: DB-4993-K; LOCATION: 4515 Village Fair Drive, Dallas, Dallas County, Texas; TYPE OF FACILITY: motor vehicle inspection station; RULES VIOLATED: 30 TAC §114.50(e)(1) and Texas Health and Safety Code (THSC), §382.085(b) by failing to perform all required emission tests before issuing vehicle inspection reports; PENALTY: \$1,875; STAFF ATTORNEY: John Sumner, Litigation Division, MC 175, (512) 239-0497; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(2) COMPANY: Conny Whitehorn dba Coronado Water Company; DOCKET NUMBER: 1998- 1308-PWS-E; TNRCC ID NUMBER:

11411; LOCATION: near Hereford, Deaf Smith County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.46(f)(1)(A) by failing to maintain the chlorinator at well number 3 and to maintain a chlorine residual of 0.2 milligrams per liter (mg/L) in the far reaches of the distribution system; 30 TAC §290.43(c)(9) and (d)(2) by using tanks previously used for a non-potable purpose to store potable water and failing to provide pressure relief devices on all pressure tanks; 30 TAC §290.45(b)(1)(C)(ii) and (iii) by failing to provide a total storage capacity of 200 gallons per connection and to provide two or more service pumps with a total rated capacity of 2.0 gallons per minute per connection; 30 TAC §290.41(c)(1)(C) and (F) and (3)(N) by failing to locate well number 1 more than 500 feet away from a livestock pen, to provide flow meters for well numbers 1 and 3, and to obtain a sanitary easement covering all property within 150 feet of well numbers 1, 2, and 3; 30 TAC §290.113(c) by failing to annually notify customers of a fluoride secondary maximum concentration level of 2.6 mg/L; and 30 TAC §291.76, §290.51, THSC, §341.041, and the Code, §5.235(n) by failing to pay water regulatory assessment fees for fiscal years 1994 through 1998 and public health service fees for fiscal years 1994 through 1999; PENALTY: \$1,813; STAFF ATTORNEY: John Sumner, Litigation Division, MC 175, (512) 239-0497; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

TRD-200000016  
Paul C. Sarahan  
Director, Litigation Division  
Texas Natural Resource Conservation Commission  
Filed: January 4, 2000



#### Notices of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to the Texas Water Code (the Code), §7.075. Section 7.075 requires that before the TNRCC may approve the AOs, the TNRCC shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* not later than the 30th day before the date on which the public comment period closes, which in this case is **February 14, 2000**. Section 7.075 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withdraw or hold approval of an AO if a comment discloses facts or considerations that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the TNRCC's Orders and permits issued pursuant to the TNRCC's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable Regional Office listed as follows. Written comments about the AOs should be sent to the attorney designated for the AO at the TNRCC's Central Office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 14, 2000**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The TNRCC attorneys are available to discuss the AOs and/or the comment procedure at the listed phone

numbers; however, §7.075 provides that comments on the AOs should be submitted to the TNRCC in **writing**.

(1) COMPANY: David Bailey dba Bailey Egg Farm; DOCKET NUMBER: 1998-0313-AGR-E; TNRCC IDENTIFICATION (ID) NUMBER: 02759-001; LOCATION: Farm-to-Market Road 609, La Grange, Fayette County, Texas; TYPE OF FACILITY: concentrated poultry feeding operation; RULES VIOLATED: 30 TAC §305.503(a) by failing to pay annual waste treatment fees for fiscal year 1998 within 30 days of the billing date; the Code, §26.121 and TNRCC Water Quality Permit Number 02759-001, Section V by discharging wastewater from the second evaporation lagoon via overland flow into the surface waters of another creek then into Colorado River Basin, resulting in a fish kill; and TNRCC Water Quality Permit Number 02759-001, Section VI, Special Provisions Numbers 1 and 8 by failing to operate the waste control facilities with a minimum three feet of freeboard, failing to operate the waste control facilities to a level below the operating level, and failing to install a permanent depth indicator on each evaporation and wastewater lagoon; PENALTY: \$12,500; STAFF ATTORNEY: David Speaker, Litigation Division, MC 175, (512) 239-2548; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(2) COMPANY: Sidney L. Bishop, Jr.; DOCKET NUMBER: 1998-1011-MWD-E; TNRCC ID NUMBER: 11099-001; LOCATION: near State Highway 21, west shore of Toledo Bend Reservoir, Sabine County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: the Code, §26.121 and Water Quality Permit Number 11099-001 by failing to comply with the five-day biochemical oxygen demand (BOD5) daily average concentration limit of 10.0 milligrams per liter (mg/L), BOD5 individual grab sample limit of 35.0 mg/L, the total suspended solids (TSS) daily average concentration limit of 15.0 mg/L, TSS individual grab limit of 60.0 mg/L, and the dissolved oxygen minimum limit of 4.0 mg/L; PENALTY: \$3,000; STAFF ATTORNEY: John Wright, Litigation Division, MC 175, (512) 239-2269; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1892, (409) 898-3838.

(3) COMPANY: South Texas District of The Assemblies of God dba Hill Country Camp; DOCKET NUMBER: 1999-0010-PWS-E; TNRCC ID NUMBER: 1330033; LOCATION: near Kerrville on Harper Road, Kerr County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.45(b)(1)(B)(iii) by failing to provide two or more service pumps having a total capacity of 2.0 gallons per minute per connection at the residential system; 30 TAC §290.45(c)(1)(B)(iii) by failing to provide two or more service pumps with a total capacity of 1.0 gallon per minute per connection at the cabin system; 30 TAC §290.45(b)(1)(B)(iv) by failing to provide a pressure tank capacity of 20 gallons per connection at the residential system; 30 TAC §290.45(c)(1)(B)(iv) by failing to provide a pressure tank capacity of 10 gallons per connection at the cabin system; 30 TAC §290.38 and §290.43(e) by failing to provide a properly constructed intruder-resistant fence with lockable gates; 30 TAC §290.46(u) by failing to provide a minimum pressure of 35 pounds per square inch throughout the distribution system under normal operating conditions; 30 TAC §290.43(c)(1) by failing to equip each ground storage tank with a vent of a gooseneck or roof ventilator type with the opening protected by a 16-mesh or finer corrosion-resistant material; 30 TAC §290.43(c)(2) by failing to provide the ground storage tank with roof openings designed in accordance with American Water Works Association (AWWA) standards; 30 TAC §290.43(c)(3) by failing to provide an overflow pipe designed in accordance with AWWA standards which terminates with a gravity hinged and weighted cover; 30 TAC §290.43(c)(4)

by failing to equip the ground storage tank with a liquid level indicator; 30 TAC §290.39 by failing to submit engineering reports on the design and construction of the public water system; and 30 TAC §290.41(c)(3)(A) by failing to submit to the TNRCC a copy of the well completion data before placing the wells into service; PENALTY: \$8,500; STAFF ATTORNEY: Tracy Gross, Litigation Division, MC 175, (512) 239-1736; REGIONAL OFFICE: 140 Heimer Road, Suite 360, San Antonio, Texas 78232-5042, (210) 490-3096.

