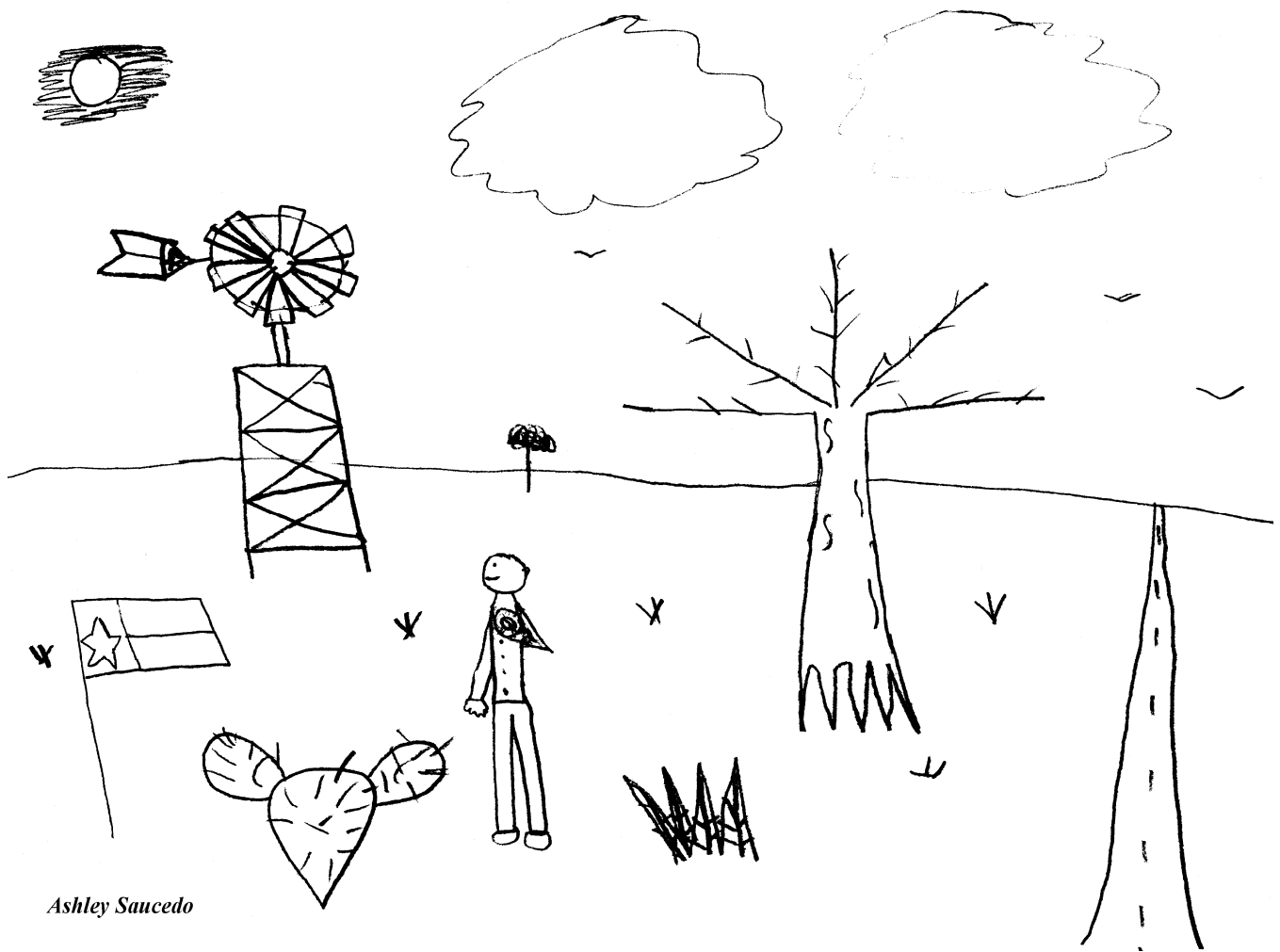

TEXAS REGISTER

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Ashley Saucedo

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

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

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IN THIS ISSUE

GOVERNOR

Appointments.....3843

ATTORNEY GENERAL

Requests for Opinions.....3847

PROPOSED RULES

STATE OFFICE OF ADMINISTRATIVE HEARINGS

PROCEDURES FOR ADVANCING SECURITY FOR COSTS AND ASSIGNING RESPONSIBILITY FOR COSTS IN HEARINGS FOR THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION REGARDING MEDICAID PAYMENT HOLDS AND RECOUPMENT

1 TAC §§169.1, 169.3, 169.5, 169.7.....3849

TEXAS DEPARTMENT OF AGRICULTURE

COTTON PEST CONTROL

4 TAC §20.20, §20.22.....3850

TEXAS FEED AND FERTILIZER CONTROL SERVICE/OFFICE OF THE TEXAS STATE CHEMIST

COMMERCIAL FEED RULES

4 TAC §61.1.....3851

TEXAS HISTORICAL COMMISSION

TEXAS MAIN STREET PROGRAM

13 TAC §19.3, §19.5.....3852

HISTORY PROGRAMS

13 TAC §21.7, §21.9.....3854

TEXAS EDUCATION AGENCY

SCHOOL DISTRICTS

19 TAC §61.1034.....3857

TEXAS MEDICAL BOARD

ACUPUNCTURE

22 TAC §§183.5, 183.20, 183.25.....3860

TEXAS DEPARTMENT OF INSURANCE

LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

28 TAC §3.7001.....3864

COMPTROLLER OF PUBLIC ACCOUNTS

FUNDS MANAGEMENT (FISCAL AFFAIRS)

34 TAC §5.400.....3866

TEXAS FORENSIC SCIENCE COMMISSION

DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

37 TAC §651.7.....3868

WITHDRAWN RULES

TEXAS EDUCATION AGENCY

SCHOOL DISTRICTS

19 TAC §61.1034.....3871

ADOPTED RULES

TEXAS DEPARTMENT OF LICENSING AND REGULATION

ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

16 TAC §74.50, §74.60.....3873

SERVICE CONTRACT PROVIDERS AND ADMINISTRATORS

16 TAC §§77.10, 77.26, 77.70.....3873

DRIVER EDUCATION AND SAFETY

16 TAC §84.48.....3875

16 TAC §84.51.....3875

16 TAC §§84.500, 84.502, 84.503.....3876

16 TAC §84.600.....3880

ATHLETIC TRAINERS

16 TAC §110.1, §110.19.....3881

16 TAC §§110.1, 110.10, 110.14, 110.20, 110.21, 110.23, 110.25, 110.30, 110.80, 110.90, 110.95.....3882

TEXAS EDUCATION AGENCY

SCHOOL DISTRICTS

19 TAC §61.1010.....3882

19 TAC §61.1035.....3883

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

ARCHITECTS

22 TAC §1.5.....3884

22 TAC §1.21, §1.22.....3885

22 TAC §1.41.....3885

22 TAC §1.123.....3885

TEXAS BOARD OF CHIROPRACTIC EXAMINERS

RULES OF PRACTICE

22 TAC §78.3.....3885

22 TAC §78.5.....3886

22 TAC §78.7.....3886

22 TAC §78.8.....3887

TEXAS DEPARTMENT OF INSURANCE

PROPERTY AND CASUALTY INSURANCE

28 TAC §5.4203.....3887

CORPORATE AND FINANCIAL REGULATION	
28 TAC §§7.601 - 7.612, 7.614, 7.621 - 7.627	3888
28 TAC §§7.1801, 7.1802, 7.1804 - 7.1809	3902
TEXAS DEPARTMENT OF PUBLIC SAFETY	
COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES	
37 TAC §4.11	3909
RULE REVIEW	
Adopted Rule Reviews	
Public Utility Commission of Texas	3911
TABLES AND GRAPHICS	
.....	3913
IN ADDITION	
Office of Consumer Credit Commissioner	
Notice of Rate Ceilings	3915
Texas Commission on Environmental Quality	
Agreed Orders	3915
Enforcement Orders	3918
Enforcement Orders	3919
Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 151717.....	3922
Notice of Deletion of the James Barr Facility State Superfund Site from the State Superfund Registry	3922
Notice of Opportunity to Comment on a Shutdown/Default Order of Administrative Enforcement Actions	3923
Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions	3924
Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Bhatti's Grocery LLC dba S&A Grocery.....	3925
Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Perry J. Sheffield DBA Sheffield Recycling.....	3926
Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Winter Garden Park Corporation	3927
Notice of Water Rights Application.....	3927
Notice of Water Rights Application.....	3928
Notice of Water Rights Application.....	3928
Notice of Water Rights Application.....	3929
Request for Nominations for Appointment to Serve on the Irrigator Advisory Council.....	3929
Texas Ethics Commission	

List of Late Filers.....	3930
Texas Facilities Commission	
Request for Proposals #303-9-20635.....	3930
General Land Office	
Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program	3930
Notice of Derelict Vessel	3931
Texas Health and Human Services Commission	
Notice of Public Hearing on Proposed Medicaid Payment Rate for Truman W. Smith Children's Care Center	3931
Department of State Health Services	
Designation of a Practice Serving a Medically Underserved Population	3932
Licensing Actions for Radioactive Materials	3932
Texas Department of Housing and Community Affairs	
Notice of Public Hearings, Input Requested for the State of Texas Draft Analysis of Impediments to Fair Housing Choice.....	3935
Texas Department of Insurance	
Company Licensing	3935
Texas Department of Insurance, Division of Workers' Compensation	
Public Hearing Notice.....	3936
Texas Lottery Commission	
Scratch Ticket Game Number 2056 "\$200 Million Cash Explosion®"	3936
Public Utility Commission of Texas	
Announcement of Application to Amend a State-Issued Certificate of Franchise Authority	3941
Notice of Application for a System Average Interruption Duration Index Adjustment	3942
Notice of Application for Approval of a Service Area Contract	3942
Notice of Application for Approval of the Provision of Non-Emergency 311 Service.....	3942
Notice of Application for Sale, Transfer, or Merger	3942
Notice of Application for Sale, Transfer, or Merger.....	3943
Notice of Application for Sale, Transfer, or Merger	3943
Notice of Application for Service Area Exception	3943
Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line.....	3944
Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line.....	3944
Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line.....	3944

Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line.....3944

Notice of Petition for Amendment to Certificate of Convenience and Necessity by Expedited Release3945

Texas Workforce Commission

Request for Comment Regarding the Management Fee Rate Charged by TIBH Industries Inc. (Central Nonprofit Agency).....3945

Request for Comment Regarding the Services Performed by TIBH Industries Inc.3945

Workforce Solutions Deep East Texas

Request for Proposal #18-371 Simulators: Advanced Construction Excavator Simulator System Motor Grader Simulator System Track Type Tractor Simulator System3945

Open Meetings

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

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

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.texas.gov

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

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

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

<http://texasattorneygeneral.gov/og/open-government>

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

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

...

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

THE GOVERNOR

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

Appointments

Appointments for April 2, 2018

Appointed to the Education Commission of the States for a term to expire at the pleasure of the Governor, Dwayne Bohac of Houston (replacing Rob Eissler of The Woodlands).

Appointed to the Education Commission of the States for a term to expire at the pleasure of the Governor, Ronald E. "Ron" Simmons of Carrollton (replacing Daniel H. Branch of Dallas).

Appointed to the Education Commission of the States for a term to expire at the pleasure of the Governor, Larry Taylor of Friendswood (replacing Florence Shapiro of Plano).

Appointed as Governor's Designee to the Education Commission of the States, John D. Colyandro (replacing Michael Berry of Austin).

Appointed as the State Administrator for the Interstate Agreement on Detainers for a term to expire at the pleasure of the Governor, Debra L. "Debbie" Gibbs of Huntsville (replacing Joni White of Huntsville who retired).

Appointments for April 3, 2018

Appointed as Administrator for the Interstate Compact for Juveniles for a term to expire at the pleasure of the Governor, Camille Cain of Austin (replacing Michael K. "Mike" Griffiths of Austin).

Continuing as Deputy Administrator and Commissioner for the Interstate Compact for Juveniles, Daryl L. Liedecke of Austin.

Appointed to the State Soil and Water Conservation Board for a term to expire February 1, 2020, Christine "Tina" Yturria Buford of Harlingen (Ms. Buford is being reappointed).

Appointments for April 4, 2018

Appointed to the Family and Protective Services Council for a term to expire February 1, 2019, Dorothy Jean Calhoun, Ed.D. of Missouri City.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2019, Aureka C. Simpson of DeSoto.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2019, Janice M. Washington of Corpus Christi.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2021, Omedi "Dee Dee" Cantu Arismendez of Alice.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2021, Gregory "Greg" Hamilton of Hutto.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2021, Davina R. Hollin of Corinth.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2023, Liesa G. Hackett of Huntsville.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2023, Bonnie C. Hellums of Houston.

Appointed to the Family and Protective Services Council for a term to expire February 1, 2023, Matthew M. "Matt" Kouri of Austin.

Appointments for April 5, 2018

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2020, Dewey M. "Mike" Cox of Driftwood.

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2020, Cary B. "Bryan" Hedrick of Hereford.

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2020, Allison E. Hymel of Allen.

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2020, Cecilia "Cissy" Reynolds-Perez of Corpus Christi.

Appointed to the Texas School Safety Center Board for a term to expire February 1, 2020, Paul A. Robbins of Nacogdoches.

Appointments for April 11, 2018

Pursuant to SB 763, 85th Legislature, Regular Session, appointed to the Texas Historical Commission for a term to expire February 1, 2019, James E. "Jim" Bruseth, Ph.D. of Austin.

Pursuant to SB 763, 85th Legislature, Regular Session, appointed to the Texas Historical Commission for a term to expire February 1, 2019, Rupa "Renee" Dutia of Dallas.

Pursuant to SB 763, 85th Legislature, Regular Session, appointed to the Texas Historical Commission for a term to expire February 1, 2021, Lilia M. Garcia of Raymondville.

Pursuant to SB 763, 85th Legislature, Regular Session, appointed to the Texas Historical Commission for a term to expire February 1, 2021, David A. Gravelle of Dallas.

Pursuant to SB 763, 85th Legislature, Regular Session, appointed to the Texas Historical Commission for a term to expire February 1, 2023, Garret K. Donnelly of Midland.

Pursuant to SB 763, 85th Legislature, Regular Session, appointed to the Texas Historical Commission for a term to expire February 1, 2023, Laurie M. Limbacher of Austin.

Appointed as presiding officer of the Texas State Council for Interstate Adult Offender Supervision, for a term to expire at the pleasure of the Governor, David G. Gutierrez of Salado (replacing Elizabeth C. "Libby" Elliott of Austin).

Appointments for April 12, 2018

Appointed to the Correctional Managed Health Care Committee, for a term to expire February 1, 2021, John W. Burruss, M.D., of Dallas (replacing Mary "Annette" Gary, Ph.D. of Lubbock, whose term expired).

Appointed to the Correctional Managed Health Care Committee, for a term to expire February 1, 2021, Erin A. Wyrick of Amarillo (replacing Elizabeth A. Linder, Ed.D. of Slaton, whose term expired).

Appointments for April 16, 2018

Appointed to the Texas Ethics Commission, for a term to expire November 19, 2021, Patrick W. "Pat" Mizell of Houston (replacing James T. "Jim" of Clancy of Portland, whose term expired).

Appointments for April 17, 2018

Appointed to the Texas Medical Board, for a term to expire April 13, 2023, Sharon J. Barnes of Rosharon (replacing Julie Kinney Attebury of Amarillo, whose term expired).

Appointed to the Texas Medical Board, for a term to expire April 13, 2023, George L. DeLoach, D.O. of Livingston (replacing John R. Guerra, D.O. of Mission, whose term expired).

Appointed to the Texas Medical Board, for a term to expire April 13, 2023, Robert Gracia of Richmond (replacing Carlos L. Gallardo of Frisco, whose term expired).

Appointed to the Texas Medical Board, for a term to expire April 13, 2023, Manuel M. "Manny" Quinones Jr., M.D. of San Antonio (replacing Stanley Suchy Wang, M.D. of Austin, whose term expired).

Appointed to the Texas Medical Board, for a term to expire April 13, 2023, David G. "Dave" Vanderweide, M.D. of League City (replacing George Willeford III, M.D. of Austin, whose term expired).

Appointments for April 18, 2018

Appointed to the North Texas Tollway Authority Board of Directors, for a term to expire August 31, 2019, Frankie "Lynn" Gravley of Gunter (replacing William D. "Bill" Elliott of Ravenna, whose term expired).

Appointments for April 19, 2018

Appointed to the Upper Guadalupe River Authority, for a term to expire February 1, 2023, David M. "Mike" Hughes of Ingram (Mr. Hughes is being reappointed)

Appointed to the Upper Guadalupe River Authority, for a term to expire February 1, 2023, William R. "Bill" Rector, M.D. of Kerrville (Mr. Rector is being reappointed).

Appointed to the Upper Guadalupe River Authority, for a term to expire February 1, 2023, Margaret B. "Maggie" Snow of Kerrville (replacing Harold James Danford of Kerrville, whose term expired).

Appointments for April 20, 2018

Appointed to the San Jacinto Historical Advisory Board, for a term to expire September 1, 2021, Shanda G. Perkins of Burleson (replacing Jimmy Adrian Burke of Deer Park, whose term expired).

Appointments for April 23, 2018

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2023, Oliver J. Bell of Houston (Mr. Bell is being reappointed).

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2023, Kenneth R. "Kenny" Koncaba, Jr. of Friendswood (replacing Samuel Lee Bryant of Austin, whose term expired).

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2023, Hasan Mack of Austin (replacing Gary Bledsoe of Austin, whose term expired).

Appointments for April 24, 2018

Appointed to the Lavaca-Navidad River Authority, for a term to expire May 1, 2023, Jerry L. Adelman of Palacios (Mr. Adelman is being reappointed).

Appointed to the Lavaca-Navidad River Authority, for a term to expire May 1, 2023, Michelle L. Bubela of Edna (replacing David Martin Muegee of Edna, whose term expired).

Appointed to the Lavaca-Navidad River Authority, for a term to expire May 1, 2023, Terri Lynn Parker of Ganado (Ms. Parker is being reappointed).

Appointments for April 25, 2018

Appointed to the Child Fatality Review Team Committee, for a term to expire at the pleasure of the Governor, Heather Fleming of Austin (replacing Allison Billodeau of Austin).

Appointed to the Credit Union Commission for a term to expire February 15, 2019, Elizabeth L. "Liz" Bayless of Austin (replacing Vik Vad of Austin, who resigned).

Appointments for April 26, 2018

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired, for a term to expire January 31, 2021, Brenda W. Lee of Brownwood (replacing Tobie L. Wortham of Royce City, who resigned).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired, for a term to expire January 31, 2023, Ruben D. "Dan" Brown, Jr., of Pflugerville (replacing Anne L. Corn, Ed.D of Austin, whose term expired).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired, for a term to expire January 31, 2023, Michael P. "Mike" Hanley of Leander (Mr. Hanley is being reappointed).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired, for a term to expire January 31, 2023, Julie R. Prause of Columbus (replacing Caroline Kupstas Daley of Kingwood, whose term expired).

Appointed to the Southern Regional Education Board, for a term to expire June 30, 2018, Michael H. "Mike" Morath of Austin (replacing Michael L. Williams of Arlington, who resigned).

Appointed to the Southern Regional Education Board, for a term to expire June 30, 2019, Pedro Martinez of San Antonio (replacing Daniel H. Branch of Dallas, whose term expired).

Appointed to the Southern Regional Education Board, for a term to expire June 30, 2020, Larry Taylor of Friendswood (replacing Rob Eissler of The Woodlands, whose term expired).

Appointed to the Southern Regional Education Board, for a term to expire June 30, 2021, Raymund A. Paredes, Ph.D of Austin (replacing Jimmie Don Aycock, whose term expired).

Appointments for April 27, 2018

Appointed to the Sabine River Authority of Texas Board of Directors, for a term to expire July 6, 2023, Thomas N. "Tom" Beall of Milam (replacing M. Sharon Newcomer of Orange, whose term expired).

Appointed to the Sabine River Authority of Texas Board of Directors, for a term to expire July 6, 2023, Andrew L. Mills of Hemphill (replacing Stanley N. "Stan" Mathews of Orange, whose term expired).

Appointed to the Sabine River Authority of Texas Board of Directors, for a term to expire July 6, 2023, Janie Lou Walenta of Quitman (replacing Clifford R. "Cliff" Todd of Long Branch, whose term expired).

Appointments for April 30, 2018

Appointed to the Lower Neches Valley Authority Board of Directors, for a term to expire July 28, 2023, Kal A. Kincaid of Beaumont (Mr. Kincaid is being reappointed).

Appointed to the Lower Neches Valley Authority Board of Directors, for a term to expire July 28, 2023, Clint A. Mitchell of Nederland (replacing Jordan W. Reese, IV of Beaumont, whose term expired).

Appointed to the Lower Neches Valley Authority Board of Directors, for a term to expire July 28, 2023, William D. "Bill" Voigtman of Silsbee (replacing James "Olen" Webb of Silsbee, whose term expired).

Appointments for May 2, 2018

Appointed as presiding officer of the Grayson County Regional Mobility Authority, for a term to expire February 1, 2020, Robert W. Brady of Denison (replacing Clyde M. Siebman of Pottsboro, whose term expired).

Appointments for May 3, 2018

Appointed to the OneStar National Service Board, for a term to expire March 15, 2020, Charmelle Garrett of Victoria (replacing Elisa G. "Lisa" Lucero of Austin, whose term expired).

Appointed to the OneStar National Service Board, for a term to expire March 15, 2020, Mary Grace Landrum of Houston (Ms. Landrum is being reappointed).

Appointed to the OneStar National Service Board, for a term to expire March 15, 2020, Lillian G. Lucero of Austin (replacing Amber Rose Wall of Pflugerville, whose term expired).

Appointed to the OneStar National Service Board, for a term to expire March 15, 2020, James K. Senegal of Spring (Captain Senegal is being reappointed).

Appointed to the OneStar National Service Board, for a term to expire March 15, 2020, Corey D. Tabor of Manor (replacing Michael M. "Mike" Burke of Austin, whose term expired).

Appointments for May 8, 2018

Appointed to the State Pension Review Board, for a term to expire January 31, 2019, Marcia A. Dush of Austin (replacing Robert M. May of Austin, who resigned).

Appointments for May 9, 2018

Appointed to the Specialty Courts Advisory Council, for a term to expire February 1, 2023, Angela M. Tucker of McKinney (replacing Raymond G. "Ray" Wheless of Allen, who resigned).

Appointments for May 10, 2018

Appointed to the Texas State University Board of Regents, for a term to expire February 1, 2023, Garry D. Crain of The Hills (replacing Donna N. Williams of Arlington, whose term expired).

Appointments for May 16, 2018

Promoted to the rank of Rear Admiral Lower Half in Headquarters, Texas State Guard, Austin, Texas, with all rights, privileges and emoluments appertaining to this office, effective June 1, 2018, Joe D. Cave of Austin.

Promoted to the rank of Brigadier General in Headquarters, Texas State Guard, Austin, Texas, with all rights, privileges and emoluments appertaining to this office, effective June 1, 2018, Robert T. Hastings of Austin.

Greg Abbott, Governor

TRD-201802445



TEXAS



Welcome
to
Texas. 🤠

Leslie Gallegos
7th Grade

THE ATTORNEY GENERAL

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

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

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

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

Requests for Opinions

RQ-0235-KP

Requestor:

The Honorable David Willborn

Guadalupe County Attorney

211 West Court Street

Seguin, Texas 78155-5779

Re: Whether a county clerk whose office does not accept electronic documents for recording must accept and record a printed copy of an electronic document that does not comply with the original signature

and other requirements of certain provisions of the Property Code (RQ-0235-KP)

Briefs requested by July 5, 2018

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-201802441

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: June 6, 2018





Jolie Phillips
10th Grade

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

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

TITLE 1. ADMINISTRATION

PART 7. STATE OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 169. PROCEDURES FOR ADVANCING SECURITY FOR COSTS AND ASSIGNING RESPONSIBILITY FOR COSTS IN HEARINGS FOR THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION REGARDING MEDICAID PAYMENT HOLDS AND RECOUPMENT

1 TAC §§169.1, 169.3, 169.5, 169.7

The State Office of Administrative Hearings (SOAH) proposes to repeal Chapter 169 in its entirety: §§169.1, 169.3, 169.5, and 169.7.

Senate Bill 180, 83rd Legislature, Regular Session, 2013, required SOAH and the Texas Health and Human Services Commission (HHSC) to jointly adopt rules requiring security for costs that a provider must advance when a provider requests an expedited payment hold administrative hearing or elects an administrative hearing at SOAH concerning an overpayment recoupment claim. SOAH adopted Chapter 169 related to Procedures for Advancing Security for Costs and Assigning Responsibility for Costs in Hearings for HHSC regarding Medicaid Payment Holds and Recoupment to implement this legislation. Senate Bill 207, 84th Legislature, Regular Session, 2015, repealed the requirement for joint adoption of rules related to the costs of administrative hearings. The proposed repeal is necessary to implement Senate Bill 207.

Fiscal Note. Cynthia Reyna, General Counsel, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of the repeal of Chapter 169. Additionally, Ms. Reyna has determined that the repeal of Chapter 169 does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Ms. Reyna has determined for the first five-year period the proposed repeal is in effect, there will be a benefit to the general public because the proposed repeal will eliminate obsolete SOAH rules.

Probable Economic Costs. Ms. Reyna has determined for the first five-year period the proposed repeal is in effect, there will

be no additional economic costs to persons required to comply with the repeal of the rule.

Fiscal Impact on Small Businesses, Micro-Businesses, and Rural Communities. There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed repeal. Because the agency has determined that the proposed repeal will have no adverse economic effects on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and Regulatory Analysis, as provided in Government Code §2006.002, is not required.

Local Employment Impact Statement. Ms. Reyna has determined that the proposed repeal will not affect the local economy so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

Government Growth Impact Statement. Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed repeal. For the first five years the proposed repeal will be in effect, the agency has determined the following:

- (1) The proposed repeal does not create or eliminate a government program.
- (2) Implementation of the proposed repeal does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed repeal does not require an increase or decrease in future legislative appropriations to the agency.
- (4) The proposed repeal does not require an increase or decrease in fees paid to the agency.
- (5) The proposed repeal does not create a new regulation.
- (6) The proposed repeal does repeal existing regulations. The repeal of Chapter 169 is proposed because the regulations are obsolete.
- (7) The proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed repeal does not positively or adversely affect this state's economy.

Takings Impact Assessment. Ms. Reyna has determined that the proposed repeal will not affect private real property interests so SOAH is not required to prepare a takings impact assessment under Government Code §2007.043.

Request for Public Comments. Comments on the proposed repeal may be submitted to Norma Lopez, State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas 78711-3025 or by email to: norma.lopez@soah.texas.gov. Comments must be

received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

Statutory Authority. The repeal is proposed under §2003.050, Texas Government Code, which authorizes SOAH to establish procedural rules for hearings conducted by SOAH.

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

§169.1. *Purpose and Scope.*

§169.3. *Definitions.*

§169.5. *Security for Costs.*

§169.7. *Assignment of Responsibility for Costs.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802369

Cynthia Reyna

General Counsel

State Office of Administrative Hearings

Earliest possible date of adoption: July 15, 2018

For further information, please call: (512) 475-1276



TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 20. COTTON PEST CONTROL SUBCHAPTER C. STALK DESTRUCTION PROGRAM

4 TAC §20.20, §20.22

The Texas Department of Agriculture (the Department) proposes amendments to the Texas Administrative Code, Title 4, Part 1, Chapter 20, Subchapter C, §20.20, concerning Pest Management Zones, and §20.22, concerning Stalk Destruction Requirements.

The proposed amendments to §20.20 unify Areas (1) - (3) which are currently within Zone 3, and moves Washington County into Zone 7, Area (2). Proposed amendments to §20.22 establish October 31 as the destruction deadline for all of Zone 3.

The Department has determined that due to weather conditions in Zone 3, the destruction deadlines need to be extended. Historical data since 2012 has shown that a blanket extension beyond the October 1 destruction deadline has been granted for at least one area, if not all areas within Zone 3. Also, Washington County has been moved from current Zone 3, Area (3), to Zone 7, Area (2), since growing practices in that county are more compatible with the proposed Zone, which has a more extended destruction deadline of November 30.

Over the last two years, no boll weevils have been captured within 250 miles of the proposed Zone 3, and no evidence of reproduction has been found; therefore, it is not likely that the proposal which combines areas within Zone 3, rezones Washington county, and extends the stalk destruction deadline will put the cotton industry at risk of infestation.

Dr. Awinash Bhatkar, Coordinator for Biosecurity and Agriculture Resource Management, has determined that for the first five-year period the proposed revised section is in effect, there will be no fiscal impact on state or local government as a result of the proposal.

Dr. Bhatkar has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of administering the proposed amendments will be the option for cotton producers in Zone 3 to have additional time to destroy their cotton stalks while maintaining boll weevil eradication efforts in Texas. There will be no fiscal impact on small or microbusinesses and individual cotton producers required to comply the proposal. There will be no adverse impact on rural communities. It is anticipated that the proposal will have a positive effect on Zone 3 cotton producers and the rural communities in Zone 3, through a longer growing season, increased cotton production, and an extended period of time to comply with cotton stalk destruction activities.

Dr. Bhatkar has provided the following information related to the government growth impact statement, as required pursuant to Texas Government Code, §2001.021. As a result of implementing the proposal, for the first five years the proposed rules are in effect:

- (1) no new or current government or Department programs will be created or eliminated;
- (2) no employee positions will be created, nor will any existing Department staff positions be eliminated; and
- (3) there will not be an increase or decrease in future legislative appropriations to the Department.

Additionally, Dr. Bhatkar has determined that for the first five years the proposed rules are in effect:

- (1) there will be no increase or decrease in fees paid to the Department;
- (2) there will be no new regulations created by the proposal;
- (3) there will be no expansion of regulations, limitation or repeal of existing regulations;
- (4) there will be no increase or decrease to the number of individuals subject to the proposal, as cotton producers residing within a pest management zone are subject to compliance with deadline requirements set forth in the current rule; and
- (5) the proposal will positively affect the Texas economy; amended destruction deadlines will be favorable to cotton production in the affected areas, and the changes will be compatible with the boll weevil eradication program.

Comments on the proposed amendments may be submitted to Dr. Awinash Bhatkar, Coordinator for Biosecurity and Agriculture Resource Management, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by email to Awinash.Bhatkar@TexasAgriculture.gov. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under §74.006 of the Texas Agriculture Code, which provides the Department with the authority to adopt rules as necessary for the effective enforcement and administration of the cotton pest control program, and §74.004, which provides the Department with the authority to establish regulated areas, dates and appropriate methods of destruction

of stalks, other cotton parts and products of host plants for cotton pests.

Chapter 74 of the Texas Agriculture Code is affected by the proposal.

§20.20. *Pest Management Zones.*

(a) (No change.)

(b) Zones. Established zones include the following counties:

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

(6) Zone 3. Austin, Brazoria, Chambers, Colorado, Fayette, Fort Bend, Galveston, Gonzales, Harris, Jackson, Jefferson, Lavaca, Liberty, Matagorda, Orange, Waller and Wharton.

~~[(6) Zone 3, Area (1). Jackson, Matagorda and that portion of Wharton County west of the Colorado River.]~~

~~[(7) Zone 3, Area (2). Austin, Brazoria, and Fort Bend and that portion of Wharton County east of the Colorado River.]~~

~~[(8) Zone 3 Area (3). Chambers, Colorado, Fayette, Galveston, Gonzales, Harris, Jefferson, Lavaca, Liberty, Orange, Waller, and Washington.]~~

(7) [(9)] Zone 4. Atascosa, Bexar, DeWitt, Dimmit, Frio, Karnes, Kinney, Maverick, Medina, Uvalde, Val Verde, Wilson, and Zavala.

(8) [(10)] Zone 6. Bastrop, Burnet, Caldwell, Comal, Guadalupe, Hays, Lee, Milam, Travis, and Williamson.

(9) [(11)] Zone 7, Area (1). Anderson, Angelina, Cherokee, Houston, Leon, Nacogdoches, Panola, Rusk, Sabine, San Augustine, Shelby and Smith.

(10) [(12)] Zone 7, Area (2). Brazos, Burleson, Grimes, Hardin, Jasper, Madison, Montgomery, Newton, Polk, Robertson, San Jacinto, Trinity, Tyler, ~~and~~ Walker and Washington.

(11) [(13)] Zone 8 Area (1). Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, and McLennan.

(12) [(14)] Zone 8 Area (2). Ellis, Henderson, Hood, Johnson, Navarro and Somervell.

(13) [(15)] Zone 9. Pecos, Reeves and Ward.

(14) [(16)] Zone 10. El Paso County and that portion of Hudspeth County bounded by Interstate Highway 10 on the north, the El Paso County line on the west, the Rio Grande River on the south and a line from old Fort Quitman, north along Highway 34 to Interstate 10 on the east.

§20.22. *Stalk Destruction Requirements.*

(a) Deadline and methods. From the destruction deadline until the end date for destruction requirements [~~(see graphic for this subsection)~~], all cotton plants in a Pest Management Zone shall be non-hostable. Enforcement of destruction requirements begins on the day immediately following the destruction deadline date. Additional requirements for stalk destruction are as follows:

(1) (No change.)

(2) Zone 10--All cotton plants shall be shredded; also, the field shall be:

(A) (No change.)

(B) Flood irrigated, following shredding of the plants, with sufficient irrigation applied to wet all soil. When flood irrigation is elected:

(i) (No change.)

(ii) A copy of irrigation records shall be presented for inspection during normal working hours, within 5 working days, if so requested in writing by the department.

[Figure: 4 TAC §20.22(a)]

(3) The destruction deadlines and end date for destruction requirements for cotton plants in each Pest Management Zone are prescribed as follows:

Figure: 4 TAC §20.22(a)(3)

(b) - (f) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 29, 2018.

TRD-201802354

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: July 15, 2018

For further information, please call: (512) 463-4075



PART 3. TEXAS FEED AND FERTILIZER CONTROL SERVICE/OFFICE OF THE TEXAS STATE CHEMIST

CHAPTER 61. COMMERCIAL FEED RULES SUBCHAPTER A. GENERAL PROVISIONS

4 TAC §61.1

The Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist proposes amendments to TAC 4, Commercial Feed Rules by updating, §61.1, Definitions.

Dr. Tim Herrman, State Chemist and Director, Office of the Texas State Chemist, concludes that for the first five-year period, there will be no fiscal implication for state or local government as a result of enforcing or administering the rule.