(4) COMPANY: Humus Products of America, Inc.; DOCKET NUMBER: 1999-0717-IWD-E; TNRCC ID NUMBER: 13710; LOCATION: 7319 North Park Drive, Richmond, Fort Bend County, Texas; TYPE OF FACILITY: liquid humus manufacturer plant; RULES VIOLATED: the Code, §26.121 by allowing the unauthorized discharge of industrial wastewater into or adjacent to water in the state; PENALTY: \$3,125; STAFF ATTORNEY: John Wright, Litigation Division, MC 175, (512) 239-2269; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(5) COMPANY: Lowenco, Incorporated; DOCKET NUMBER: 1998-0504-MLM-E; TNRCC ID NUMBER: 0055932; LOCATION: 500 Hobbs Road, League City, Galveston County, Texas; TYPE OF FACILITY: underground storage tanks (UST); RULES VIOLATED: the Code, §26.121 by allowing unauthorized spill of caustic material; 30 TAC §334.50(b)(1)(A) by failing to monitor the UST for releases at least once every month; 1992 Agreed Order, Ordering Provision Number 3 by failing to submit an approvable closure plan for the roll-off tanks and contaminant area; PENALTY: \$28,625; STAFF ATTORNEY: William Puplampu, Litigation Division, MC 175, (512) 239-0677; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500;

(6 ) COMPANY: Montgomery Place Water System, Incorporated and Mitchell M. Martin; DOCKET NUMBER: 1999-1038-PWS-E; TNRCC ID NUMBER: 1700074; LOCATION: Montgomery Place Subdivision, off Old Conroe Magnolia Road, Spring, Montgomery County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.120(h)(3) by failing to timely submit to the commission a corrosion control study for the Montgomery Place Subdivision public water system; and 30 TAC §290.51 and Texas Health and Safety Code, §341.041 by failing to pay public health service fees; PENALTY: \$125; STAFF ATTORNEY: Tracy Gross, Litigation Division, MC 175, (512) 239-1736; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(7) COMPANY: Ft. Bend Properties, Incorporated dba Fort Bend Properties, Incorporated dba Spring West Water Supply Corporation; DOCKET NUMBER: 1998-1128-MWD-E; TNRCC ID NUMBER: 12812-001; LOCATION: 1518 Spring Cypress Road, Houston, Harris County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §319.7(d) and Water Quality Permit Number 12812-001 by failing to timely submit monthly effluent reports; PENALTY: \$2,500; STAFF ATTORNEY: John Sumner, Litigation Division, MC 175, (512) 239-0497; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-200000017

Paul C. Sarahan

Director, Litigation Division

Texas Natural Resource Conservation Commission

Filed: January 4, 2000

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The Texas Natural Resource Conservation Commission (TNRCC or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to Texas Water Code (the Code), §7.075, which requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 7.075 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 14, 2000**. Section 7.075 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment discloses facts or considerations that indicate the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code, the Texas Health and Safety Code (THSC), and/or the Texas Clean Air Act (the Act). Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the enforcement coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 14, 2000**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The TNRCC enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs should be submitted to the TNRCC in **writing**.

(1)COMPANY: The City of Aledo; DOCKET NUMBER: 1999-0565-MWD-E; IDENTIFIER: Permit Number 10847-001; LOCATION: Aledo, Parker County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: Permit Number 10847-001 and the Code, §26.121, by failing to meet permitted effluent limits; PENALTY: \$15,000; ENFORCEMENT COORDINATOR: Brian Lehmkuhle, (512) 239-4482; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(2)COMPANY: Billy Hammons dba B&H Septic Service; DOCKET NUMBER: 1999-0945-SLG-E; IDENTIFIER: Sludge Transporter Registration Number 20425; LOCATION: near Poolville, Wise County, Texas; TYPE OF FACILITY: septic tank waste transporter; RULE VIOLATED: 30 TAC §312.143 and the Code, §26.121, by failing to obtain written authorization prior to depositing septic waste on his own property; PENALTY: \$800; ENFORCEMENT COORDINATOR: Michael De La Cruz, (512) 239-0259; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(3)COMPANY: William L Bonnell Company, Inc. dba Bon L Campo, Limited Partnership; DOCKET NUMBER: 1999-0920-IWD-E; IDENTIFIER: Permit Number 01208 and National Pollutant Discharge Elimination System Permit Number (NPDES) TX0030597; LOCATION: El Campo, Wharton County, Texas; TYPE OF FACILITY: production facility for aluminum; RULE VIOLATED: the Code, §26.121, NPDES Permit Number TX0030975, and Permit Number 01208, by failing to meet its permitted limits for the discharge of aluminum; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Sherry Smith, (512) 239-0572; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4)COMPANY: Bridgeport Property Owners Association, Incorporated; DOCKET NUMBER: 1999-1064-PWS-E; IDENTIFIER: Pub-

lic Water Supply (PWS) Number 1500106; LOCATION: Kingsland, Llano County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.43(c), (e), and (d)(9), by failing to provide a ground storage tank (GST) designed, fabricated, erected, tested, and disinfected in strict accordance with current American Water Works Association (AWWA) standards, enclose the GST with an intruder-resistant fence, and limit the installation of no more than three pressure tanks at any one site; 30 TAC 290.46(i), (p)(1), and (x), by failing to adopt adequate plumbing ordinance, regulations, or service agreement with provisions, provide documentation of annual GST inspection, and plug an abandoned well; 30 TAC §290.44(h)(1), by failing to develop a cross-connection control program; 30 TAC §290.39(h)(1) and the THSC, §341.035(a)(2), by failing to receive written approval of plans and specifications; 30 TAC §290.101(a) and the Code, §13.242, by failing to obtain a Certificate of Convenience and Necessity; and 30 TAC §290.113, by failing to meet the secondary constituent level for fluoride; PENALTY: \$938; ENFORCEMENT COORDINATOR: Sandy VanCleave, (512) 239-0667; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(5)COMPANY: Cooper's Automotive, Inc.; DOCKET NUMBER: 1999-0845-PST-E; IDENTIFIER: Petroleum Storage Tank (PST) Facility Identification Number 0008290; LOCATION: Groves, Jefferson County, Texas; TYPE OF FACILITY: gasoline service station; RULE VIOLATED: 30 TAC §115.241 and the Act, §382.085(b), by failing to install an approved Stage II vapor recovery system (VRS); PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Bill Davis, (512) 239-2545; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1892, (409) 898-3838.