Dr. Herrman also concludes that the first five years the amended rule as proposed is in effect the public benefit will include improved risk management to help mitigate mycotoxicosis, resulting in improved animal health and food safety. No anticipated additional regulatory cost to individuals and small or micro businesses will be incurred.

Dr. Herrman does not anticipate government growth, does not anticipate addition or elimination of government programs or employees, does not anticipate a negative impact on rural communities and does not anticipate need for future legislation. The rule defines when a feed product produced and sold by a farmer is exempt from licensing and inspection fees. Dr. Herrman anticipates the definition with help the state economy by providing legal certainty to farmers, processors and consumers when a feed product produced and sold by a farmers is exempt.

Comments to the proposal may be submitted to Dr. Herrman by mail at Office of the Texas State Chemist, P.O. Box 3160, College Station, Texas 77841-3160; by fax at (979) 845-1389; or by e-mail at the following: tjh@otsc.tamu.edu.

The amendment is proposed under Texas Agriculture Code §141.004, which grants Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist the authority to promulgate rules relating to the distribution of commercial feeds.

The Texas Agriculture Code TAC 141 of the Texas Commercial Feed Control Act, Subchapter C, §141.051 and Subchapter A, §141.004 is affected by the proposed amendment.

§61.1. Definitions.

Except where otherwise provided, the terms and definitions adopted by the Association of American Feed Control Officials in the last published edition of the annual Official Publication are hereby adopted by reference as the terms and definitions to control in this title. The publication is available from the Association of American Feed Control Officials. In addition, the following words and terms, when used in this title, shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (10) (No change.)

(11) Feed Product Produced and Sold by a Farmer--Homogeneous, unprocessed and whole grain, whole seed, and unground hay and any hulls not containing toxins or chemical adulterants are exempt from licensing, labeling and inspection fees. Exempt feed products offered for sale by a farmer must be grown on land solely under the farmer's control, and be handled and transported under the farmer's control. Green forage crops thus produced, including ensilage produced from an exempt crop, are also exempt.

(12) [(44)] Natural--Describes a feed or feed ingredient produced solely by or derived solely from plants, animals, or minerals, whether unprocessed or processed according to generally accepted industry standards, which has not been exposed to ionizing radiation and does not contain any man-made materials except in such amounts as might occur unavoidably in good processing practices. The term is understood to include as "natural" flavors and flavorings so designated under 21 CFR 501.22(a)(3).

(13) [(42)] Organic--When applied to a product, to a compound, to a mixture of compounds or to a specific constituent used as an ingredient means that the claim of the product, compound, mixture of compounds, or constituent to be organic has been allowed or allowed with restriction by the United States Department of Agriculture's National Organic Program or the Texas Department of Agriculture's Organic Certification Program. (Materials described as organic must still conform to the Texas Commercial Feed Control Act if they are used in feeds.)

(14) [(43)] Person--Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

(15) [(44)] Pet Food--Any commercial feed prepared and distributed for consumption by a dog or cat or an animal normally maintained in a cage or tank in or near the household(s) of the owner such as, but not limited to, gerbils, hamsters, birds, fish, snakes, and turtles.

(16) [(45)] Salvage--When applied to an ingredient or combination of ingredients, refers only to those products that have been damaged by natural causes, such as fire, water, hail, or windstorm, or by conveyance mishap. Does not apply to recovered production line products which are suitable for reprocessing.

(17) [(46)] Service--Texas Feed and Fertilizer Control Service.

(18) [(47)] Toxin--Any compound causing adverse biological effects including, but not limited to, poisons, carcinogens or mutagens, produced by an organism avoidably present at any level or un-

avoidably present at levels in a feed above those authorized by the Service.

(19) [(48)] Weed Seeds--Those seeds declared prohibited or restricted noxious weed seeds by the Texas Agriculture Code, §61.008 (concerning Noxious Weed Seeds).

(20) [(49)] Wildlife--Any feral animal, any animal not normally considered as domesticated in Texas or any animal living in a state of nature.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 31, 2018.

TRD-201802384

Dr. Timothy Herrman

State Chemist & Director

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Earliest possible date of adoption: July 15, 2018

For further information, please call: (979) 845-1121



TITLE 13. CULTURAL RESOURCES

PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 19. TEXAS MAIN STREET PROGRAM

13 TAC §19.3, §19.5

The Texas Historical Commission (THC) proposes amendments to §19.3 and §19.5 of Chapter 19 (Title 13, Part II of the Texas Administrative Code) relating to the Texas Main Street Program ("the program").

The THC's Texas Main Street Program is the agency's responsibility under §442.014 of the Texas Government Code. The Texas Main Street Program utilizes a national model established by the National Trust for Historic Preservation and the agency has been the state coordinating program for more than thirty-five years. Administration of the program must comply with the requirements of the national Main Street America program and those set by the Texas Legislature. Local communities in Texas wishing to participate in the program must apply and participate under the auspices of the THC. Currently, eighty-nine communities with populations from approximately 1,900 to 325,000 are designated in the program statewide.

The purpose of the Texas Main Street Program is to assist communities in the preservation and revitalization of their historic downtowns and commercial neighborhood districts. The THC provides training, technical, and organizational assistance to the local participants.

The amendments to Chapter 19 are proposed to permit two new types of statuses for local participating programs, both intended to help participants remain in the program during periods of unexpected challenges. A probationary status is being added to formalize a process and procedure already utilized. Probationary status will allow the staff of the THC and the participating local program to temporarily alter the standard participation require-

ments, providing time for the local program to address deficiencies or other challenges without leaving the Texas Main Street Program. For example, probationary status could be utilized at the request of the community during budgetary or staffing vacancies at the local level. During probationary status, the THC staff may waive certain reporting or staffing requirements, or restrict the types of services the local program receives from the THC during the temporary period.

A Leave of Absence status is added to permit a local program to temporarily suspend their participation in the Texas Main Street Program. During the Leave of Absence, the local program is not considered to be an officially designated Texas Main Street City. The local program will neither receive services from the Texas Main Street Program nor have participation requirements during the Leave of Absence. The status will allow the local program to return to full participation upon conclusion of the Leave of Absence without having to reapply. The Leave of Absence status may be utilized only once by any single Texas Main Street City during their participation and may not be renewed or extended.

The amendments include the specification of existing annual fees and policies approved by the THC in 2012. The fee schedule is unchanged and is added to the amendments to improve public transparency.

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

PUBLIC BENEFIT/COST NOTE. Mr. Wolfe has determined for each year of the first five-year period the amendments are in effect the public benefit anticipated as a result of the amendments will be an increased clarity of the administration of the Texas Main Street Program as well as greater flexibility for local government participants in the program. The proposed amendments do not impose a cost on regulated persons or entities; therefore, it is not subject to Texas Government Code, §2001.0045.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has determined that there will be no effect on rural communities, small business, or microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

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

STATUTORY AUTHORITY. Amendments to §19.3 and §19.5 of Chapter 19 (Title 13, Part II of the Texas Administrative Code) relating to the Texas Main Street Program ("the program") are proposed under Section 442.005(q) of the Texas Government Code, which provides the THC with the authority to promulgate rules for the effective administration of its programs under the chapter, and under Section 442.014 of the Texas Government Code which provides THC with the authority to administer the Texas Main Street Program.

CROSS REFERENCE TO STATUTE. The proposed amendments implement Section 442.014 of the Texas Government Code. No other statutes, articles, or codes are affected by these amendments.

§19.3. Definitions.

When used in this chapter, the following words or terms have the following meanings unless the context clearly indicates otherwise:

(1) **Texas Main Street Program**--A program of the Commission in which designated Texas Main Street cities receive assistance for the preservation and revitalization of their historic downtowns or commercial neighborhood districts.

(2) **Texas Main Street City**--Any city that has been officially designated by the Commission as a participant in the Texas Main Street Program as a Texas Main Street Small City, Texas Main Street Urban City, or Texas Main Street Recertified City.

(3) **Texas Main Street Small City**--Main Street city with population of 50,000 people or fewer based on the most recent decennial census.

(4) **Texas Main Street Urban City**--Main Street city with population of 50,001 or more people based on the most recent decennial census.

(5) **Texas Main Street Provisional City**--A Main Street city of any size that is not accepted upon first application submittal may participate provisionally in the program, upon invitation, while application is resubmitted the next application period.

(6) **Texas Main Street Recertified City**--A city that was formerly in the program that has reapplied and been accepted to be a Texas Main Street City.

(7) **Main Street Interagency Council**--A council that evaluates and ranks Main Street applications and makes recommendations to the Commission. The composition of the Main Street Interagency Council is determined by the Commission.

(8) **Texas Main Street Affiliate**--A city or commercial neighborhood district that has been accepted by the Commission to participate in the program as an affiliate with fewer responsibilities, benefits, and services than a Texas Main Street City. The designation of affiliates is subject to available Commission resources and may be limited based on population or other factors.

(9) **Probationary Status**--A temporary time period in which a Texas Main Street City, by written agreement with the Commission, is permitted to maintain its status as a designated Main Street in order to resolve deficiencies or issues within their city's local Main Street program.

(10) **Leave of Absence**--A temporary time period, not to exceed one year, in which a Texas Main Street City may suspend participation in the Texas Main Street Program while retaining the option to return to participation at the end of the period without needing to reapply to be a Texas Main Street Recertified City. The city is not considered an officially designated Texas Main Street City during the

Leave of Absence. This status may only be utilized one time by any single Texas Main Street City and may not be renewed or extended.

§19.5. *Assistance Provided.*

(a) Training. Each new Texas Main Street City will receive at no charge basic training for its Main Street manager at the beginning of the program. All new Main Street boards will receive at no charge comprehensive board training at the beginning of their city's Main Street Program. Additional training and continuing education is available throughout a city's participation in the Texas Main Street Program. Provisional, probationary, and affiliate participants may receive training through the program subject to available Commission resources.

(b) Technical assistance. Each Texas Main Street City receives technical assistance and training in the Main Street Approach. Provisional, probationary, and affiliate participants receive technical assistance at the discretion of the program subject to available Commission resources.

(c) Main Street network. Each Texas Main Street City is eligible to access information and resources of the network [receive Texas Main Street publications and participate in Texas Main Street networking opportunities]. Provisional and affiliate participants are eligible for the Main Street network.

(d) Fees. Participants in the Texas Main Street Program will pay a fee for participation in the program. The amount of the fee is determined by the Commission. After a city's acceptance into the program, any subsequent fees based on population shall be based on the most recent decennial census. The Commission may waive the fee for a Texas Main Street Small City in their first three years of participation.

(1) A Texas Main Street Small City shall pay an annual fee of \$535.

(2) A Texas Main Street Urban City shall pay an annual fee of \$3,500 for each of its first five years of participation.

(3) A Texas Main Street Urban City shall pay an annual fee of \$2,600 after its first five years of participation.

(4) A Texas Main Street Provisional City shall pay the annual fee of a Texas Main Street Small City or Texas Main Street Urban City that corresponds to the provisional city's population at the most recent decennial census. A provisional city with a population equivalent to a Texas Main Street Urban City shall be subject to the fee specified in paragraph (2) of this subsection during their first five years of designation. Years accrued as a provisional city shall count towards the first five years in regards to the annual fee.

(5) A Texas Main Street Small City reclassified per subsection (f) of this section shall pay an annual fee of \$700 in the first year after reclassification; \$1,600 in year two; and \$2,600 in year three and thereafter.

(6) A \$500 Training Fee may be assessed to any participating city, with the exception of newly designated cities in their first year, that employs a new local manager without significant Main Street knowledge and experience.

(e) Main Street Status. In order to remain a Texas Main Street City, the community must be certified on an annual basis by the Texas Main Street office to confirm that the community meets all of the requirements for designation. A Texas Main Street City with Probationary Status may have limitations placed on its participation, assistance received through the program, and requirements during its probationary status, as reflected in the written agreement with the Commission.

(f) Reclassification. Participants shall be reclassified as necessary between Texas Main Street Small City and Texas Main Street Urban City based on the most recent decennial census. Changes in fees necessitated by reclassification of a city shall be assessed upon the following year's renewal. The Commission may establish a fee schedule in subsection (d) of this section that graduates fee increases caused by reclassification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802375

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: July 15, 2018

For further information, please call: (512) 463-6092



CHAPTER 21. HISTORY PROGRAMS

SUBCHAPTER B. OFFICIAL TEXAS HISTORICAL MARKER PROGRAM

13 TAC §21.7, §21.9

The Texas Historical Commission (Commission) proposes amendments to §21.7, concerning application requirements for Official Texas Historical Markers, and to §21.9, concerning the application evaluation procedures for Official Texas Historical Markers. These amendments detail historical marker requirements in the Texas Administrative Code.

The application fee for historical markers is required for submission as part of the application process. The proposed amendment to §21.7 revises wording which indicated that the application fee was not required until after applications received an initial evaluation.

The proposed amendment to §21.9 notes that the Commission's Division of Architecture evaluates Recorded Historic Landmark Designation applications.

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

PUBLIC BENEFIT/COST NOTE. Mr. Wolfe has also determined that for the first five-year period the amended rules are in effect, the public benefit will be the preservation of and education about state historic resources. The proposed amendments do not impose a cost on regulated persons or entities; therefore, they are not subject to Texas Government Code, §2001.0045.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities, small or micro-businesses as a result of implementing these amendments and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT. Comments on the proposed amendments may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code §442.005(b), which designates the Commission as the agency responsible for the administration of the Antiquities Code of Texas; Texas Government Code §442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission; Texas Government Code §442.006(h), which requires the Commission to adopt rules for the historical marker program; Texas Government Code §442.0051, which allows the Commission, by rule, to establish reasonable fees for commission purposes; Texas Natural Resources Code §191.092, which requires the Commission to adopt rules to establish the criteria for designation for publicly-owned landmarks; and Texas Natural Resources Code §191.096, which requires any site on private land which is designated a landmark to be marked as a landmark.

CROSS REFERENCE TO STATUTE. The proposed amendments implement §191.092 and §191.096 of the Texas Natural Resources Code. No other statutes, articles, or codes are affected by these amendments.

§21.7. Application requirements.

(a) Any individual, group or county historical commission may apply to the commission for an Official Texas Historical Marker. The application shall include:

- (1) a completed current Official Texas Historical Marker application form;
- (2) supporting documentation as provided in program guidelines, criteria and procedures adopted by the commission;
- (3) an application fee in the amount of \$100.

(b) Historic Texas Cemetery markers. A marker may be awarded to a cemetery only if the commission has designated the cemetery as an Historic Texas Cemetery. See §22.6 of this title for information concerning Historic Texas Cemetery designation. Historic Texas Cemetery name and date plaque applications are accepted year-round. The marker must be located either at or immediately adjacent to the designated cemetery.

(c) The following procedures shall be observed for the marker application process. Potential sponsors should check the commission web site at www.thc.texas.gov for current information on the Official Texas Historical Marker Program.

(1) The sponsor must contact the county historical commission (CHC) to obtain a marker application form, to review basic pro-

gram requirements and to discuss the county's review process and procedures, which differ from county to county. The commission does not mandate a specific review process at the county level, so the sponsor will need to work closely with the CHC to be sure all local concerns and procedures are addressed properly. The CHCs cannot send the application forward until they can certify that the history and the application have been adequately reviewed. Applications for Recorded Texas Historic Landmarks (RTHL) for sites located on private land must include written owner consent of the landowner.

(2) CHC reviews the marker application for accuracy and significance, and either approves the application or works with the sponsor to develop additional information as necessary.

(3) CHC-approved applications are forwarded to the History Programs Division of the commission. Once the application is received by the commission, additional notifications and correspondence will be between the CHC contact and the commission staff contact only, unless otherwise noted.

(4) Commission staff makes a preliminary assessment to determine if the topic is eligible for review and if all required elements are included. The commission will notify the applicant through the CHC [~~whether the~~ once the application [is accepted] has been received.

(5) [~~Upon notification the application has been accepted for review, a~~ A \$100 application fee is due within ten days upon notification of receipt.

(6) [~~Eligible applications receive further review, and additional~~ Additional information may be requested via email. Failure to provide all requested materials as instructed will result in cancellation of the application.

(7) Commission staff and commissioners review applications and determine:

- (A) eligibility for approval;
- (B) size and type of marker for each topic; and
- (C) priorities for work schedule on the approved applications.

(8) CHC and sponsor will be notified via email of approval and provided a payment form for the casting of the marker.

(9) The payment must be received in commission offices within 45 days or the application will be cancelled.

(10) Commission staff will write the marker inscription. One review copy will be provided via email to the CHC contact only for local distribution as needed. Inscription review is for accuracy of content only; the commission determines the content, wording, punctuation, phrasing, etc.

(A) Upon approval of the inscription, the CHC contact provides additional copies as necessary for committee, commission, or sponsor review and conveys a single response to the commission.

(B) Upon receipt of emailed approval by the CHC, the commission proceeds with the order.

(C) If changes recommended by the CHC are approved by the commission, staff will send a revised copy for content review. Because inscription reviews are for content only, only two reviews should be necessary to complete this step of the process. Additional requests for revisions are subject to approval by the commission, which will be the sole determiner of warranted requests for changes. Excessive requests for change, or delays in response, may, in the determination of the commission, result in cancellation of the order.

(D) Only the authorized CHC contact - chair or marker chair - can make the final approval of inscriptions at the county level. Final approval will be construed by the commission to mean concurrence by any interested parties, including the sponsor.

(11) After final approval, the order is sent to marker supplier for manufacturing. Subject to the terms of the commission vendor contract, only authorized commission staff may contact the manufacturer relative to any aspect of Official Texas Historical Markers, including those in process or previously approved.