(6)COMPANY: Cougar Stop Inc.; DOCKET NUMBER: 1999-0793-PST-E; IDENTIFIER: PST Facility Identification Number 0015941; LOCATION: Texas City, Galveston County, Texas; TYPE OF FACILITY: underground storage tank; RULE VIOLATED: 30 TAC §115.241 and the Act, §382.085(b), by failing to install a Stage II VRS; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Karen Berryman, (512) 239-2172; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(7)COMPANY: D and R Metal Finishing; DOCKET NUMBER: 1999-1011-AIR-E; IDENTIFIER: Air Account Number HG-1790-Q; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: sandblasting and metal coating; RULE VIOLATED: 30 TAC §101.10 and the Act, §382.085(b), by failing to submit an emissions inventory; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239-1892; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(8)COMPANY: Marco D. Fernandez; DOCKET NUMBER: 1999-1193-OSS-E; IDENTIFIER: On-Site Sewage Facility (OSSF) Number OS2409; LOCATION: Natalia, Medina County, Texas; TYPE OF FACILITY: on-site sewage; RULE VIOLATED: 30 TAC §§285.91(9), 285.5, and 285.58(a)(3), by failing to submit planning materials and obtain the necessary permitting authority's authorization before beginning to alter, extend, or repair an OSSF; PENALTY: \$275; ENFORCEMENT COORDINATOR: Robbie Allen, (512) 239-3142; REGIONAL OFFICE: 140 Heimer Road, Suite 360, San Antonio, Texas 78232-5042, (210) 490-3096.

(9)COMPANY: Gulf Chemical & Metallurgical Corporation; DOCKET NUMBER: 1999-0943- IHW-E; IDENTIFIER: Solid Waste Registration Number 30952; LOCATION: Freeport, Brazoria County, Texas; TYPE OF FACILITY: metals recovery; RULE VIOLATED: 30 TAC §335.4 and the Code, §26.121, by discharging spent blasting grit outside of the blasting area and releasing material

from the solvent extracting area onto an adjacent concrete pad; 30 TAC §335.62, by failing to conduct proper hazardous waste determinations for spent solvent and solvent extraction sludge; 30 TAC §335.6, by failing to update the Notice of Registration; 30 TAC §335.9(a)(1) and (2), by failing to keep a record of the amount of spent solvent generated and to include the solvent on the annual waste summary; 30 TAC §335.154, by failing to submit a complete annual site activity report; and 30 TAC §335.2 and 40 Code of Federal Regulations §266.100(c), by burning hazardous waste in the metal recovery roaster; PENALTY: \$11,840; ENFORCEMENT COORDINATOR: Susan Johnson, (512) 239-2555; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10)COMPANY: Gulfstream Aerospace Corp.; DOCKET NUMBER: 1999-1001-AIR-E; IDENTIFIER: Air Account Number DB-1589-T; LOCATION: Dallas, Dallas County, Texas; TYPE OF FACILITY: aircraft maintenance plant; RULE VIOLATED: 30 TAC §101.10 and the Act, §382.085(b), by failing to submit an emissions inventory; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(11)COMPANY: Hays County Youth Athletic Association, Inc.; DOCKET NUMBER: 1999- 0114-PWS-E; IDENTIFIER: PWS Number 1050096; LOCATION: Buda, Hays County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.106(e)(2) and the Code, §341.033(d), by failing to collect routine monthly, repeat, and additional bacteriological samples and provide public notification of the failure to comply with monthly sample and failure to sample after a coliform positive result on a water test; 30 TAC §290.41(c)(1)(F), by failing to provide a sanitary control easement; 30 TAC §290.46(f)(2)(B), (p)(1) and (2), and (n), by failing to perform the disinfectant residual test, record storage tank inspections, perform and record pressure tank inspections, and provide a distribution system map; 30 TAC §290.42(e)(2) and (i), by failing to have the chlorine injection point ahead of the water storage tank and failing to use American National Standards Institute/ National Sanitation Foundation (ANSI/NSF) approved disinfectant; 30 TAC §290.43(c)(3) and (4), by failing to have an overflow designed in strict accordance with AWWA standards; and 30 TAC §290.45(d)(2)(A)(ii) and (B)(ii), by failing to maintain a minimum pressure tank capacity of 220 gallons and provide a ground storage capacity which is equal to 50% of the maximum daily demand; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Gayle Stewart, (512) 239-1136; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(12)COMPANY: Jeff Jeffers Enterprises, Incorporated dba Jeff's Auto Sale; DOCKET NUMBER: 1999-1271-AIR-E; IDENTIFIER: Air Account Number GI-0273-U; LOCATION: Sherman, Grayson County, Texas; TYPE OF FACILITY: used car lot; RULE VIOLATED: 30 TAC §114.20(c)(1) and the Act, §382.085(b), by offering for sale a vehicle with missing or inoperable emission control devices; PENALTY: \$900; ENFORCEMENT COORDINATOR: Jorge Ibarra, (817) 469-6750; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010- 6499, (817) 469-6750.

(13)COMPANY: Mr. Joseph Strom dba K & C Quick Stop; DOCKET NUMBER: 1999-1098- PST-E; IDENTIFIER: PST Facility Identification Number 0025495; LOCATION: Dime Box, Lee County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(2)(A)(i)(III), by failing to test the line leak detectors for proper maintenance and operation; PENALTY: \$4,320; ENFORCEMENT COORDINATOR: David

VanSoest, (512) 239-0468; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(14)COMPANY: Longhorn Council of Boy Scouts of America dba Sid Richardson Scout Ranch; DOCKET NUMBER: 1999-1133-PWS-E; IDENTIFIER: PWS Number 2490021; LOCATION: near Fort Worth, Wise County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.118(1), by failing to maintain the turbidity level; and 30 TAC §290.46(e)(1), by failing to have an operator that holds a least a Grade "B" or higher waterworks operator certificate or a Grade "C" certificate; PENALTY: \$813; ENFORCEMENT COORDINATOR: Elvia Maske, (512) 239-0789; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(15)COMPANY: Nabisco, Inc.; DOCKET NUMBER: 1999-1053-AIR-E; IDENTIFIER: Air Account Number HG-0854-W; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: cookie and cracker manufacturing; RULE VIOLATED: 30 TAC §122.121, §122.130(b)(1), and the Act, §382.085(b), by failing to submit an initial abbreviated federal operating permit application; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(16)COMPANY: Duc Nguyen dba Nina Mart; DOCKET NUMBER: 1999-1101-PST-E; IDENTIFIER: PST Facility Identification Number 0010460; LOCATION: Fort Worth, Tarrant County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.245(2) and the Act, §382.085(b), by failing to perform the annual pressure decay test for the Stage II VRS; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(17)COMPANY: North Green Municipal Utility District; DOCKET NUMBER: 1999-1015- MWD-E; IDENTIFIER: Permit Number 12206-001 and NPDES Permit Number TX0083381; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: Permit Number 12206-001 and NPDES Permit Number TX0083381, by failing to comply with permitted effluent limits; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Eric Reese, (512) 239-2611; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023- 1486, (713) 767-3500.

(18)COMPANY: Rangerreo, L. P.; DOCKET NUMBER: 1999-1146-AIR-E; IDENTIFIER: Air Account Number EA-0042-C; LOCATION: Ranger, Eastland County, Texas; TYPE OF FACILITY: natural gas processing plant; RULE VIOLATED: 30 TAC § 122.130(a), §122.121, and the Act, §382.085(b) and §382.054, by failing to obtain a federal operating permit; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Kara Dudash, (915) 698-9674; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(19)COMPANY: The City of Raymondville; DOCKET NUMBER: 1999-1036-MWD-E; IDENTIFIER: Permit Number 10365-001 and Texas Pollutant Discharge Elimination System (TPDES) Permit Number TX0024556; LOCATION: Raymondville, Willacy County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(17), TPDES Permit Number TX0024546, and the Code, §26.121, by failing to submit discharge monitoring reports; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Kimberly McGuire, (512) 239-4561; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(20)COMPANY: Severn Trent Environmental Services, Inc.; DOCKET NUMBER: 1999-0882- WOC-E; IDENTIFIER: Certificate of Competency Number 20035; LOCATION: Aledo, Parker County, Texas; TYPE OF FACILITY: municipal wastewater; RULE VIOLATED: 30 TAC §325.11(e), by failing to perform adequate facility operational process control; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Brian Lehmkuhle, (512) 239-4482; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(21)COMPANY: Solvay Interlox, Inc.; DOCKET NUMBER: 1999-0794-IWD-E; IDENTIFIER: Permit Number 002544; LOCATION: Deer Park, Harris County, Texas; TYPE OF FACILITY: industrial manufacturing; RULE VIOLATED: 30 TAC §319.6 and Permit Number 002544, by failing to perform proper analytical protocol for outfall 001 due to an insufficient number of standards for the number of oil and grease analyses that were run; PENALTY: \$375; ENFORCEMENT COORDINATOR: Tim Haase, (512) 239-6007; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(22)COMPANY: Solvay Polymers, Inc.; DOCKET NUMBER: 1999-0795-IWD-E; IDENTIFIER: Permit Number 00544; LOCATION: Deer Park, Harris County, Texas; TYPE OF FACILITY: industrial manufacturing; RULE VIOLATED: 30 TAC §319.6 and Permit Number 00544, by failing to perform proper analytical protocol for permitted outfalls 001 and 003 due to recording atypically consistent first and second weights for the drying and weighing procedures related to total suspended solids, shortening the five-day test time for biochemical oxygen demand (BOD), and recording atypically consistent seed correction, standard and blank data for BOD and for outfalls 002, 004 and 005 due to an insufficient number of standards for the number of oil and grease analyses that were run; PENALTY: \$18,750; ENFORCEMENT COORDINATOR: Tim Haase, (512) 239-6007; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23)COMPANY: Ronnie Stephens; DOCKET NUMBER: 1999-1062-WR-E; IDENTIFIER: Enforcement Identification Number 13814; LOCATION: Proctor, Comanche County, Texas; TYPE OF FACILITY: water rights; RULE VIOLATED: 30 TAC §304.32(a)(2) and the Code, §11.121, by allegedly constructing a dam to impound surface water without first obtaining a permit; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Jayme Brown, (512) 239-1683; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(24)COMPANY: Treetop Utilities, Incorporated dba Treetop Estates; DOCKET NUMBER: 1999-0955-PWS-E; IDENTIFIER: PWS Number 1840134; LOCATION: near Cresson, Parker County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.41(c)(3)(A), by failing to submit the well completion data; 30 TAC §290.42(e)(2) and (i), by failing to disinfect the ground water prior to distribution and obtain certification from an organization accredited by the ANSI that all chemicals and additives conform with the ANSI/NSF standards; 30 TAC §290.43(c)(1) and (4), and (d)(3), by failing to provide an adequate roof vent, equip a water level indicator on the ground storage tank, and install a filter or other device on the air compressor injection line; and 30 TAC §290.46(j) and (w), by failing to complete a customer service inspection prior to providing continuous water service and post a legible sign to indicate system ownership; PENALTY: \$1,080; ENFORCEMENT COORDINATOR: Michael De La Cruz, (512) 239-0259; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(25)COMPANY: Utex Industries, Incorporated; DOCKET NUMBER: 1999-1160-AIR-E; IDENTIFIER: Air Account Number CR-0025-P; LOCATION: Weimar, Colorado County, Texas; TYPE OF FACILITY: rubber gasket and seal manufacturing; RULE VIOLATED: 30 TAC §122.121, §122,130(b)(1), and the Act, §382.054, by failing to submit an initial abbreviated federal operating permit application; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Rohit Bali, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(26)COMPANY: Vintage Petroleum, Inc.; DOCKET NUMBER: 1999-0985-AIR-E; IDENTIFIER: Air Account Number JB-0054-E; LOCATION: Lolita, Jackson County, Texas; TYPE OF FACILITY: crude petroleum and natural gas production; RULE VIOLATED: 30 TAC §101.10 and the THSC, §382.014, by failing to submit an emissions inventory questionnaire; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Julia McMasters, (512) 239-5839; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(27)COMPANY: West Hardin County Consolidated Independent School District; DOCKET NUMBER: 1999-1091-MWD-E; IDENTIFIER: Permit Number 11274-001 and NPDES TX0030813; LOCATION: Saratoga, Hardin County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: Permit Number 11274-001 and NPDES Permit Number TX0030813, by failing to meet permit limits for total suspended solids daily average concentration and individual grab samples; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Sherry Smith, (512) 239-0572; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1892, (409) 898-3838.