(12) Commission staff reviews galley proofs of markers. With commission approval, manufacturing process proceeds. Manufacturer inspects, crates and ships completed markers and notifies commission, which in turn notifies CHC contact.

(13) With shipment notice, planning can begin on marker dedication ceremony, as needed, in conjunction with CHC, sponsors and other interested parties.

(14) Information on planning and conducting marker ceremonies is provided by the commission through its web site.

(15) Once the planning is complete, the CHC posts the information to the commission web site calendar.

(16) Commission staff enters marker information into the Texas Historic Sites Atlas at website atlas.thc.texas.gov, an online inventory of marker information and inscriptions.

(d) Application content.

(1) Each marker application must address the criteria specified in §21.9 of this chapter in sufficient detail to allow the commission to judge the merit of the application.

(2) Documentation. Each marker application must contain sufficient documentation to verify the assertions about the above criteria. If the claims in the application cannot be verified through documentation, the application will be rejected.

(e) Limitation of markers awarded.

(1) The commission will set a numerical limit on the number of markers that will be approved annually.

(2) No markers in excess of the limit may be approved except by vote of the commission to amend the limit.

§21.9. Application evaluation procedures.

(a) The commission adopts the following *criteria* governing evaluation for approval or rejection of applications for Official Texas Historical Markers, Recorded Texas Historic Landmarks (RTHLs), or Historic Texas Cemetery designations.

(1) Age: Structures eligible for the RTHL designation and marker must be at least 50 years old. Older structures may be awarded additional weight in evaluation and scoring.

(2) Historical significance/Architectural Significance: The Texas Historical Commission's Division of Architecture evaluates applications for RTHL designations, which are [The RTHL designation is] awarded to properties which demonstrate architectural and historical significance and architectural and historical integrity. Architectural significance alone is not enough to qualify a structure for the RTHL designation. It must have an equally significant historical association, and that association can come from an event that occurred at the site; through individuals who owned or lived on the property; or, in the case of bridges, industrial plants, schoolhouses and other non-residential properties, through documented significance to the larger community. Structures deemed architecturally significant are outstanding examples of architectural history through design, materials, structural

type or construction methods. In all cases, eligible architectural properties must display integrity; that is, the structure should be in a good state of repair, maintain its appearance from its period of significance and be considered an exemplary model of preservation. Architectural significance is often best determined by the relevance of the property to broader contexts, including geography. Any changes over the years should be compatible with original design and reflect compliance with accepted preservation practices, e.g., the *Secretary of the Interior's Standards for Rehabilitation*.

(3) State of repair/Integrity: Structures not considered by the commission to be in a good state of repair are not eligible for RTHL designation. The commission reserves the sole right to make that determination relative to eligibility for RTHL markers. Subject marker topics placed at the appropriate site help maintain site integrity. Topics properly documented and understood by the public also help maintain a high degree of integrity.

(4) Diversity of topic for addressing gaps in historical marker program. This criterion addresses the extent to which topic relates to an aspect or area of Texas history that has not been well represented by the marker program.

(5) Value of topic as an untold or untold aspect of Texas history. This criterion addresses the extent to which topic addresses untold facets of Texas history and increases the diversity of history and cultures interpreted through the marker program.

(6) Endangerment level of property, site or topic. This criterion addresses the extent to which the property (RTHLs), site or story is in danger of being lost if its history and significance are not documented through the marker program.

(7) Available documentation and resources. This criterion addresses the quality and balance of the research and documentation for the application.

(8) Diversity among this group of candidates. This criterion addresses the extent to which this topic represents an untold story of Texas history among the applications received during that year's marker cycle.

(9) Relevance to other commission programs. This criterion addresses the extent to which the topic coordinates with other significant programs and initiatives of the agency.

(10) Relevance to the commission's current thematic priorities. This criterion addresses the extent to which the topic coordinates with the thematic priorities set by the commission each year (varies by year).

(b) Applications and topics with *exceptional significance* directly address established statewide themes, promote untold stories of Texas history and have exceptional ability to educate the public on aspects of Texas history not fully addressed by the marker program. Applications and topics with *high significance* address statewide themes, promote untold stories of Texas history and have some ability to educate the public on aspects of Texas history not fully addressed by the marker program. Applications and topics that *meet requirements* have been found to fulfill the basic application requirements and guidelines, relate to statewide themes but do not necessarily directly address topics that have not been widely addressed by the marker program. Applications and topics deemed *not eligible* do not relate to statewide themes and/or do not meet the basic program application requirements and guidelines. All markers must relate to the statewide themes established by the commission. These themes are available on the commission's web site at www.thc.texas.gov. From time to time the commission may establish thematic priorities for the marker program. Additional points will be awarded to projects falling within these priorities.

- (c) The scoring system for ranking applications is as follows:
- (1) Age - 5 pts. max;
 - (2) Historical Significance/Architectural Significance - 10 pts. max;
 - (3) State of Repair/Integrity - 10 pts. max;
 - (4) Diversity of topic for addressing gaps in historical marker program - 10 pts. max;
 - (5) Value of topic as an undertold or untold aspect of Texas history - 15 pts. max;
 - (6) Endangerment level of property, site or topic - 10 pts. max;
 - (7) Available documentation and resources - 10 pts. max;
 - (8) Diversity among this group of candidates - 10 pts. max;
 - (9) Relevance to other commission programs - 5 pts. max;
- and
- (10) Relevance to the commission's current thematic priorities - 15 pts. max.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802376

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: July 15, 2018

For further information, please call: (512) 463-5853



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SCHOOL FACILITIES

19 TAC §61.1034

The Texas Education Agency (TEA) proposes an amendment to §61.1034, concerning the new instructional facility allotment (NIFA). The proposed amendment would modify the rule to reflect changes made by House Bill (HB) 1081, 85th Texas Legislature, Regular Session, 2017, and amend eligibility criteria and language related to the calculation of reductions to the allotment.

The Texas Education Code (TEC), §42.158, allows the commissioner by rule to establish procedures and adopt guidelines for the administration of the NIFA. Through 19 TAC §61.1034, last amended to be effective January 2, 2012, the commissioner exercised rulemaking authority to establish definitions, explain eligibility criteria and the application process, and describe costs and payments related to the allotment.

HB 1081, 85th Texas Legislature, Regular Session, 2017, amended the TEC, §42.158, to increase the allotment per student from \$250 to \$1,000 for each student in average daily

attendance for the first school year students attend a new instructional facility and from \$250 to \$1,000 for each additional student in average daily attendance for the second year students attend a new instructional facility. The bill also added a definition of a new instructional facility to include a newly constructed instructional facility, a repurposed instructional facility, and a leased facility operating for the first time as an instructional facility with a minimum lease term of not less than 10 years.

The proposed amendment to 19 TAC §61.1034 would add new subsection (a) for definitions, including the term *new instructional facility* as defined by HB 1081 and the term *instructional facility* as defined by TEC, §42.158. Language in current subsection (a)(2), relettered as subsection (b)(2), would be incorporated into the new definition for *instructional campus*.

Under current subsections (a) and (b), relettered as subsections (b) and (c), the amendment would further implement HB 1081 by expanding the eligibility criteria to include repurposed and leased buildings, removing language that prohibits leased facilities from being eligible for the NIFA, and updating the application process to include references to repurposed and leased buildings in the description of the photograph needed and the legal documents required for the initial application.

The requirements for a facility for which NIFA funds are requested would be amended in current subsection (a)(2), relettered as subsection (b)(2). Changes would be made to the language in current subsection (a)(2)(B) for clarity.

Current subsection (d)(2), relettered as subsection (e)(2), would be updated to remove current language related to proration and explain that reductions to allotments will be made by applying the same percentage of adjustment to each school district and open-enrollment charter school in accordance with the TEC, §42.253.

HB 3593, 85th Texas Legislature, Regular Session, 2017, amended the TEC, §42.158, to add language to specify that a school district entitled to an allotment may use funds from the district's allotment to renovate an existing instructional facility to serve as a dedicated cybersecurity computer laboratory. The TEA has determined that no changes to §61.1034 are necessary as a result of the bill.

The proposed amendment to 19 TAC §61.1034 replaces the version published as proposed in the February 23, 2018 issue of the *Texas Register*. The earlier proposal will be withdrawn.

The proposed amendment would have no new procedural and reporting requirements. The current rule requires a school district or charter school that wishes to receive an allotment to complete and submit an application requesting funding and provide certain documentation electronically. Since the proposed amendment would include repurposed or leased facilities, initial applications would be required to include documentation specific to those types of facilities.

Any locally maintained paperwork requirements resulting from the proposed amendment would correspond with and support the stated procedural and reporting implications.

FISCAL NOTE. Leo Lopez, associate commissioner for school finance / chief school finance officer, has determined that for the first five-year period the proposed amendment is in effect, there will be no fiscal implications for state government as a result of enforcing or administering the amendment. The proposed amendment could have positive fiscal implications for local government, including school districts and open-enrollment charter

schools that choose to apply for the allotment. The statutory increase in the allotment from \$250 per student in average daily attendance to \$1,000 per student in average daily attendance could increase the amount to which a school district is entitled. However, the total appropriation was not increased. It remains at \$23,750,000 for each year of the biennium, and awards will likely be prorated.

There is no effect on local economy for the first five years that the proposed amendment is in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed amendment does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT. TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT/COST NOTE. Mr. Lopez has determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment would be implementing legislative changes to the NIFA program, which helps school districts accommodate growth by providing funding to build new instructional facilities. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. There is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

REQUEST FOR PUBLIC COMMENT. The public comment period on the proposal begins June 15, 2018, and ends July 16, 2018. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on June 15, 2018.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code, §42.158, as amended by House Bill 1081, 85th Texas Legislature, Regular Session, 2017, which authorizes the commissioner of education to adopt rules as necessary to implement the new instructional facility allotment.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §42.158.

§61.1034. *New Instructional Facility Allotment.*

(a) Definitions. The following definitions apply to the new instructional facility allotment (NIFA) in accordance with the Texas Education Code (TEC), §42.158.

(1) Instructional campus--A campus that:

(A) has its own unique campus ID number registered with the Texas Education Agency (TEA), an assigned administrator, enrolled students who are counted for average daily attendance, and assigned instructional staff;

(B) receives federal and/or state and/or local funds as its primary support;

(C) provides instruction in the Texas Essential Knowledge and Skills (TEKS);

(D) has one or more grade groups in the range from early education through Grade 12; and

(E) is not a program for students enrolled in another public school.

(2) Instructional facility--A real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required by the TEC, §28.002.

(3) New instructional facility--A facility that includes:

(A) a newly constructed instructional facility, which is a new instructional campus built from the ground up;

(B) a repurposed instructional facility, which is a facility that has been renovated to become an instructional facility for the first time; or

(C) a leased facility operating for the first time as an instructional facility with a minimum lease term of not less than 10 years. The lease must not be a continuation of or renegotiation of an existing lease for an instructional facility.

(b) [(a)] Eligibility. The following eligibility criteria apply to the NIFA [new instructional facility allotment (NIFA)] in accordance with the TEC [Texas Education Code (TEC)], §42.158.

(1) Both school districts and open-enrollment charter schools are eligible to apply for the NIFA for eligible facilities.

(2) The facility for which NIFA funds are requested must meet the following requirements.

(A) The facility must qualify as an instructional campus and a new [be a newly constructed] instructional facility used for teaching the curriculum required by the TEC, Chapter 28.

(B) To qualify for first-year funding, a new facility must not have been occupied in the prior school year. To qualify for follow-up funding, the facility must have been occupied for the first time in the prior school year and funded for the NIFA for that first year. If an instructional facility qualifies as a new instructional facility but did not receive the allotment in the first year of eligibility due to a failure to apply, the school district or open-enrollment charter school may still apply for and receive funding for the average daily attendance (ADA) earned only during the second year of occupation in the new instructional facility. [A special case of one-year funding pertains to a facility that was occupied for the first time in the prior school year but did not receive NIFA funds because of a failure to apply. Any such eligible facility will receive funds for one year of operation only.]

~~{(B) The facility must have its own assigned instructional staff and instructional program distinct from other facilities, and this program cannot be a program for students enrolled in another public school (summer school, evening school, etc.)}~~

(C) With the exception of a covered walkway connecting the new facility to another building, the new facility must be physically separate from other existing school structures.

~~{(D) The facility must have its own principal or receive an accountability rating through the standard or the optional alternative rating procedures as described in the most current accountability manuals published by the Texas Education Agency (TEA)}~~

~~{(E) The facility must have its own unique campus ID number as designated by the TEA, its own record of expenditures that is not a subset of another school budget, and attendance data that can be reported for those students who are assigned to its campus}~~

(D) ~~{(F)}~~ If the applicant is an open-enrollment charter school, the facility must be a charter school site approved for instructional use ~~[either]~~ in the original open-enrollment charter as granted by either the State Board of Education or the commissioner of education or in an amendment granted under §100.1033(b)(9)-(11) ~~[§100.1033(e)(5)]~~ of this title (relating to Charter Amendment), as described in §100.1001(3)(D) ~~[§100.1011(3)(D)]~~ of this title (relating to Definitions).

(3) Expansion or renovation of existing instructional facilities, as well as portable and temporary structures, are not eligible for the NIFA.

~~{(4) A facility leased by the school district or by the open-enrollment charter school or open-enrollment charter holder is not eligible for the NIFA}~~

(c) ~~{(b)}~~ Application process. To apply for the NIFA, school districts and open-enrollment charter schools must complete the TEA's online application process requesting funding pursuant to the NIFA.

(1) The initial (first-year) application, or an application for one-year funding only, must be submitted electronically no later than July 15. The application must include the following:

(A) the electronic submission of the TEA's online application for initial funding; and

(B) the electronic submission of the following materials:

(i) a brief description and photograph of the newly constructed, repurposed, or leased instructional facility [site];

(ii) a copy of a legal document that clearly describes the nature and dates of the new or repurposed construction or a copy of the applicable lease;

(iii) a site plan;

(iv) a floor plan; and

(v) if applicable, a demolition plan.

(2) Second-year applications require only the electronic submission of the TEA's online application for follow-up funding no later than July 15 of the year preceding the applicable school year.

(d) ~~{(e)}~~ Survey on days of instruction. In the fall of the school year after a school year for which an applicant received NIFA funds, the school district or open-enrollment charter school that received the funds must complete an online survey on the number of instructional days held in the new facility and submit the completed survey electronically. The TEA will use submitted survey information in determin-

ing the final (settle-up) amount earned by each eligible school district and open-enrollment charter school, as described in subsection (e)(6) ~~[(d)(6)]~~ of this section.

(e) ~~{(d)}~~ Costs and payments. The costs and payments for the NIFA are determined by the commissioner ~~[of education]~~.

(1) The allotment for the NIFA is a part of the cost of the first tier of the Foundation School Program (FSP). This allotment is not counted in the calculation of weighted average daily attendance for the second tier of the FSP.

(2) If, for all eligible applicants combined, the total cost of the NIFA exceeds the amount appropriated, each allotment is reduced so that the total amount to be distributed equals the amount appropriated. Reductions to allotments are made by applying the same percentage adjustment to each school district and charter school.

~~{(A) For eligible school districts, reductions to allotments are made by applying the same number of cents of tax rate in each school district to the school district's taxable value of property so that the reduced total for all school districts equals the amount appropriated. For each school district, the taxable value of property is the property value certified by the Texas Comptroller of Public Accounts for the preceding school year as determined under the Texas Government Code, Chapter 403, Subchapter M, or, if applicable, a reduced property value that reflects a rapid decline pursuant to the TEC, §42.2521}~~

~~{(B) For eligible open-enrollment charter schools, reductions to allotments are made in the same way as for school districts, as described in subparagraph (A) of this paragraph, except that the value used as the taxable value of property for each charter school is calculated by determining the statewide taxable value of property for all school districts in the state, dividing that number by the number of non-charter-school students in average daily attendance (ADA) in the state, and multiplying the result by the charter school's total number of ADA}~~

(3) If an additional \$1 million is appropriated for the NIFA for a school year under the TEC, §42.158(d-1), and if proration as described in paragraph (2) of this subsection is necessary for the school year, the additional appropriation must first be applied to prevent a reduction in the NIFA for eligible high school facilities. Any funds remaining after preventing all reductions in the NIFA for eligible high school facilities will be prorated as described in paragraph (2) of this subsection.

(4) Allocations will be made in conjunction with allotments for the FSP in accordance with the school district's or open-enrollment charter school's payment class. For school districts that are not subject to the requirements of the TEC, Chapter 41, and do not receive payments from the Foundation School Fund, NIFA distributions will correspond to the schedule for payment class 3.

(5) For school districts that are required to reduce wealth pursuant to the TEC, Chapter 41, any NIFA funds for which the school district is eligible are applied as credits to the amounts owed to equalize wealth.

(6) For all school districts and open-enrollment charter schools receiving the NIFA, a final (settle-up) amount earned is determined by the commissioner when information reported through the survey described in subsection (d) ~~{(e)}~~ of this section is available in the fall of the school year after the school year for which NIFA funds were received. The final amount earned is determined using the submitted survey information and final counts of ADA for the school year for which NIFA funds were received, as reported through the Texas Student Data System Public Education Information Management System.

(7) The amount of funds to be distributed for the NIFA to a school district or open-enrollment charter school is in addition to any other state aid entitlements.

(f) [(e)] Ownership of property purchased with NIFA funds. Property purchased with NIFA funds by an open-enrollment charter school is presumed to be public property under the TEC, §12.128, and remains public property in accordance with that section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 4, 2018.

TRD-201802402

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: July 15, 2018

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



TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 183. ACUPUNCTURE

22 TAC §§183.5, 183.20, 183.25

The Texas Medical Board (Board) proposes amendments to §183.5, concerning Annual Renewal of License, §183.20, concerning Continuing Acupuncture Education and §183.25, concerning Inactive Status License.

The amendments to §183.5, change all references to "annual renewal" to "biennial" including the title of the rule. The amendments also include changes to a single reference to "each year" to "date" in order to comport with the concept of biennial registration. Additional changes include correcting grammatical errors. These amendments are in accordance with the passage of SB674 (85th Regular Session) which amended Chapter 205.251 of the Texas Occupations Code.

The amendments to §183.20, change references to "annual" to "biennial" and doubles the Continuing Acupuncture Education "CAE" requirements and reporting requirements to account for biennial registration. Additional changes include changing references to "year" to "registration period" in order to account for biennial registration.

The amendments to §183.25, change references to "annual" to "current" and removes the requirement for payment of a fee while on inactive status.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing this proposal will be to have rules pertaining to registration periods for acupuncturists that are consistent with other license types regulated by the Texas Medical Board, to improve government efficiency and to have rules that comport with statutes. Furthermore, biennial registration is more convenient and efficient for the licensee as it eliminates the need to register each year.

Mr. Freshour has also determined that for the first five-year period the rules are in effect, there will be no effect to individuals required to comply with the rules as proposed. There will be no effect on small businesses, micro businesses, or rural communities.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed amendments will be in effect, Mr. Freshour has determined the following:

(1) The proposed rules do not create or eliminate a government program.

(2) Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.

(4) The proposed rules do not require an increase or decrease in fees paid to the agency.

(5) The proposed rules do not create a new regulation.

(6) The proposed rules do not expand, limit, or repeal an existing regulation.

(7) The proposed rules do not increase or decrease the number of individuals subject to the rule's applicability.

(8) The proposed rules do not positively or adversely affect this state's economy.

Comments on the proposal may be submitted to Rita Chapin, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §205.101, which provides authority for the Board to recommend rules to establish licensing and other fees and recommend rules necessary to administer and enforce Chapter 205.

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

§183.5. *Biennial* [~~Annual~~] *Renewal of License.*

(a) Acupuncturists licensed under the Act shall register biennially [~~annually~~] and pay a fee. An acupuncturist may renew an unexpired license by submitting the required form and by paying the required renewal fee to the acupuncture board on or before the expiration date[~~each year~~]. The fee shall accompany a written application which legibly sets forth the licensee's name, mailing address, the place or places where the licensee is engaged in the practice of acupuncture, and other necessary information prescribed by the acupuncture board.

(b) Falsification of an affidavit or submission of false information to obtain renewal of a license shall subject an acupuncturist to denial of a license renewal or to discipline pursuant to §205.351 of the Act.

(c) If the renewal fee and completed application form are not received on or before the expiration date, penalty fees will be imposed as outlined in §175.3(3) of this title (relating to Penalties).

(d) If an [a] acupuncturist's permit has been expired for 90 days or less, the acupuncturist may obtain a new permit by submitting to the board a completed permit application, the registration fee, as defined in

§175.2(3) of this title (relating to Registration and Renewal Fees) and the penalty fee, as defined in §175.3(3)(A) of this title.

(e) If an [a] acupuncturist's permit has been expired for more than 90 days, but less than one year, the acupuncturist may obtain a new permit by submitting to the board a completed permit application, the registration fee, as defined in §175.2(3) of this title and the penalty fee, as defined in §175.3(3)(B) of this title.

(f) If an [a] acupuncturist's registration permit has been expired for one year or longer, the acupuncturist's license is automatically canceled, unless an investigation is pending, and the acupuncturist may not register for a new permit.

(g) Practicing acupuncture after an [a] acupuncturist's permit has expired under subsection (c) of this section, without obtaining a new registration permit for the current registration period, has the same effect as, and is subject to all penalties of, practicing acupuncture without a license.

(h) A military service member who holds an acupuncture license in Texas is entitled to two years of additional time to complete any other requirement related to the renewal of the military service member's license.

§183.20. *Continuing Acupuncture Education.*

(a) Purpose. This section is promulgated to promote the health, safety, and welfare of the people of Texas through the establishment of minimum requirements for continuing acupuncture education (CAE) for licensed Texas acupuncturists so as to further enhance their professional skills and knowledge.

(b) Minimum Continuing Acupuncture Education. As a prerequisite to the biennial [~~annual~~] registration of the license of an acupuncturist, the acupuncturist shall complete 34 [~~47~~] hours of CAE every 24 months [~~each year~~].

(1) The required hours shall be from courses that meet one of the following criteria at the time the hours are taken:

(A) are designated or otherwise approved for credit by the Texas State Board of Acupuncture Examiners based on a review and recommendation of the course content by the Education Committee of the board as described in subsection (n) of this section;

(B) are offered by providers approved by the Texas State Board of Acupuncture Examiners;

(C) have been approved for CAE credit for a minimum of three years by another state acupuncture board, having first gone through a formal approval process in such state;

(D) approved by the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) for professional development activity credit; or

(E) are provided outside of the United States by a provider of continuing acupuncture education that is acceptable to the Board.

(2) The required CAE hours shall include the following core hours:

(A) At least eight [~~four~~] hours shall be in general acupuncture therapies.

(B) At least four [~~two~~] of the required hours shall be from a course in ethics and safety.

(C) At least six [~~three~~] of the required hours shall be in herbology.

(D) At least four [~~two~~] hours of biomedicine.

(E) At least four [~~two~~] of the required hours shall be in courses that primarily relate to business practices or office administration.

(3) The remaining CAE hours may be from other courses approved under paragraph (1) of this subsection, subject to the limitations under paragraphs (5) and (6) of this subsection.

(4) Courses may be taught through live lecture, distance learning, or the Internet.

(5) No more than a total of 16 [~~eight~~] hours completed under paragraph (1)(D) or (E) of this subsection may be applied to the total hours required each registration period.

(6) At least 18 [~~nine~~] hours applied to the total hours required each registration period must be approved under paragraph (1)(A)-(C) of this subsection.

(c) Reporting Continuing Acupuncture Education. An acupuncturist must report on the licensee's [~~annual~~] registration form whether the licensee has completed the required acupuncture education during the previous two years [~~year~~].

(d) Grounds for Exemption from Continuing Acupuncture Education. An acupuncturist may request in writing and may be exempt from the biennial [~~annual~~] minimum continuing acupuncture education requirements for one or more of the following reasons:

(1) the licensee's catastrophic illness;

(2) the licensee's military service of longer than one year in duration;

(3) the licensee's acupuncture practice and residence of longer than one year in duration outside the United States; and/or

(4) good cause shown on written application of the licensee which gives satisfactory evidence to the board that the licensee is unable to comply with the requirements of continuing acupuncture education.

(e) Exemption Requests. Exemption requests shall be subject to the approval of the executive director of the board, and shall be submitted in writing at least 30 days prior to the expiration of the license.

(f) Exemption Duration and Renewal. An exemption granted under subsections (d) and (e) of this section may not exceed one year, but may be renewed biennially [~~annually~~] upon written request submitted at least 30 days prior to the expiration of the current exemption.

(g) Verification of Credits. The board may require written verification of continuing acupuncture education hours from any licensee and the licensee shall provide the requested verification within 30 calendar days of the date of the request. Failure to timely provide the requested verification may result in disciplinary action by the board.

(h) Nonrenewal for Insufficient Continuing Acupuncture Education. Unless exempted under the terms of this section, the apparent failure of an acupuncturist to obtain and timely report the 34 [~~47~~] hours of continuing education hours as required and provided for in this section shall result in nonrenewal of the license until such time as the acupuncturist obtains and reports the required hours; however, the executive director of the board may issue to such an acupuncturist a temporary license numbered so as to correspond to the non-renewed license. Such a temporary license issued pursuant to this subsection may be issued to allow the board to verify the accuracy of information related to the continuing acupuncture education hours of the acupuncturist and to allow the acupuncturist who has not obtained or timely reported the required number of hours an opportunity to correct any deficiency so as not to require termination of ongoing patient care.

(i) Fee for Issuance of Temporary License. The fee for issuance of a temporary license pursuant to the provisions of this section shall be in the amount specified under §175.1 of this title (relating to Application Fees); however, the fee need not be paid prior to the issuance of the temporary license, but shall be paid prior to the renewal of a permanent license.

(j) Application of Additional Hours. Continuing acupuncture education hours that are obtained to comply with the requirements for the preceding registration period, [year] as a prerequisite for licensure renewal, shall first be credited to meet the requirements for that previous registration period [year]. Once the requirements of the previous registration period [year] are satisfied, any additional hours obtained shall be credited to meet the continuing acupuncture education requirements of the current registration period [year]. A licensee may carry forward CAE hours earned prior to a biennial [an annual] registration report, which are in excess of the 34 [17]-hour biennial [annual] requirement and such excess hours may be applied to the following registration periods [years] requirements. A maximum of 34 total excess hours may be carried forward. Excess CAE hours may not be carried forward or applied to a biennial [an annual] report of CAE more than two years beyond the date of the [annual] registration following the period during which the hours were earned.

(k) False Reports/Statements. An intentionally false report or statement to the board by a licensee regarding continuing acupuncture education hours reportedly obtained shall be a basis for disciplinary action by the board pursuant to the Act, §205.351(a)(2) and (6).

(l) Monetary Penalty. Failure to obtain and timely report the continuing acupuncture education hours for renewal of a license shall subject the licensee to a monetary penalty for late registration in the amount set forth in §175.2 and §175.3 of this title (relating to Registration and Renewal Fees and Penalties).

(m) Disciplinary Action, Conditional Licensure, and Construction. This section shall be construed to allow the board to impose requirements for completion of additional continuing acupuncture education hours for purposes of disciplinary action and conditional licensure.

(n) Required Content for Continuing Acupuncture Education Courses. Continuing Acupuncture Education courses must meet the following requirements:

(1) the content of the course, program, or activity is related to the practice of acupuncture or oriental medicine, and shall:

(A) be related to the knowledge and/or technical skills required to practice acupuncture; or

(B) be related to direct and/or indirect patient care;

(2) the method of instruction is adequate to teach the content of the course, program, or activity;

(3) the credentials of the instructor(s) indicate competency and sufficient training, education, and experience to teach the specific course, program, or activity;

(4) the education provider maintains an accurate attendance/participation record on individuals completing the course, program, or activity;

(5) each credit hour for the course, program, or activity is equal to no less than 50 minutes of actual instruction or training;

(6) the course, program, or activity is provided by a knowledgeable health care provider or reputable school, state, or professional organization;

(7) the course description provides adequate information so that each participant understands the basis for the program and the goals and objectives to be met; and

(8) the education provider obtains written evaluations at the end of each program, collate the evaluations in a statistical summary, and makes the summary available to the board upon request.

(o) Continuing Acupuncture Education Approval Requests. All requests for approval of courses, programs, or activities for purposes of satisfying CAE credit requirements shall be submitted in writing to the Education Committee of the board on a form approved by the board, along with any required fee, and accompanied by information, documents, and materials accurately describing the course, program, or activity, and necessary for verifying compliance with the requirements set forth in subsection (n) of this section. At the discretion of the board or the Education Committee, supplemental information, documents, and materials may be requested as needed to obtain an adequate description of the course, program, or activity and to verify compliance with the requirements set forth in subsection (n) of this section. At the discretion of the board or the Education Committee, inspection of original supporting documents may be required for a determination on an approval request. The Acupuncture Board shall have the authority to conduct random and periodic checks of courses, programs, or activities to ensure that criteria for education approval as set forth in subsection (n) of this section have been met and continue to be met by the education provider. Upon requesting approval of a course, program, or activity, the education provider shall agree to such checks by the Acupuncture Board or its designees, and shall further agree to provide supplemental information, documents, and material describing the course, program, or activity which, in the discretion of the Acupuncture Board, may be needed for approval or continued approval of the course, program, or activity. Failure of an education provider to provide the necessary information, documents, and materials to show compliance with the standards set forth in subsection (n) of this section shall be grounds for denial of CAE approval or rescission of prior approval in regard to the course, program, or activity.

(p) Reconsideration of Denials of Approval Requests. Determinations to deny approval of a CAE course, program, or activity may be reconsidered by the Education Committee or the board based on additional information concerning the course, program, or activity, or upon a showing of good cause for reconsideration. A decision to reconsider a denial determination shall be a discretionary decision based on consideration of the additional information or the good cause showing. Requests for reconsideration shall be made in writing by the education provider, and may be made orally or in writing by board staff or a committee of the board.

(q) Reconsideration of Approvals. Determinations to approve a CAE course, program, or activity may be reconsidered by the Education Committee or the board based on additional information concerning the course, program, or activity, or upon a showing of good cause. A decision to reconsider an approval determination shall be a discretionary decision based on consideration of the additional information or the good cause showing. Requests for reconsideration may be made in writing by a member of the public or may be made orally or in writing by board staff or a committee of the board.

(r) Criteria for Provider Approval.

(1) In order to be an approved provider, a provider shall submit to the board a provider application on a form approved by the board, along with any required fee. All provider applications and documentation submitted to the board shall be typewritten and in English.

(2) To become an approved provider, a provider shall submit to the board evidence that the provider has three continuous years of previous experience providing at least one different CAE course in Texas in each of those years that were approved by the board. In addition the provider must have no history of complaints or reprimands with the board.

(3) The approval of the provider shall expire three years after it is issued by the board and may be renewed upon the filing of the required application, along with any required fee.

(4) Acupuncture schools and colleges which have been approved by the board, as defined under §183.2(2) of this title (relating to Definitions), who seek to be approved providers shall be required to submit an application for an approved provider number to the board.

(s) Requirements of Approved Providers.

(1) For the purpose of this chapter, the title "approved provider" can only be used when a person or organization has submitted a provider application form, and has been issued a provider number unless otherwise provided.

(2) A person or organization may be issued only one provider number. When two or more approved providers co-sponsor a course, the course shall be identified by only one provider number and that provider shall assume responsibility for recordkeeping, advertising, issuance of certificates and instructor(s) qualifications.

(3) An approved provider shall offer CAE programs that are presented or instructed by persons who meet the minimum criteria as described in subsection (t) of this section.

(4) An approved provider shall keep the following records for a period of four years in one identified location:

- (A) Course outlines of each course given.
- (B) Record of time and places of each course given.
- (C) Course instructor curriculum vitae or resumes.
- (D) The attendance record for each course.
- (E) Participant evaluation forms for each course given.

(5) An approved provider shall submit to the board the following within ten days of the board's request:

(A) A copy of the attendance record showing the name, signature and license number of any licensed acupuncturists who attended the course.

(B) The participant evaluation forms of the course.

(6) Approved providers shall issue, within 60 days of the conclusion of a course, to each participant who has completed the course, a certificate of completion that contains the following information:

- (A) Provider's name and number.
- (B) Course title.
- (C) Participant's name and, if applicable, his or her acupuncture license number.
- (D) Date and location of course.
- (E) Number of continuing education hours completed.
- (F) Description of hours indicating whether hours completed are in general acupuncture, ethics, herbology, biomedicine, or practice management.

(G) Statement directing the acupuncturist to retain the certificate for at least four years from the date of completion of the course.

(7) Approved providers shall notify the board within 30 days of any changes in organizational structure of a provider and/or the person(s) responsible for the provider's continuing education course, including name, address, or telephone number changes.

(8) Provider approval is non-transferable.

(9) The board may audit during reasonable business hours records, courses, instructors and related activities of an approved provider.

(t) Instructors.

(1) Minimum qualifications of an acupuncturist instructor. The instructor must:

(A) hold a current valid license to practice acupuncture in Texas or other state and be free of any disciplinary order or probation by a state licensing authority; and

(B) be knowledgeable, current and skillful in the subject matter of the course as evidenced through one of the following:

(i) hold a minimum of a master's degree from an accredited college or university or a post-secondary educational institution, with a major in the subject directly related to the content of the program to be presented;

(ii) have experience in teaching similar subject matter content within the last two years in the specialized area in which he or she is teaching;

(iii) have at least one year's experience within the last two years in the specialized area in which he or she is teaching; or

(iv) have graduated from an acceptable acupuncture school, as defined under §183.2(2) of this title, and have completed 3 years of professional experience in the licensed practice of acupuncture.

(2) Minimum qualifications of a non-acupuncturist instructor. The instructor must:

(A) be currently licensed or certified in his or her area of expertise if appropriate;

(B) show written evidence of specialized training or experience, which may include, but not be limited to, a certificate of training or an advanced degree in a given subject area; and

(C) have at least one year's teaching experience within the last two years in the specialized area in which he or she teaches.

(u) CAE Credit for Course Instruction. Instructors of board-approved CAE courses or courses taught through a program offered by an approved provider for CAE credit may receive three hours of CAE credit for each hour of lecture, not to exceed six hours of continuing education credit per year, regardless of how many hours taught. Participation as a member of a panel presentation for the approved course shall not entitle the participant to earn CAE credit as an instructor. No CAE credit shall be granted to school faculty members as credit for their regular teaching assignments.

(v) Expiration, Denial and Withdrawal of Approval.

(1) Approval of any CAE course shall expire three years after the date of approval.