TRD-200000043

Paul Sarahan

Director, Litigation Division

Texas Natural Resource Conservation Commission

Filed: January 5, 2000



### Notice of Water Rights Applications

EDMUND A. WEINHEIMER, JR., P. O. Box 212, El Campo, Texas, 77347, applicant, seeks to amend Water Use Permit Number 5263 pursuant to §11.122, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§295.1, et seq. Permit Number 5263 authorizes the owner, with a priority date of November 21, 1988, to divert not to exceed 140 acre-feet of water per annum from a point on East Mustang Creek, tributary of Mustang Creek, tributary of the Navidad River, tributary of the Lavaca River, approximately 7 miles southwest of El Campo, Texas, to irrigate 187 acres of land out of two tracts totaling 239.35 acres in the following surveys in Wharton County: 1. Indianola RR Company Survey Number 3, Abstract Number 258. 2. W. W. King Survey Number 4, Abstract Number 609. 3. I. and G. N. RR Company Survey Number 17, Abstract Number 214. The permit includes a maximum diversion rate of 1.7 cfs (795 gpm). Permit Number 5263 also contains the following special conditions: Permittee may divert water authorized under the permit only when the remaining flow of East Mustang Creek immediately downstream of permittees diversion point equals or exceeds 6 cfs. 2. Permit Number 5263 will expire and become null and void on December 31, 1999 unless the permittee applies for and is granted an extension to the permit. On January 14, 1999 an application was submitted by the permittee requesting to amend Permit Number 5263 by removing the special condition indicating that it would expire on December 31, 1999. The applicant is included

in a Compromise Settlement Agreement among the Lavaca Navidad River Authority (LNRA) and the Texas Water Development Board (TWDB), the owners of the water right for Lake Texana, and 16 other water right holders in the Lavaca River Basin upstream from Lake Texana. The agreement includes a statement that LNRA would not protest the conversion of applicants' term permit to a perpetual permit subject to the following conditions: Diversion of water authorized under the permit is limited to those times when the level of Lake Texana is at or above 43.0 msl; and Prior to initiating diversions, permittees must contact the South Texas Watermaster to verify the level of Lake Texana. Subsequent to the development of the settlement agreement, the Texas Natural Resource Conservation Commission staff determined that applications to convert term permits to perpetual water rights in the Lavaca River Basin upstream of Lake Texana should be accompanied by a demonstration that an alternate water supply source is available for irrigation use. The applicant has demonstrated that he owns groundwater wells that could produce a total of 3000 gallons of water per minute.

ALLEN D. LAY AND NELL LAY, applicants, seek to amend Water Use Permit Number 4085A pursuant to §11.122, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§ 295.1, et seq. Permit Number 4085, as amended once, authorize the owners, with a priority date of April 18, 1983, to divert and use not to exceed 1050 acre-feet of water per annum from either bank of Goldenrod Creek at a specific location approximately 9 miles north of Ganado, Texas, to irrigate 350 acres of land out of a 1209.2 acre tract in Jackson and Wharton Counties. The permit includes a maximum diversion rate of 6.7 cfs (3000 gpm). Permit Number 4085A (A-4353A) contains the following special conditions: 1. Permittees may divert water authorized under the permit only when the flow of Goldenrod Creek immediately downstream of their diversion point equals or exceeds 3 cfs. 2. Permit Number 4085A (A-4353A) would expire and become null and void on December 31, 2003, unless permittees apply for an extension and the application is granted for an additional term or in perpetuity. On January 14, 1999 an application was submitted by the permittees requesting to amend Permit Number 4085A (A-4353A) by removing the special condition indicating that it would expire on December 31, 2003. The applicants are included in a Compromise Settlement Agreement among the Lavaca Navidad River Authority (LNRA) and the Texas Water Development Board (TWDB), the owners of the water right for Lake Texana, and 16 other water right holders in the Lavaca River Basin upstream from Lake Texana. The agreement includes a statement that LNRA would not protest the conversion of applicants' term permit to a perpetual permit subject to the following conditions: 1. Diversion of water authorized under the permit is limited to those times when the level of Lake Texana is at or above 43.0 msl; and 2. Prior to initiating diversions, permittees must contact the South Texas Watermaster to verify the level of Lake Texana. Subsequent to the development of the settlement agreement, the Texas Natural Resource Conservation Commission staff determined that applications to convert term permits to perpetual water rights in the Lavaca River Basin upstream of Lake Texana should be accompanied by a demonstration that an alternate water supply source is available for irrigation use. The applicants have demonstrated that they own groundwater wells that could produce a total of 3400 gallons of water per minute.

EVA RUTH HANCOCK, RUTH HANCOCK SACCO, AND PAULA HANCOCK ROBINSON, c/o Edward H. Sacco, 2709 Myatt Lane, El Campo, Texas 77437, applicants, seek to amend Water Use Permit Number 5370 pursuant to §11.122, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§ 295.1, et seq. Permit Number 5370 authorizes owners, with a priority date of July 1, 1991 to construct an off-channel reservoir located



in the H. T. & B. RR Co. Survey Number 9, Abstract Number 561, Lavaca County and impound therein not to exceed 356 acre-feet of water. Permittees are authorized to divert not to exceed 900 acre-feet of water per annum from a specific point on the left or west bank of Goldenrod Creek, tributary of Sandy Creek, tributary of the Navidad River, tributary of the Lavaca River, Lavaca River Basin at a maximum rate of 11.11 cfs (5000 gpm) to the off-channel reservoir for subsequent use, or directly to the fields for irrigation of 500 acres out of a 1651.63 acre tract of land in the following counties and surveys: A. H. T. & B. RR Co. Survey Number 9, Abstract Number 915, the E. W. King Survey Number 2, Abstract Number 937 and the H. T. & B. RR Co. Survey, Abstract Number 914 in Colorado County B. E. W. King Survey Number 2, Abstract Number 432 and the H. T. & B. RR Co. Survey, Abstract Number 442 in Jackson County C. H. T. & B. RR Co. Survey Number 9, Abstract Number 561, the E. W. King Survey Number 4, Abstract Number 608, the E. W. King Survey Number 2, Abstract Number 611, and the H. T. & B. RR Co. Survey, Abstract Number 560 in Lavaca County. Permittees are required to return water diverted but not consumed to three specific points on Goldenrod Creek. In order to protect instream uses, Permit Number 5370 contains a special condition authorizing permittees to divert water under the permit only when the remaining flow of Goldenrod Creek equals or exceeds 4.5 cfs (2010 gpm). Permit Number 5370 also includes a condition that it would expire and become null and void on December 31, 2001, unless permittees apply for and are granted an extension to the permit. Applicants seek to amend Permit Number 5370 by removing the special condition indicating that it would expire on December 31, 2001. The applicants are included in a Compromise Settlement Agreement among the Lavaca Navidad River Authority (LNRA) and the Texas Water Development Board (TWDB), the owners of the water right for Lake Texana, and 16 other water right holders in the Lavaca River Basin upstream from Lake Texana. The agreement includes a statement that LNRA would not protest the conversion of applicants' term permit to a perpetual permit subject to the following conditions: 1. Diversion of water authorized under the permit is limited to those times when the level of Lake Texana is at or above 43.0 msl; and 2. Prior to initiating diversions, permittees must contact the South Texas Watermaster to verify the level of Lake Texana. Subsequent to the development of the settlement agreement, the Texas Natural Resource Conservation Commission staff determined that applications to convert term permits to perpetual water rights in the Lavaca River Basin upstream of Lake Texana should be accompanied by a demonstration that an alternate water supply source is available for irrigation use. Applicants have demonstrated that they own groundwater wells that could produce a total of 5700 gallons of water per minute.