(2) The board may withdraw its approval of a provider or deny an application for approval if the provider is convicted of a crime substantially related to the activities of a provider.

(3) Any material misrepresentation of fact by a provider or applicant in any information required to be submitted to the board is grounds for withdrawal of approval or denial of an application.

(4) The board may withdraw its approval of a provider after giving the provider written notice setting forth its reasons for withdrawal and after giving the provider a reasonable opportunity to be heard by the board or its designee.

(5) Should the board deny approval of a provider, the provider may appeal the action by filing a letter stating the reason(s) with the board. The letter of appeal shall be filed with the board within ten days of the mailing of the applicant's notification of the board's denial. The appeal shall be considered by the board.

(w) An acupuncturist, who is a military service member, may request an extension of time, not to exceed two years, to complete any CAE requirements.

§183.25. *Inactive Status License.*

(a) A license holder may have the license holder's license placed on inactive status by applying to the board. [A licensed acupuncturist with an inactive status license is excused from paying standard renewal fees on the license and shall instead pay a renewal fee equaling one fourth the price of the standard renewal fee.] A license holder with an inactive status license may not practice as an acupuncturist in Texas.

(b) In order for a license holder to be placed on inactive status, the license holder must have a current [annual] registration permit and have a license in good standing.

(c) A license holder who practices as an acupuncturist in Texas while on inactive status is considered to be practicing without a license.

(d) A license holder may return to active status by applying to the board, paying an application fee equal to an application fee for an [a] acupuncture license, complying with the requirements for license renewal under the Act, providing current certifications of good standing from each other state in which the acupuncturist holds an acupuncture license, and complying with subsection (e) of this section.

(e) An inactive status license holder applying to return to active status shall provide sufficient documentation to the board that the applicant has, on a full-time basis as defined in §183.4(a)(9)(B) of this title (relating to Licensure), actively practiced acupuncture or has been on the active teaching faculty of an acceptable approved acupuncture school, within either of the two years preceding receipt of an application for reactivation. Applicants who do not meet this requirement may, in the discretion of the board, be eligible for the reactivation of a license subject to one or more of the following conditions or restrictions as set forth in paragraphs (1) - (4) of this subsection:

- (1) completion of specified continuing acupuncture education hours qualifying under §183.20 of this title (relating to Continuing Acupuncture Education);
- (2) limitation and/or exclusion of the practice of the applicant to specified activities of the practice;
- (3) remedial education; and/or
- (4) such other remedial or restrictive conditions or requirements which, in the discretion of the board are necessary to ensure protection of the public and minimal competency of the applicant to safely practice as an acupuncturist.

(f) After five years on inactive status, the license holders license shall be canceled as if by request. The acupuncturist may obtain a new license by complying with the requirements and procedures for obtaining an original license. After such cancellation, the acupuncturist may apply for a new license. The acupuncturist shall be required to follow the standard requirements and procedures for obtaining licensure.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 4, 2018.

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Scott Freshour

Interim Executive Director

Texas Medical Board

Earliest possible date of adoption: July 15, 2018

For further information, please call: (512) 305-7016



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 3. LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

SUBCHAPTER GG. MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP ACCIDENT AND HEALTH INSURANCE

28 TAC §3.7001

The Texas Department of Insurance proposes to amend 28 TAC §3.7001, concerning the minimum reserve standards for individual and group accident and health insurance. Section 3.7001 implements Insurance Code §425.072.

EXPLANATION. Amending §3.7001 is necessary for the following two reasons: (1) to comply with Insurance Code §425.072(a), which requires using the valuation manual for setting reserves on accident and health insurance policies issued on or after the operative date; and (2) to provide for the same claim reserve requirements on all new claims under accident and health insurance policies, regardless of the policy's issue date.

The valuation manual currently provides claim reserve requirements for accident and health insurance policies issued on and after the operative date of the valuation manual (operative date), which was January 1, 2017. Senate Bill 1654, 84th Legislature, Regular Session (2015), requires insurers use the valuation manual for reserve requirements for policies issued on and after the operative date. It also provides that policies issued prior to the operative date use the reserve requirements "in existence prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule." Amending the rule to align the claim reserve requirements for policies issued prior to the operative date with those claim reserve requirements of the valuation manual will adopt the same claim reserve requirements, regardless of the issue date, which is consistent with the intent of SB 1654.

Section 3.7001 provides the scope and general standards for coverages in Subchapter GG, which addresses the minimum reserve standards for individual and group accident and health insurance. Minimum reserve standards are technical requirements, such as morbidity tables and appropriate assumptions, that are used by actuaries to determine the amount of claim reserves an insurer needs to hold. Amending §3.7001 is necessary to comply with Insurance Code §425.072 for policies issued after the operation date. The amendments are also necessary to provide for the same claim reserve requirements regardless of issue date.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jamie Walker, deputy commissioner of the Financial Regulation Division, has determined that for each year of the first five years the proposed amendment is in effect, there will be no measurable fiscal impact on state and local governments as a result of the enforcement or administration of this proposal.

Ms. Walker does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Ms. Walker expects that administering the proposed amendment will have the public benefit of ensuring that TDI's rules both conform to Insurance Code §425.072 and provide updated reserving requirements.

Ms. Walker expects that the proposed amendment will not increase the cost of compliance with Insurance Code §425.072. Insurance Code §425.072 addresses the minimum valuation requirements for accident and health insurance contracts. Insurance Code §425.072(a) requires using the valuation manual for policies issued on and after the operative date, and Insurance Code §425.072(b) requires using the reserve requirements in existence prior to the operative date, in addition to any requirements established by the Commissioner and adopted by rule for policies issued prior to the operative date. As a result, the cost associated with calculating reserves already exists. Amending this rule will simplify reserving requirements because insurers will use the same claim reserve calculations, regardless of whether the policy was issued before or after the operative date, which will likely reduce the cost of compliance with Insurance Code §425.072.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendment will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. Amending this rule provides greater uniformity for claim reserves requirements and simplifies processes within all insurers including small and micro businesses. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the proposed rule would be in effect, the proposed rule or its implementation:

- Will not create or eliminate a government program.
- Will not require the creation of new employee positions or the elimination of existing employee positions.

- Will not require an increase or decrease in future legislative appropriations to the agency.

- Will not require an increase or decrease in fees paid to the agency.

- Will not create a new regulation.

- Will not expand, limit, or repeal an existing regulation because insurers are already subject to minimum valuation requirements.

- Will not increase or decrease the number of individuals subject to the rule's applicability.

- Will not affect the Texas economy.

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

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal received by the department no later than 5:00 p.m., Central time, on July 16, 2018. TDI requires two copies of your comments. Send one copy to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Send the other copy to fin-gm@tdi.texas.gov; or to Jamie Walker, Deputy Commissioner, Financial Regulation Division, Mail Code 112-1F, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

STATUTORY AUTHORITY. TDI proposes to amend §3.7001 under Insurance Code §§425.072, 421.001, and 36.001.

Insurance Code §425.072 provides the minimum standard of valuation for disability, accident and sickness, and accident and health insurance contracts. The standard for contracts issued on or after the operative date is the valuation manual and the standard for contracts issued before the operative date is the standard in existence before the operative date in addition to any requirements established by the Commissioner and adopted by rule.

Insurance Code §421.001(a) and (b) require insurers to maintain reserves for losses or claims as well as the expenses to adjust or settle those losses or claims. Insurance Code §421.001(c) requires that the Commissioner shall adopt each current formula recommended by the National Association of Insurance Commissioners for establishing reserves for each line of insurance.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The proposed amendments to §3.7001 implement Insurance Code §425.072(b), enacted by SB 1654, 84th Legislature, (Regular Session) (2015).

§3.7001. *Introduction.*

(a) Scope and general standards.

(1) Pursuant to Insurance Code §425.072, all individual and group accident and health insurance coverages, including single premium credit accident and health insurance contracts, issued on and after January 1, 2017, are required to follow the standards and reserve requirements provided in the valuation manual adopted by the department pursuant to Insurance Code §425.073.

(2) In establishing claim reserves for all individual and group accident and health insurance coverages issued before January 1, 2017, and single premium credit accident and health insurance contracts issued on or after January 1, 2009 and before January 1, 2017, the provisions of this paragraph apply. An insurer may use applicable requirements in the valuation manual for claim reserves for valuations after December 31, 2016, and before January 1, 2019, and must use applicable requirements in the valuation manual for claim reserves for valuations after December 31, 2018.

(3) ~~[(4)]~~ Unless paragraphs (1) or (2) of this subsection applies, the ~~[These]~~ standards in this subchapter apply to all individual and group accident and health insurance coverages issued before January 1, 2017, as well as ~~;~~ ~~including~~ single premium credit accident and health insurance contracts issued on or after January 1, 2009 and before January 1, 2017. All other credit insurance is not subject to the requirements provided by this paragraph ~~[these standards]~~.

(4) ~~[(2)]~~ When an insurer determines that adequacy of its health insurance reserves requires reserves in excess of the minimum standards specified in this subchapter, such increased reserves must be held and must be considered the minimum reserves for that insurer.

(5) ~~[(3)]~~ With respect to any block of contracts, or with respect to an insurer's health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation would take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.

(6) ~~[(4)]~~ Such a gross premium valuation must be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of contracts, or with respect to the insurer's health business as a whole. In the event inadequacy is found to exist, immediate loss recognition must be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium, and contract reserves, if any) must be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under the ~~[these]~~ standards required under this subchapter.

(7) ~~[(5)]~~ Whenever minimum reserves, as defined in this subchapter ~~[these standards]~~, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.

(b) Categories of reserves. The following sections set forth minimum standards for three categories of health insurance reserves: §3.7002 of this title (relating to Claim Reserves); §3.7003 of this title (relating to Premium Reserves); and §3.7004 of this title (relating to Contract Reserves). Adequacy of an insurer's health insurance reserves is to be determined on the basis of all three categories combined. However, the standards in these sections emphasize the importance of determining appropriate reserves for each of the three categories separately.

(c) Sections 3.7006, 3.7007, 3.7008, and 3.7009. Section 3.7006 and §3.7007 of this title (relating to Specific Standards for

Morbidity, Interest, and Mortality; and Glossary of Technical Terms Used) are an integral part of the standards specified in §§3.7001 - 3.7005 of this title (relating to Introduction; Claims Reserves; Premium Reserves; Contract Reserves and Reinsurance). Section 3.7008 of this title (relating to Reserves for Waiver of Premium) is supplementary and is not part of the standards as such, but is included for explanatory and illustrative purposes only. Section 3.7006 of this title contains specific minimum standards with respect to morbidity, interest, and mortality, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue. Section 3.7007 of this title consists of a glossary of technical terms used. Section 3.7008 of this title is supplementary and deals with waiver of premium reserves. For the purchase of existing business under certain circumstances, see §3.7009 of this title (relating to Purchase or Assumption of Existing Business).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 30, 2018.

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Norma Garcia

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6584



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)

SUBCHAPTER Q. PRINTING AND ISSUANCE OF WARRANTS

34 TAC §5.400

The Comptroller of Public Accounts proposes new §5.400, concerning the printing and issuance of state warrants. The new section will be under new Subchapter Q, Printing and Issuance of Warrants.

New §5.400 governs the comptroller's delegation of the authority to print and issue warrants under Government Code, §403.060(a). The rule provides the procedures to be used by a state agency wishing to obtain authority from the comptroller to issue and print state warrants. The rule is authorized under Government Code, §403.060(c) and §403.016(g).

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposal is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal creates a new rule.

Mr. Currah also has determined that the proposal would have no significant fiscal impact on small businesses or rural communities. The rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed new rule would benefit the public by providing state agencies alternative methods for paying financial obligations. There would be no anticipated significant economic cost to the public.

Comments on the new section may be submitted to Rob Coleman, Director, Fiscal Management Division, at rob.coleman@cpa.texas.gov or at P.O. Box 13528 Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed pursuant to Government Code, §403.060(c) which allows the comptroller to adopt rules to implement the provisions of Government Code, §403.060(a).

The new section implements Government Code, §403.060(a).

§5.400. Printing and Issuance of Warrants.

(a) Applicability. This rule governs the comptroller's delegation of the authority to print and issue warrants under Government Code, §403.060(a).

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings.

(1) Electronic Funds Transfer (EFT)--A transfer of funds which is initiated by the participating state agency as originator to the originating depository financial institution to order, instruct, or authorize a receiving depository financial institution to perform a credit entry, reversal, or reclamation. An EFT may include a paycard. For purposes of this rule, an EFT does not include a transaction originated by wire transfer, check, draft, warrant, or other paper instrument.

(2) MOU--Memorandum of Understanding.

(3) National Automated Clearing House Association (NACHA)--The electronic payments association that establishes standards, rules, and procedures that enable domestic financial institutions to exchange payments electronically.

(4) Participating state agency--A state agency that has requested and received from the comptroller the delegated authority to print and issue warrants.

(5) Paycard--A payment card issued to a state payee that provides access to state funds as authorized by a state agency.

(6) Payment method--A warrant or an EFT payment.

(7) Regulation E--The regulations adopted by the Board of Governors of the Federal Reserve System at 12 C.F.R. Part 205, as they may be amended, to implement the Electronic Fund Transfer Act (15 U.S.C. §1693 et seq.).

(8) State agency--

(A) a department, commission, board, office, or other agency in the executive or legislative branch of state government that is created by the constitution or a statute of this state, including the comptroller of public accounts;

(B) the supreme court of Texas, the court of criminal appeals, a court of appeals, or a state judicial agency; or

(C) a university system and an institution of higher education as defined by Education Code, §61.003, other than a public junior college.

(9) State payee--A person to whom a state payment is issued, including an individual, state employee, annuitant, business, ven-

dor, governmental entity, or other legal recipient paid by the state of Texas.

(10) Warrant--A state payment in the form of a paper instrument which is subject to applicable state law, is drawn on the state of Texas treasury funds, and is payable to a state payee on behalf of a state agency by the comptroller or a state agency with delegated authority to print and issue warrants under Government Code, §403.060(a). A warrant is not an approved means of EFT.

(c) Delegating the printing and issuance of warrants to a state agency. The head of a state agency must submit a written request to the comptroller's office to obtain delegated authority to print and issue warrants. The request must:

(1) identify the type of payments the agency is requesting to print and issue warrants for;

(2) identify the payment method the agency intends to use; and

(3) state the duration requested for the delegation authority.

(d) If the request is approved by the comptroller's office, the participating state agency shall agree to the following:

(1) the participating state agency agrees to bear all of its own costs and expenses in relation to the printing and distribution of warrants and/or EFT payments; and

(2) must agree to a MOU that includes, but is not limited to:

(A) general duties and responsibilities of the participating state agency;

(B) warrant design requirements and specifications;

(C) security and audit of warrants and/or EFT payments;

(D) recording of warrants and/or EFT payments issued by the participating state agency;

(E) cancellation of warrants and/or EFT payments issued by the participating state agency;

(F) replacement of warrants and/or EFT payments issued by the participating state agency;

(G) contingency planning for printing and issuance of warrants and/or EFT payments; and

(H) EFT payments.

(e) EFT payments.

(1) A participating state agency that is delegated authority by the comptroller to print and issue warrants may instead make payments through the EFT system, including the issuance of a paycard, as provided by Government Code, §403.016(g).

(2) A participating state agency that makes payments through the EFT system shall comply with Regulation E and all NACHA rules and regulations.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 31, 2018.

TRD-201802383



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

SUBCHAPTER A. ACCREDITATION

37 TAC §651.7

The Texas Forensic Science Commission ("Commission") proposes amendments to 37 Texas Administrative Code §651.7 to add the forensic discipline "workplace/employment drug testing" to the list of forensic disciplines exempt from Commission accreditation requirements and to remove "forensic psychology, including profiling, memory analysis and other forms of forensic psychology" from the list of forensic disciplines exempt from Commission accreditation requirements. "Forensic psychology" does not require a rule exemption because the discipline does not entail an expert examination or test performed on physical evidence. The amendments are necessary to update the rule language in Title 37, Part 1, Chapter 651, Subchapter A, §651.7 to reflect adoptions made by the Commission at its April 20, 2018, quarterly meeting. The amendments are made in accordance with the Commission's accreditation authority under Tex. Code. Crim. Proc. art. 38.01 §4-d(c).

Fiscal Note. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. There will be no anticipated effect on local employment or the local economy as a result of the proposal.

Rural Impact Statement. The Commission expects no adverse economic effect on rural communities as the proposed amendments do not impose any direct costs or fees on municipalities in rural communities.

Public Benefit/Cost Note. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has also determined that for each year of the first five years the proposed amendments are in effect, the anticipated public benefit will be proper notification of the forensic disciplines subject to the Commission's accreditation program.

Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses. As required by the Government Code §2006.002(c) and (f), Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that the proposed amendments will not have an adverse economic effect on any small or micro business because there are no anticipated economic costs to any person who is required to comply with the rules as proposed.

Takings Impact Assessment. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Government Growth Impact Statement. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that for the first five-year period, implementation of the proposed amendments will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. The proposed amendments exempt certain forensic disciplines from forensic oversight and in turn reduce the Commission's oversight authority related to these disciplines. The proposed amendments do not create a new regulation. The proposed amendments limit existing Commission regulations as they pertain to these particular forensic disciplines. The proposed amendments decrease the number of laboratories subject to the rule's applicability. The proposed amendments positively affect the state's economy because they propose a reduction in regulation.