JOHN L. RICHARDS AND SUSAN H. RICHARDS, AND RICHARDS BROTHERS COMPANY, 105 North Washington, El Campo, Texas, 77347, applicants seek to amend Water Use Permit Number 5168 pursuant to §11.122, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§ 295.1, et seq. Permit Number 5168 authorizes owners, with a priority date of February 2, 1988, to maintain the following reservoirs located approximately 12 miles northwest of El Campo in the Jose Defea Survey, Abstract Number 86, Wharton County: 1. Reservoir 1: An existing dam and reservoir on Pinoak Creek, tributary of Sandy Creek, tributary of the Navidad River, tributary of the Lavaca River, Lavaca River Basin in Wharton County impounding a maximum of 2 acre-feet of water. 2. Reservoir 2: An existing levee and off-channel reservoir adjacent to Pinoak Creek impounding a maximum of 194 acre-feet of water. 3. Reservoir 3: An existing levee and off-channel reservoir adjacent to an unnamed tributary of Potter's Creek impounding a maximum of 140 acre-feet of water. Permittees

are also authorized to divert not to exceed 1092 acre-feet of water per annum to irrigate 398 acres of land out of a 1040.3 acre tract in the aforesaid Defea Survey and not to exceed 725 acre-feet of water per annum from the perimeter of Reservoir 1 to the two off-channel reservoirs for recreational purposes (wetland wildlife habitat area). The permit includes a maximum diversion rate from Reservoir 1 of 8.91 cfs (4000 gpm). Permittees are required to return water diverted from Reservoir 1 for irrigation purposes but not consumed to five specific points on Pinoak Creek, a specific point on Sandy Creek and an unnamed tributary of Potters's Creek. Permit Number 5168 contains the following special conditions: 1. Permittees may divert water during the month of June only when all inflows up to 19.5 cfs are passed through Reservoir Number 1 and during the other months when all inflows up to 10.5 cfs are passed through the reservoir. 2. In lieu of the above mentioned special condition, permittees are authorized to divert water in accordance with an operating agreement between permittees and the owners of Certificate of Adjudication Number 16-2083 and Water Use Permit Number 4252 (A-4559) which must be approved by the Executive Director. 3. Permit Number 5168 will expire and become null and void on December 31, 1999, unless permittees apply for and are granted an extension to the permit. On September 28, 1998 an application was submitted by the permittees requesting to amend Permit Number 5168 by removing the special condition indicating that it would expire on December 31, 1998. The applicants are included in a Compromise Settlement Agreement among the Lavaca Navidad River Authority (LNRA) and the Texas Water Development Board (TWDB), the owners of the water right for Lake Texana, and 16 other water right holders in the Lavaca River Basin upstream from Lake Texana. The agreement includes a statement that LNRA would not protest the conversion of applicants' term permit to a perpetual permit subject to the following conditions: 1. Diversion of water authorized under the permit is limited to those times when the level of Lake Texana is at or above 43.0 msl; and 2. Prior to initiating diversions, permittees must contact the South Texas Watermaster to verify the level of Lake Texana. Subsequent to the development of the settlement agreement, the Texas Natural Resource Conservation Commission staff determined that applications to convert term permits to perpetual water rights in the Lavaca River Basin upstream of Lake Texana should be accompanied by a demonstration that an alternate water supply source is available for irrigation use. Applicants have demonstrated that they own groundwater wells that could produce a total of 6050 gallons of water per minute.

The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after 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) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit any proposed conditions to the requested amendment which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TNRCC Office of the Chief Clerk at the address provided in the information section below. If a hearing request is filed, the Executive Director will not issue the requested amendment and may forward the application and hearing request to

the TNRCC Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TNRCC, 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 Office of Public Assistance at 1-800-687-4040. General information regarding the TNRCC can be found at our web site at [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us).

TRD-200000073

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: January 5, 2000



### Proposal for Decision

The State Office Administrative Hearing has issued a Proposal for Decision and Order to the Texas Natural Resource Conservation Commission on December 17, 1999. In the Matter of an Enforcement Action Against Basse Truck Line, Inc; SOAH Docket Number 82-99-0802 ;TNRCC Docket Number 1998-1232-AIR-E. In the matter to be considered by the Texas natural Resource Conservation Commission on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to comment on Proposal for Decision and Order. Comment period will end 30 days from date of publication. If you have any questions or need assistance, please contact Doug Kitts, Chief Clerk's Office, (512) 239-3317.

TRD-200000070

Douglas A. Kitts

Agenda Coordinator

Texas Natural Resource Conservation Commission

Filed: January 5, 2000



## Public Utility Commission of Texas

### Notices of Applications for Amendments to Service Provider Certificates of Operating Authority

On December 30, 1999, Telephone Plus 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 60097. Applicant intends to reflect a change in ownership and control, and change its name to CoServ Communications.

The Application: Application of Telephone Plus for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 21842.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Public Utility Commission of Texas at P.O. Box 13326, Austin, Texas 78711-3326 no later than January 19, 2000. You may contact the commission's Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 21842.

TRD-200000021

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: January 4, 2000



On December 29, 1999, TXNet Communications 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 60175. Applicant intends to (1) reflect transfer of direct control to a holding company, TCS Holdings, Inc.; (2) remove the resale-only restriction; (3) expand its geographic area to include the entire state of Texas; and (4) change its name to TxNet.

The Application: Application of TXNet Communications for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 21913.

Persons with questions about this docket, or who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Public Utility Commission of Texas at P.O. Box 13326, Austin, Texas 78711-3326 no later than January 19, 2000. You may contact the commission's Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 21913.

TRD-200000022

Rhonda Dempsey

Rules Coordinator

Public Utility Commission of Texas

Filed: January 4, 2000



### Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 30, 1999, to amend a certificate of convenience and necessity pursuant to §§14.001, 37.051, and 37.054, 37.056, 37.057 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998) (PURA). A summary of the application follows.

Docket Style and Number: Application of Entergy Gulf States, Inc. (EGSI) to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line within Montgomery County. Docket Number 21915.

The Application: EGSI proposes to construct a 5.7-mile long, 138,000 volt (138kV) electric transmission line and a new substation. The site of the new transmission line for which certification is sought is located in Montgomery County. The new substation, Spring Creek, will also be located in Montgomery County. Copies of the amended application and additional associated maps are available for reviewing at the EGSI office, 9425 Pincroft, The Woodlands, Texas, 77380. Persons with questions about this project should contact Terry Allemand at (281) 362-4071.

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

established, but will be no earlier than February 14, 2000. The commission should receive a letter requesting intervention on or before that date.

TRD-200000010  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 4, 2000



#### Public Notices of Amendments to Interconnection Agreements

On December 27, 1999, Southwestern Bell Telephone Company and Sage Telecom, Inc. collectively referred to as applicants, filed a joint application for approval of amendment to their T2A Agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 21905. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 21905. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 20, 2000, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas, 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 21905.

TRD-200000006  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 3, 2000



On December 28, 1999, Southwestern Bell Telephone Company and GTE Communications Corporation, collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 21912. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 21912. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 26, 2000, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may

conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Customer Protection at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 21912.

TRD-200000024  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 4, 2000

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**Public Notice of Workshops on Implementation of Customer Education Program for Electric Choice**

The Public Utility Commission of Texas (commission) will hold several workshops regarding the Implementation of Customer Education Program for Electric Choice (Senate Bill 7, PURA §39.902). All workshops will be held at the commission offices located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701 on the following days:

Tuesday, February 15, 2000, at 1:00 p.m. in Hearing Room Gee  
Tuesday, March 14, 2000, at 1:00 p.m. in Hearing Room Gee  
Tuesday, April 11, 2000, at 1:00 p.m. in Hearing Room Gee  
Tuesday, May 9, 2000, at 1:00 p.m. in Hearing Room Gee  
Tuesday, June 20, 2000, at 1:00 p.m. in Hearing Room Gee

Project Number 21251, *Implementation of Senate Bill 7 Provisions Regarding Customer Education For Electric Choice (SB 7, PURA §39.902)*, has been established for these proceedings. The purpose of these workshops is to solicit input from interested parties that will assist in implementing the provisions of Senate Bill 7, Act of May 21, 1999, 76th Legislature, Regular Session, chapter 405, 1999 Texas Session Law Service 2543, 2596 (Vernon) (Public Utility Regulatory Act, Texas Utilities Code Annotated (PURA) §39.902, Customer Education). These provisions require the commission to: (1) develop and implement a neutral and non-promotional education program to inform customers, including low-income and non-English speaking customers, about changes in electric service resulting from the opening of the retail electric market; (2) not duplicate efforts of retail electric providers and other private entities or target areas served by municipalities or electric cooperatives; and (3) report on the status of the educational program to the electric utility restructuring legislative oversight committee on or before December 1, 2001.

Timelines, agendas, and additional information on this project shall be filed in Central Records and available for view on the commission's Web site prior to each meeting. Questions concerning the workshop or this notice should be referred to Grace Godines, Information Specialist, Office of Customer Protection, (512) 936-7131. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200000053  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas

Filed: January 5, 2000

◆ ◆ ◆  
**Public Notice of Workshop on Provisions of PURA Chapter 39 Relating to Market Power Mitigation Plans and Generating Capacity Reports**

The staff of the Public Utility Commission of Texas (commission) will hold a workshop to discuss a rulemaking to implement Public Utility Regulatory Act (PURA) §§39.155(a), 39.156, and 39.157(c) relating to market power mitigation plans and generating capacity reports. The workshop will be held on Monday, January 31, 2000, at 9:30 a.m. in the Commissioners' Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701. Project Number 21081, *Market Power Mitigation Plans and Generating Capacity Reports* has been established for this proceeding. Through this workshop, the commission will gather information from interested persons and discuss possible rule language concerning the above-stated provisions of PURA, effective September 1, 1999, that affect the development of market power mitigation plans and generating capacity reports.

On or before January 24, 2000, staff will file an agenda for the workshop, which will be available in Central Records and on the Commission's web site under Project Number 21081. Copies of the agenda will also be available at the workshop. A staff strawman draft rule will be made available in Central Records and on the web site under Project Number 21081 in advance of the workshop.

Questions concerning the workshop or this notice should be referred to Richard Greffe, Office of Regulatory Affairs, (512) 936-7404. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200000005  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 3, 2000

◆ ◆ ◆  
**Public Notice of Workshop on Rulemaking to Address Compensation for Exchange of Internet Service Provider Traffic and Request for Comments**

The staff of the Public Utility Commission of Texas (commission) will host a workshop to discuss a rulemaking to address compensation arrangements between telecommunications providers for the exchange of internet service provider traffic. Project Number 21899, *Rulemaking to Address Compensation for Exchange of Internet Service Provider Traffic*, has been established for this proceeding. The workshop will be held on Wednesday, February 16, 2000, beginning at 9:30 a.m. in the Commissioners' Hearing Room on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

Through this workshop, the commission will gather information from interested persons on issues relating to procedures and methodologies to be used by telecommunications providers in developing compensation arrangements for the exchange of internet service provider traffic. Both substantive and procedural aspects will be open for discussion at the workshop. The workshop agenda will not be confined solely to questions proposed by commission staff; a portion of the workshop will be reserved for open discussion of general or specific issues of interest to attendees.

The commission established an expedited schedule for this rulemaking. Accordingly, before the workshop commences, the commission requests interested persons to file comments addressing the questions below and propose draft rule language.

#### QUESTIONS

1. What should be the scope or parameters of this rulemaking? Please explain your answer.
2. What issues should be addressed in this rule? Please offer support or justification for each issue.
3. How and when should the rule be implemented? For example, what compliance proceedings may be necessary and should the rule apply only in arbitration proceedings when negotiations fail? Please explain your position.

#### PROPOSED RULE LANGUAGE

1. Please attach proposed rule language.

Sixteen copies of comments and proposed rule language may be filed with the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within ten days of the date of publication of this notice. Reply comments may be submitted within 15 days after publication. All comments should reference Project Number 21899. To the extent possible, comments and proposed rule language should be provided to the commission and all interested participants in an electronic format.

On or before February 11, 2000, the commission will file an agenda for the workshop and a draft rule for discussion at the workshop, which will be available in Central Records under Project Number 21899. Copies of the agenda and draft rule will also be available at the workshop.