Request for Public Comment. The Texas Forensic Science Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Savage, 1700 North Congress Avenue, Suite 445, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by July 16, 2018, to be considered by the Commission.

Statutory Authority. The amendment is proposed under Tex. Code Crim. Proc. art 38.01 §4-d.

Cross reference to statute. The proposal affects 37 Texas Administrative Code §651.7.

§651.7. Forensic Disciplines and Procedures Exempt from Accreditation Requirements by Administrative Rule.

(a) The Commission has exempted the following categories of forensic analysis from the accreditation requirement by administrative rule:

- (1) sexual assault examination of a person;
- (2) forensic anthropology, entomology, or botany;
- (3) environmental testing;
- (4) facial or traffic accident reconstruction;
- (5) serial number restoration;
- (6) polygraph examination;
- (7) voice stress, voiceprint, or similar voice analysis;
- (8) statement analysis;
- (9) forensic odontology for purposes of human identification or age assessment, not to include bite mark comparison related to patterned injuries;
- (10) testing and/or screening conducted for sexually transmitted diseases; or
- (11) fire scene investigation, including but not limited to cause and origin determinations. [; or]
- {(12) other discipline or category of analysis so determined by the Commission, including those identified and listed at the Commission's website.}

(b) A request for exemption shall be submitted in writing to the Commission.

(c) This subsection describes a discipline, category of analysis, or procedure that does not have as its principal purpose determining the connection of physical evidence to a criminal action [normally involve forensic analysis of physical evidence for use in a criminal proceeding and for which recognized accreditation is inappropriate or unavailable]. Accordingly, accreditation is not required for the following:

- (1) forensic photography;
- (2) non-criminal paternity testing;
- (3) non-criminal testing of human or nonhuman blood, urine, or tissue, including but not limited to workplace/employment drug testing;
- (4) a crime scene investigation team (whether or not associated with an accredited laboratory) if the team does not engage in forensic analysis because it only engages in the location, identification, collection or preservation of physical evidence and the activity is not integral to an expert examination or test;
- (5) crime scene reconstruction, including bloodstain pattern analysis and trajectory determination; or

~~[(6) forensic psychology, including profiling, memory analysis and other forms of forensic psychology;]~~

~~(6) [(7)] other evidence processing or handling that is excluded under §651.2(2) of this subchapter. [; or]~~

~~[(8) other discipline or category of analysis as so determined by the Commission.]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802364

Leigh Savage

Associate General Counsel

Texas Forensic Science Commission

Earliest possible date of adoption: July 15, 2018

For further information, please call: (512) 936-0661



Rosemere Morones
5th Grade



WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SCHOOL FACILITIES

19 TAC §61.1034

The Texas Education Agency withdraws the proposed an amendment to §61.1034, concerning the new instructional facility allotment. The proposal, which was published in the February 23, 2018 issue of the *Texas Register* (43 TexReg 992), would have modified the rule to reflect changes made by House Bill 1081, 85th Texas Legislature, Regular Session, 2017.

An amendment to §61.1034 is published in the proposed rules section of this issue to replace the withdrawn amendment.

Filed with the Office of the Secretary of State on June 4, 2018.

TRD-201802401

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: June 4, 2018

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



Trey Pardue



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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 74. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

16 TAC §74.50, §74.60

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 74, §74.50, and §74.60, regarding the Elevators, Escalators, and Related Equipment program, without changes to the proposed text as published in the February 16, 2018, issue of the *Texas Register* (43 TexReg 818). The rules will not be republished.

The adopted amendments implement recommendations from a 2016 internal audit. The recommendations were to correct an outdated cross-reference and to reflect the information that is currently listed on certificates of compliance issued by the Department.

The adopted amendment to §74.50 corrects a cross-reference.

The adopted amendment to §74.60 reflects the Department's current practice of listing the inspector's registration number but not the inspector's name on the certificate of compliance.

The Texas Department of Licensing and Regulation (Department) drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the February 16, 2018, issue of the *Texas Register* (43 TexReg 818). The deadline for public comment was March 19, 2018. The Department did not receive any comments during the 30-day public comment period.

The Elevators, Escalators, and Related Equipment Advisory Board (Board) met on May 1, 2018, to discuss the proposed rules. The Board recommended adopting the rules without changes.

At its meeting on May 24, 2018, the Commission adopted the rules without changes.

The amendments are adopted under Texas Occupations Code, Chapter 51 and Health and Safety Code Chapter 754, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51 and Health and Safety Code Chapter 754. No other statutes, articles, or codes are affected by the proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 1, 2018.

TRD-201802393

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: July 1, 2018

Proposal publication date: February 16, 2018

For further information, please call: (512) 463-3671



CHAPTER 77. SERVICE CONTRACT PROVIDERS AND ADMINISTRATORS

16 TAC §§77.10, 77.26, 77.70

The Texas Commission of Licensing and Regulation (Commission) adopts a new rule at 16 Texas Administrative Code (TAC), Chapter 77, §77.26, and adopts amendments to existing rules at 16 TAC Chapter 77, §77.10, and §77.70, to implement Senate Bill 1199, 85th Legislature, Regular Session (2017), regarding the Service Contract Providers and Administrators program, without changes to the proposed text as published in the February 23, 2018, issue of the *Texas Register* (43 TexReg 985). The rules will not be republished.

JUSTIFICATION AND EXPLANATION OF THE RULES

The adopted rules are necessary to implement Senate Bill 1199 (S.B. 1199), 85th Legislature, Regular Session (2017). S.B. 1199 amended Texas Occupations Code Chapter 1304 and expanded the definition of "service contract" to include agreements that provide compensation to the buyer of a vehicle on the total constructive loss under a depreciation benefit optional member program. The bill defined "depreciation benefit optional member program"; established requirements for and restrictions on automobile dealers that offer these programs; and required certain consumer protections for buyers of these programs. The statutory changes made by S.B. 1199 were effective September 1, 2017.

The adopted rules implement S.B. 1199 by adding new definitions; detailing provider requirements for depreciation benefit optional member program service contracts; and specifying responsibilities for providers and administrators of depreciation benefit optional member program service contracts. The proposed rules also attempt to integrate the changes made by S.B. 1199 into the existing statute and to reconcile duplicate statutory provisions regarding consumer cancellations and refunds.

S.B. 1199 expanded the existing definition of "service contract" to include depreciation benefit optional member programs. Now there are three types of service contracts under the statute: (1) service contracts that provide for the repair, replacement, or maintenance of a product or pay for the repair, replacement, or maintenance of a product; (2) identity recovery service contracts; and (3) depreciation benefit optional member program service contracts.

S.B. 1199 included new consumer cancellation and refund provisions for depreciation benefit optional member program service contracts under Texas Occupations Code §1304.003(e)(3) and (4); however, the existing statute already contained consumer cancellation and refund provisions under Texas Occupations Code §1304.1581, Cancellation By Service Contract Holder; Refund. Section 1304.1581 applies to all types of service contracts as defined under the statute, including depreciation benefit optional member program service contracts. Depreciation benefit optional member program service contracts now have two separate consumer cancellation and refund provisions within the same statute.

The staff of the Texas Department of Licensing and Regulation (Department) determined that the new provisions under Texas Occupations Code §1304.003(e)(3) and (4) do not conflict with and could be reconciled with the existing provisions under Texas Occupations Code §1304.1581, specifically subsections (b), (c), and (g).

Texas Occupations Code §1304.1581 provides additional details regarding consumer cancellations and refunds for all service contracts, including depreciation benefit optional member program service contracts. To reduce confusion and to assist service contract providers and service contract holders in reconciling the two-statutory cancellation and refund provisions, the adopted refer to the existing consumer cancellation and refund provisions under Texas Occupations Code §1304.1581, which apply to all types of service contracts, instead of the new provisions under Texas Occupations Code §1304.003(e)(3) and (4).

SECTION-BY-SECTION SUMMARY

The adopted rules amend §77.10, Definitions. The adopted rules add definitions for the following terms: buyer, dealer, depreciation benefit optional member program, identity recovery, service contract, service contract holder, and total constructive loss. Other terms have been renumbered as necessary. The adopted rules implement new Texas Occupations Code §1304.003(a)(2)(c) and §1304.003(a)(3), as added by S.B. 1199. Other terms have been copied from the statute and added to the rules to assist in the readability of the rules.

The adopted rules add new §77.26, Additional Provider Requirements--Depreciation Benefit Optional Member Programs. This new section sets out the additional requirements for a provider or its dealers who sell or issue service contracts that provide a depreciation benefit optional member program. This section refers to these service contracts as "depreciation benefit service contracts" to assist in the readability of the rules. This adopted new section implements new Texas Occupations Code §1304.003(e)(1), (2), and (5), as added by S.B. 1199.

However, the adopted new §77.26 does not include specific provisions regarding consumer cancellations and refunds for depreciation benefit optional member programs, as provided under Texas Occupations Code §1304.003(e)(3) and (4). Consumer cancellation and refund rights are addressed in the adopted amendments to §77.70.

The adopted rules amend §77.70, Responsibilities of Providers and Administrators. The adopted rules add a new subsection (f) to address disclosures specific to depreciation benefit optional member program service contracts. New subsection (f) implements Texas Occupations Code §1304.156, Form of Service Contract and Required Disclosures, and identifies specific terms and conditions regarding depreciation benefit optional member program service contracts that must be disclosed. New subsection (f) also requires disclosures regarding some of the restrictions and conditions set out under new Texas Occupations Code §1304.003(e). This section refers to these service contracts as "depreciation benefit service contracts" to assist in the readability of the rules.

The adopted rules under new §77.70(f)(5) refer to subsection (d) and the existing consumer cancellation and refund provisions under Texas Occupations Code §1304.1581, instead of the new provisions under Texas Occupations Code §1304.003(e)(3) and (4), as added by S.B. 1199. Section 1304.1581 provides additional details regarding consumer cancellations and refunds for all service contracts, including depreciation benefit optional member program service contracts.

To reduce confusion and to assist service contract providers and service contract holders in reconciling the two-statutory cancellation and refund provisions, the adopted rules refer to the existing consumer cancellation and refund provisions under §1304.1581.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the February 23, 2018, issue of the *Texas Register* (43 TexReg 985). The deadline for public comment was March 26, 2018. The Department did not receive any comments during the 30-day public comment period. There is no advisory board for this program.

At its meeting on May 24, 2018, the Commission adopted the rules without changes.

STATUTORY AUTHORITY

The amendments and new rule are adopted under Texas Occupations Code, Chapters 51 and 1304, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other laws establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapters 51 and 1304. No other statutes, articles, or codes are affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 1, 2018.

TRD-201802394

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: July 1, 2018

Proposal publication date: February 23, 2018

For further information, please call: (512) 463-3671



CHAPTER 84. DRIVER EDUCATION AND SAFETY

The Texas Commission of Licensing and Regulation (Commission) adopts new rules at 16 Texas Administrative Code, Chapter 84, Subchapter C, §84.48; and adopts amendments at Subchapter D, §84.51; Subchapter M, §§84.500, 84.502 and 84.503; and Subchapter N, §84.600, regarding the Driver Education and Safety program. Sections 84.48, 84.51, 84.500, 84.503, and 84.600 are adopted without changes to the proposed text as published in the March 30, 2018, issue of the *Texas Register* (43 TexReg 1923). Section 84.502 is adopted with non-substantive changes for format consistency and is re-published in this issue.

The adopted rules implement the Community Safety Education Act (Senate Bill 30), 85th Legislature, Regular Session (2017), which added a requirement to include information related to law enforcement procedures for traffic stops in all driver education and driving safety school curriculum. In addition, Senate Bill 1051, 85th Legislature, Regular Session (2017), amended Texas Education Code, Chapter 1001 to require all driving safety schools include accommodations for deaf or hard of hearing students; and for the Department to develop an online driver education course in American Sign Language. The adopted rules are necessary to implement Senate Bill 30 and Senate Bill 1051.

The adopted new §84.48 adds accommodations for deaf or hard of hearing students.

The adopted amendments to §84.51 corrects references.

The adopted amendments to §84.500 adds instruction on law enforcement procedures for traffic stops to course of instruction for driver education schools.

The adopted amendments to §84.502 adds the implementation of law enforcement procedures for traffic stops to the driving safety course of instruction.

The adopted amendments to §84.503 adds educating students on the proper law enforcement procedures for traffic stops to the specialized driving safety course of instruction.

The adopted amendments to §84.600 adds law enforcement procedures for traffic stops to the program on instruction for public schools, education service centers, and colleges or universities course requirements.

The Texas Department of Licensing and Regulation (Department) drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 30, 2018, issue of the *Texas Register* (43 TexReg 1923). The deadline for public comment was April 30, 2018. The Department received one comment during the 30-day public comment period. The public comment received is summarized below.

Comment--The commenter inquired as to what students were going to be taught about the proper law enforcement procedures to be employed at traffic stops.

Department Response--The Department appreciates the commenter's inquiry and notes that the Community Safety Education Act (Senate Bill 30) requires that Texas Education Code §28.012 and §1001.109 govern the development of instruction, including curriculum and instructional modules on the proper interaction with peace officers during traffic stops and other in-person en-

counters. These statutes shall mandate minimum requirements of instruction to be presented to students in each driver education course and driving safety course. The legislation also allows for the public to provide additional input on the subject matter for instruction through public comment and participation in volunteer work groups. Moreover, Texas Occupations Code §1701.253 provides for the creation and development of a Civilian Interaction Training Program for peace officers. The training program, pursuant to Texas Occupations Code §1701.268, requires that each peace officer complete the training program, which will include, at a minimum, the same curriculum requirements as those taught to students in driver education courses and driving safety courses. The Department did not make any changes to the rule in response to this comment.

The Driver Training and Traffic Safety Advisory Committee (Committee) met on May 9, 2018, and recommended the proposed rules be adopted without changes. At its meeting held on May 24, 2018, the Commission adopted the proposed rules without changes as recommended by the Committee and the Department.

SUBCHAPTER C. DRIVER EDUCATION SCHOOLS AND INSTRUCTORS

16 TAC §84.48

The new rule is adopted under Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 4, 2018.

TRD-201802397

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: July 1, 2018

Proposal publication date: March 30, 2018

For further information, please call: (512) 463-8179



SUBCHAPTER D. PARENT TAUGHT DRIVER EDUCATION

16 TAC §84.51

The amendments are adopted under Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51 and Texas Educa-

tion Code, Chapter 1001. No other statutes, articles, or codes are affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 4, 2018.

TRD-201802398

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: July 1, 2018

Proposal publication date: March 30, 2018

For further information, please call: (512) 463-8179



SUBCHAPTER M. CURRICULUM AND ALTERNATIVE METHODS OF INSTRUCTION

16 TAC §§84.500, 84.502, 84.503

The amendments are adopted under Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the adoption.

§84.502. *Driving Safety Courses of Instruction.*

(a) This section contains requirements for driving safety, continuing education, and instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. Except as provided by §84.504, (relating to Driving Safety Course Alternative Delivery Method), all course content shall be delivered under the direct observation of a licensed instructor. Courses of instruction shall not be approved that contain language that a reasonable and prudent individual would consider inappropriate. Any changes and updates to a course shall be submitted by the course provider and approved prior to being offered. Approval will be revoked for any course that meets the definition of inactive as defined in §84.2(16) of this chapter.

(1) Driving safety courses.

(A) Educational objectives. The educational objectives of driving safety courses shall include, but not be limited to promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; implementation of law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85th Regular Legislature); the proper use of child passenger safety seat systems; reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; and motivating continuing development of traffic-related competencies.

(B) Driving safety course content guides. A course content guide is a description of the content of the course and the techniques of instruction that will be used to present the course. For courses offered in languages other than English, the course owner shall provide a copy of the student verification of course completion document and/or enrollment contract, student instructional materials, final examination,

and evaluation in the proposed language. To be approved, each course owner shall submit as part of the application a course content guide that includes the following:

(i) a statement of the course's traffic safety goal and philosophy;

(ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;

(iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The policies and administrative provisions shall be used by each school that offers the course and include the following requirements:

(I) progress standards that meet the requirements of subparagraph (F);

(II) appropriate standards to ascertain the attendance of students. All schools approved to use the course must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;

(III) if the student does not complete the entire course, including all makeup lessons, within the timeline specified by the court, no credit for instruction shall be granted;

(IV) any period of absence for any portion of instruction will require that the student complete that portion of instruction. All makeup lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and

(V) conditions for dismissal and conditions for re-entry of those students dismissed for violating the conduct policy;

(iv) a statement of policy addressing entrance requirements and special conditions of students such as the inability to read, language barriers, and other disabilities;

(v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course and the furniture deemed necessary to accommodate the students in the course such as tables, chairs, and other furnishings. The course shall include a minimum of 60 minutes of audio/video materials relevant to the required topics; however, the audio/video materials shall not be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;

(vi) written or printed materials to be provided for use by each student as a guide to the course. The division may make exceptions to this requirement on an individual basis;

(vii) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, work-book activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course content guide shall identify the questions that will be assigned to the groups;

(viii) instructional resources for each unit;

(ix) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the course guide. The evaluative technique may be used throughout the unit or at the end; and

(x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (D). A form to cross-reference the instructional units to the required topics and topics unique to the course will be provided by the division.

(C) Course and time management. Approved driving safety courses shall be presented in compliance with the following guidelines and shall include statistical information drawn from data maintained by the Texas Department of Transportation or National Highway Traffic Safety Administration.

(i) A minimum of 300 minutes of instruction is required.

(ii) The total length of the course shall consist of a minimum of 360 minutes.