Questions about Project Number 21899 may be referred to Bridget Rabel, Office of Policy Development, (512) 936-7216, [bridget.rabel@puc.state.tx.us](mailto:bridget.rabel@puc.state.tx.us). Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200000023  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 4, 2000



#### Request for Comments Relating to Customer Proprietary Network Information

Project Number 21421, *Amendments to §26.122 Regarding Customer Proprietary Network Information*, was established to address whether it would be necessary to amend existing Substantive Rules to comply with the mandates to protect Customer Proprietary Network Information (CPNI), specifically credit and consumption information, made by the 1999 Texas Legislature in Senate Bill 86 (SB86), Act of May 30, 1999, 76th Legislature, Regular Session, Chapter 1579, 1999 Texas Session Law Service 5421, 5423 (Vernon) (to be codified as an amendment to the Public Utility Regulatory Act (PURA), Texas Utilities Code Annotated §17.004(a)(6)).

The commission's staff believes that commission's existing substantive rules, specifically §26.122 relating to Customer Proprietary Network Information, address the legislature's concerns and adequately protect customers and no major revision of the substantive rules is necessary. Further, the staff proposes to make minor revisions to

add CPNI to customer notice requirements (§26.31 relating to Information to Applicants and Customers) and existing credit provisions (§26.24 relating to Credit Requirements and Deposits). These revisions will be considered in Project Number 21423, Amendments to §§26.21-26.31 Regarding Telephone Customer Service Standards. If the revisions are undertaken in Project Number 21423, Project Number 21421 probably will be eliminated.

The commission's staff invites comment from parties on whether the staff's plan is appropriate, and on whether there are any other issues that need to be addressed in Project Number 21421. Comments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas, 78711-3326, within 30 days of publication of this notice. All comments should reference Project Number 21421. Any questions regarding this notice should be directed to Shari Hill at (512) 936-7048. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200000004  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 3, 2000



#### Request for Proposals for Provision of Computer Aided Real-Time Captioning Service for the Public Utility Commission

A Request for Proposals (RFP) for computer aided real-time (CART) captioning services will be issued pursuant to the Public Utilities Regulatory Act, Texas Utilities Code, Chapter 56.

**Eligible Proposers.** The Public Utility Commission is requesting proposals from entities with experience providing computer aided real-time captioning service. The provider must offer a certified real-time reporter to provide captioning services for meetings involving the deaf and hard of hearing. Reporters must be certified shorthand reporters pursuant to Chapter 52 of the Texas Government Code.

**Project Description.** The reporter will provide CART services for the Public Utility Commission when requested to serve, including quarterly meetings of the Relay Texas Advisory Committee, and other meetings and workshops attended by the deaf and hard of hearing as required by the commission.

**Selection Criteria.** A proposal will be selected based on the ability of the proposer to provide the best value in carrying out requirements identified in the RFP, including: the ability to produce accurate transcripts; the ability to timely produce transcripts, ability to supply products compatible with existing agency software (diskettes in Word or ASCII format); experience providing transcription services for similar state agencies; ability to provide real-time captioning of hearing; and cost to the commission. Commission staff will evaluate proposals and the Executive Director will make a selection.

**Requesting the Proposal.** The RFP will be available Friday January 14, 2000. A complete copy of the RFP for Provision of Computer Aided Real-time Captioning Service for the Public Utility Commission may be obtained by writing Susan K. Durso, General Counsel, Public Utility Commission, P.O. Box 13326, Austin, Texas, 78711-3326, or [susan.durso@puc.state.tx.us](mailto:susan.durso@puc.state.tx.us), or by calling (512) 936-7146. The RFP is also available on the Internet at the Texas Marketplace, Electronic State Business Daily, <http://www.Texas-one.org>; or at the commission's web site, <http://www.puc.state.tx.us>.

For Further Information. For clarifying information about the RFP, write Susan K. Durso, Public Utility Commission, P.O. Box 13326, Austin, Texas, 78711-3326, Fax (512) 936-7003, susan.durso@email.puc.state.tx.us.

Deadline for Receipt of Proposals. Proposals must be received no later than 3:00 p.m. on Friday, February 4, 2000, in Central Records, Room G-113, Public Utility Commission of Texas, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701. Proposals received in Central Records after 3:00 p.m. on February 4, 2000, will not be considered. Proposals may be received in Central Records between 9:00 a.m. and 5:00 p.m., Monday through Friday. Regardless of the method of submission of the proposal, the commission will rely solely on the time/date stamp of the Central Records Division in establishing the time and date of receipt.

TRD-200000025  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: January 4, 2000



## **Texas Water Development Board**

### **Applications Received**

Pursuant to the Texas Water Code, Section 6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

Clear Lake City Water Authority, 900 Bay Area Blvd., Houston, Texas, 77058, received December 1, 1999, application for financial assistance in the amount of \$7,885,000 from the Texas Water Development Funds.

City of Houston, P.O. Box 1562, Houston, Texas, 77251-1562, received November 1, 1999, application for financial assistance in

the amount of \$87,050,000 from the Clean Water State Revolving Fund.

Pine Village Public Utility District, 23323 Briarcreek, Spring, Texas, 77373, received October 6, 1999, application for financial assistance in the amount of \$1,050,000 from the Clean Water State Revolving Fund and the Texas Water Development Funds.

City of Deer Park, 710 East San Augustine, P.O. Box 700, Deer Park, Texas, 77536, received November 5, 1999, application for financial assistance in the amount of \$3,000,000 from the Clean Water State Revolving Fund.

Village of Briarcliff, 402 Sleat Drive, HC 01, Box 24, Spicewood, Texas, 78669, received December 1, 1999, application for financial assistance in the amount of \$1,025,000 from the Texas Water Development Funds.

Greater Texoma Utility Authority, on behalf of the Cities of Southmayd and Leonard, 5100 Airport Drive, Denison, Texas, 75020, application for financial assistance in the amount of \$300,000 from the Texas Water Development Funds.

San Antonio Water System, on behalf of City of San Antonio, 1001 East Market Street, P.O. Box 2449, San Antonio, Texas, 78298-2449, received November 1, 1999, application for financial assistance in the amount of \$30,290,000 from the Clean Water State Revolving Fund.

TRD-200000074

Gail L. Allan  
Director of Project-Related Legal Services  
Texas Water Development Board  
Filed: January 5, 2000



## How to Use the Texas Register

**Information Available:** The 13 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 a 30-day 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.

**Open Meetings** - notices of open meetings.

**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 24 (1999) is cited as follows: 24 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 "23 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 23 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 subscription information, see the back

cover or 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 (using Arabic numerals) and Parts (using Roman 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>. The following companies also provide complete copies of the *TAC*: Lexis-Nexis (1-800-356-6548), LOIS, Inc. (1-800-364-2512 ext. 152), 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 8, April 9, July 9, and October 8, 1999). 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).

# *Texas Register*

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