(iii) Sixty (60) minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.

(iv) Administrative procedures such as enrollment shall not be included in the 300 minutes of the course.

(v) Courses conducted in a single day in a traditional classroom setting shall allow a minimum of 30 minutes for lunch.

(vi) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided after the course introduction and prior to the last unit of the instructional day or the comprehensive examination and summation, whichever is appropriate.

(vii) The order of topics shall be approved by the department as part of the course approval, and for each student, the course shall be taught in the order identified in the approved application.

(viii) Students shall not receive a uniform certificate of course completion unless that student receives a grade of at least 70% on the final examination.

(ix) In a traditional classroom setting, there must be sufficient seating for the number of students, arranged so that all students are able to view, hear, and comprehend all instructional aids and the class shall have no more than 50 students.

(x) The driving safety instructor or school shall make a material effort to establish the identity of the student.

(D) Minimum course content. Driving Safety course content, including video and multimedia, shall include current statistical data, references to law, driving procedures, and traffic safety methodology. A driving safety course shall include, as a minimum, materials adequate to assure the student masters the following.

(i) Course introduction--minimum of ten minutes (instructional objective--to orient students to the class). Instruction shall address the following topics:

- (I) purpose and benefits of the course;
- (II) course and facilities orientation;
- (III) requirements for receiving course credit;
- (IV) student course evaluation procedures; and
- (V) Department-provided information on course content.

(ii) The traffic safety problem--minimum of 15 minutes (instructional objectives--to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution). Instruction shall address the following topics:

(I) identification of the overall traffic problem in the United States, Texas, and the locale where the course is being taught;

(II) death, injuries, and economic losses resulting from motor vehicle crashes in Texas; and

(III) the top five contributing factors of motor vehicle crashes in Texas as identified by the Texas Department of Transportation.

(iii) Factors influencing driver performance--minimum of 20 minutes (instructional objective--to identify the characteristics and behaviors of drivers and how they affect driving performance). Instruction shall address the following topics:

(I) attitudes, habits, feelings, and emotions (aggressive driving, etc.);

(II) alcohol and other drugs;

(III) physical condition (drowsy driving, etc.);

(IV) knowledge of driving laws and procedures;

and

(V) understanding the driving task.

change.)

(iv) Traffic laws and procedures--minimum of 30 minutes (instructional objectives--to identify the requirements of, and the rationale for, applicable driving laws and procedures and to influence drivers to comply with the laws on a voluntary basis). Instruction shall address the following topics:

(I) passing;

(II) right-of-way;

(III) turns;

(IV) stops;

(V) speed limits;

(VI) railroad crossings safety, including statistics, causes, and evasive actions;

(VII) categories of traffic signs, signals, and highway markings;

(VIII) pedestrians;

(IX) improved shoulders;

(X) intersections;

(XI) occupant restraints;

(XII) anatomical gifts;

(XIII) litter prevention;

(XIV) law enforcement and emergency vehicles (this category will be temporary until the need is substantiated by documentation from the Department of Public Safety on the number of deaths or injuries involved because of improper procedures used by a citizen when stopped by a law enforcement officer);

(XV) law enforcement procedures for traffic stops in accordance with the provisions of the Community Safety Education Act (Senate Bill 30, 85th Regular Legislature); and

(XVI) other laws as applicable (i.e., financial responsibility/compulsory insurance).

(v) Special skills for difficult driving environments--minimum of 20 minutes (instructional objectives--to identify how special conditions affect driver and vehicle performance and identify techniques for management of these conditions). Instruction shall address the following topics:

- (I) inclement weather;
- (II) traffic congestion;
- (III) city, urban, rural, and expressway environments;
- (IV) reduced visibility conditions--hills, fog, curves, light conditions (darkness, glare, etc.), etc.; and
- (V) roadway conditions.

(vi) Physical forces that influence driver control--minimum of 15 minutes (instructional objective--to identify the physical forces that affect driver control and vehicle performance). Instruction shall address the following topics:

- (I) speed control (acceleration, deceleration, etc.);
- (II) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and
- (III) force of impact (momentum, kinetic energy, inertia, etc.).

(vii) Perceptual skills needed for driving--minimum of 20 minutes (instructional objective--to identify the factors of perception and how the factors affect driver performance). Instruction shall address the following topics:

- (I) visual interpretations;
- (II) hearing;
- (III) touch;
- (IV) smell;
- (V) reaction abilities (simple and complex); and
- (VI) judging speed and distance.

(viii) Defensive driving strategies--minimum of 40 minutes (instructional objective--to identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses). Instruction shall address the following topics:

- (I) trip planning;
- (II) evaluating the traffic environment;
- (III) anticipating the actions of others;
- (IV) decision making;
- (V) implementing necessary maneuvers;
- (VI) compensating for the mistakes of other drivers;
- (VII) avoiding common driving errors;
- (VIII) interaction with other road users (motorcycles, bicycles, trucks, pedestrians, etc.);

(IX) motorcycle awareness, including the dangers of failing to yield the right-of-way to a motorcyclist and the need to share the road with motorcyclist; and

(X) distractions relating to the effect of using a wireless communication device, including texting or engaging in other actions that may distract a driver from the safe or effective operation of a motor vehicle.

(ix) Driving emergencies--minimum of 40 minutes (instructional objective--to identify common driving emergencies and their countermeasures). Instruction shall address the following topics:

- (I) collision traps (front, rear, and sides);
- (II) off-road recovery, paths of least resistance;

and

(III) mechanical malfunctions (tires, brakes, steering, power, lights, etc.).

(x) Occupant restraints and protective equipment--minimum of 15 minutes (instructional objective--to identify the rationale for having and using occupant restraints and protective equipment). Instruction shall address the following topics:

- (I) legal aspects;
- (II) vehicle control;
- (III) crash protection;
- (IV) operational principles (active and passive);
- (V) helmets and other protective equipment
- (VI) proper use of child passenger safety seat

systems; and

(VII) dangers involved in locking or leaving children in vehicles unattended.

(xi) Alcohol and traffic safety--minimum of 40 minutes (instructional objective--to identify the effects of alcohol on roadway users). Instruction shall not address methods to drink and drive but shall address the following topics related to the effects of alcohol on roadway users:

- (I) physiological effects;
- (II) psychological effects;
- (III) legal aspects; and
- (IV) synergistic effects.

(xii) Comprehensive examination--minimum of five minutes (this shall be the last unit of instruction).

(xiii) The remaining 30 minutes of instruction shall be allocated to the topics included in the minimum course content or to additional driving safety topics that satisfy the educational objectives of the course.

(E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved driving safety course described in the applicant's driving safety course content guide. Each course provider shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:

- (i) a statement of the philosophy and instructional goals of the training course;
- (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:

(I) instruction of the trainee in the course curriculum;

(II) training the trainee in the techniques of instruction that will be used in the course;

(III) training the trainee about administrative procedures and course provider policies;

(IV) demonstration of desirable techniques of instruction by the instructor trainer;

(V) a minimum of 15 minutes of instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training course;

(VI) time to be dedicated to each training lesson; and

(VII) a minimum of 600 minutes of instruction of the course in a regular approved course under the observation of a licensed instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice; and

(iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(VI). The total time of the units shall contain a minimum of 16 instructional hours. Each instructional unit shall include the following:

(I) the subject of the unit;

(II) the instructional objectives of the unit;

(III) time to be dedicated to the unit;

(IV) an outline of major concepts to be presented;

(V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;

(VI) instructional resources for each unit; and

(VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.

(F) Examinations. Each course provider shall submit for approval, as part of the application, tests designed to measure the comprehension level of students at the completion of the driving safety course and the instructor training course. The comprehensive examination for each driving safety course must include at least 2 questions from the required units set forth in subparagraph (D)(ii)-(xi), for a total of at least 20 questions. The final examination questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the final examination questions, but may facilitate alternative testing. Instructors may not be certified or students given credit for the driving safety course unless they score 70% or more on the final test. The course content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the final examination. The applicant may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in

the course. Test questions may be short answer, multiple choice, essay, or a combination of these forms.

(G) Requirements for authorship. The course materials shall be written by individuals or organizations with recognized experience in writing instructional materials.

(H) Renewal of course approval. The course approval must be renewed every two years. The renewal document due date shall be March 1 of every even numbered calendar year.

(i) For approval, the course owner shall update all the course content methodology, procedures, statistical data, and references to law with the latest available data.

(ii) The course owner shall submit a Statement of Assurance stating that the course has been updated to reflect the latest applicable laws and statistics.

(iii) Failure to make necessary changes or to submit a Statement of Assurance documenting those changes shall be cause for revocation of the course approval.

(iv) The commissioner may alter the due date of the renewal documents by giving the approved course six months' notice. The commissioner may alter the due date in order to ensure that the course is updated six months after the effective date of new state laws passed by the Texas Legislature.

(2) Instructor development courses.

(A) If the alternative instructor training in §84.64 (relating to Driving Safety Instructor License Requirements) is not applicable, driving safety instructors shall successfully complete 28 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development course for the driving safety course to be taught, under the supervision of a driving safety instructor trainer. Supervision is considered to have occurred when the instructor trainer is present and personally provides the 28 clock hours of training for driving safety instructors, excluding those clock hours approved by department staff that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.

(B) Instruction records shall be maintained by the course provider and instructor trainer for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course, the instructor trainer conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing, and one copy will be maintained in a permanent file at the course provider location.

(C) All student instruction records submitted for the department-approved instructor development course shall be signed by the course provider. Original documents shall be submitted.

(D) Driving safety instructor development courses may be offered at approved classroom facilities of a licensed school which is approved to offer the driving safety course being taught. A properly licensed instructor trainer shall present the course.

(E) Applicants shall complete 28 hours of training in the driving safety curriculum that shall be taught. Of the 28 hours, 16 shall cover techniques of instruction and in-depth familiarization with

materials contained in the driving safety curriculum. The additional 12 hours shall consist of practical teaching with students and shall occur after the first 16 hours have been completed.

(F) The driving safety course provider shall submit dates of instructor development course offerings for the 16-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly licensed schools or classrooms approved to offer the course being provided.

(3) Continuing education courses.

(A) Each course provider will be responsible for receiving an approval for a minimum of a two-hour continuing education course. Each instructor currently endorsed to teach the course must attend the approved continuing education course conducted by the course provider.

(B) The request for course approval shall contain the following:

- (i) a description of the plan by which the course will be presented;
- (ii) the subject of each unit;
- (iii) the instructional objectives of each unit;
- (iv) time to be dedicated to each unit;
- (v) instructional resources for each unit, including names or titles of presenters and facilitators;
- (vi) any information that the department mandates to promote the quality of the education being provided; and
- (vii) a plan by which the course provider will monitor and ensure attendance and completion of the course by the instructors within the guidelines set forth in the course.

(C) A continuing education course may be approved if the department determines that:

- (i) the course is designed to enhance the instructional skills, methods, or knowledge of the driving safety instructor;
- (ii) the course pertains to subject matters that relate directly to driving safety instruction, instruction techniques, or driving safety-related subjects;
- (iii) the course has been designed, planned, and organized by the course provider. The course provider shall use licensed driving safety instructors to provide instruction or other individuals with recognized experience or expertise in the area of driving safety instruction or driving safety-related subject matters. Evidence of the individuals' experience or expertise may be requested by the division;
- (iv) the course contains updates or approved revisions to the driving safety course curriculum, policies or procedures, and/or any changes to the course, that are affected by changes in traffic laws or statistical data; and
- (v) any technology used to present a continuing education course meets reasonable standards for determining attendance, security, and testing.

(b) Course providers shall submit documentation on behalf of schools applying for approval of additional courses after the original approval has been granted. The documents shall be designated by the

division and include the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.

(c) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than 30 days after the course was discontinued. Any course discontinued shall be removed from the list of approved courses.

(d) If, upon review and consideration of an original, renewal, or amended application for course approval, the department determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.

(e) The department may revoke approval of any course given to a course owner, provider, or school under any of the following circumstances.

- (1) Any information contained in the application for the course approval is found to be untrue.
- (2) The school has failed to maintain the faculty, facilities, equipment, or courses of study on the basis of which approval was issued.
- (3) The school and/or course provider has been found to be in violation of the Code, and/or this chapter.
- (4) The course has been found to be ineffective in meeting the educational objectives set forth in subsection (a)(1)(A).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 4, 2018.

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Brian E. Francis
Executive Director
Texas Department of Licensing and Regulation
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Proposal publication date: March 30, 2018
For further information, please call: (512) 463-8179

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SUBCHAPTER N. PROGRAM INSTRUCTION FOR PUBLIC SCHOOLS, EDUCATION SERVICE CENTERS, AND COLLEGES OR UNIVERSITIES COURSE REQUIREMENTS

16 TAC §84.600

The amendments are adopted under Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51 and Texas Education Code, Chapter 1001. No other statutes, articles, or codes are affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 110. ATHLETIC TRAINERS

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code, Chapter 110, §§110.14, 110.20, 110.21, 110.23, 110.25, 110.30, 110.80, 110.90 and 110.95; adopts new §110.1 and §110.10; and adopts the repeal of existing §110.1 and §110.19, regarding the Athletic Trainers program, without changes to the proposed text as published in the February 9, 2018, issue of the *Texas Register* (43 TexReg 690). The rules will not be republished.

The adopted rules implement House Bill 4007, 85th Legislature, Regular Session (2017), for the Athletic Trainers Program, which made several clean up changes to Texas Occupations Code, Chapter 451. The adopted rules are necessary to implement HB 4007; remove unnecessary provisions; make editorial corrections; and update the rule language to reflect current exam practices. The adopted rules also reduce the fees for license renewals and temporary licenses so that they are not more expensive than the initial license fee.

The adopted new §110.1 states the statutory authority for rule-making.

The adopted repeal of current §110.1 moves the definitions used in the Athletic Trainers program to §110.10.

The adopted new §110.10 contains the definitions that were previously located in §110.1. The reference to "Board" was replaced with "Advisory Board."

The adopted amendments to §110.14 make an editorial change to the title of the section.

The adopted repeal of §110.19 removes unnecessary provisions.

The adopted amendments to §110.20 remove an unnecessary provision related to HB 4007 and renumber the section accordingly.

The adopted amendments to §110.21 add clarifying language and change a reference from the Department to the Department of State Health Services.

The adopted amendments to §110.23 reword the section to reflect current exam processes, add clarifying language, restruc-

ture subsection (c) for clarity, and renumber the section accordingly.

The adopted amendments to §110.25 simplify and clarify the language regarding continuing education requirements and renumber the section accordingly.

The adopted amendments to §110.30 clarify the language regarding temporary license requirements.

The adopted amendments to §110.80 reduce fees for temporary licenses and license renewals to standardize those fees with initial license application fees, clarify that examination fees are paid to the Department's designee rather than to the Department, add a fee for a duplicate/replacement license as is standard with all licenses administered by the Department, combine the initial license fee and initial application fees into one fee, and remove the returned check fee as it conflicts with the Department's rules at 16 TAC §60.82 and §110.80(e) regarding dishonored payment devices.

The adopted amendments to §110.90 correct a reference to the statutory authority for imposing administrative penalties and sanctions.

The adopted amendments to §110.95 correct a reference to the Athletic Trainers program statute.

The Texas Department of Licensing and Regulation (Department) drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the February 9, 2018, issue of the *Texas Register* (43 TexReg 690). The deadline for public comment was March 12, 2018. The Department did not receive any comments during the 30-day public comment period.

The Advisory Board of Athletic Trainers (Board) met on April 23, 2018, and recommended the proposed rules be adopted without changes. At its meeting held on May 24, 2018, the Commission adopted the proposed rules without changes as recommended by the Board and the Department.

16 TAC §110.1, §110.19

The repeals are adopted under Texas Occupations Code, Chapters 51 and 451, which authorizes the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted repeal are those set forth in Texas Occupations Code, Chapters 51 and 451. No other statutes, articles, or codes are affected by the proposal.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Executive Director

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16 TAC §§110.1, 110.10, 110.14, 110.20, 110.21, 110.23, 110.25, 110.30, 110.80, 110.90, 110.95

The new rules and amendments are adopted under Texas Occupations Code, Chapters 51 and 451, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapters 51 and 451. No other statutes, articles, or codes are affected by the adoption.

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER AA. COMMISSIONER'S RULES ON SCHOOL FINANCE

19 TAC §61.1010

The Texas Education Agency (TEA) adopts new §61.1010, concerning commissioner's rules on school finance. The new section is adopted with changes to the proposed text as published in the February 23, 2018, issue of the *Texas Register* (43 TexReg 991). The adopted new rule implements Senate Bill (SB) 1882, 85th Texas Legislature, Regular Session, 2017, by providing for additional funding for school districts that have entered into a contract to partner to operate a district campus under the Texas Education Code (TEC), §11.174.

REASONED JUSTIFICATION. SB 1882, 85th Texas Legislature, Regular Session, 2017, added the TEC, §42.2511, to create an additional entitlement through the Foundation School Program for school districts that enter into contracts to partner to operate a district campus under the TEC, §11.174.

The TEC, §42.2511, provides for additional funding to the school district in the amount of any positive difference between the amount to which an open-enrollment charter school would be entitled under the TEC, §12.106, and the amount to which the district would be entitled under the TEC, Chapter 42, Subchapters B, C, and F, for the district's students attending the contracted campus. Four allotments were excluded from the calculation because their funding calculations are not based on the basic allotment and there would be no difference between the funding an open-enrollment charter school would receive for that campus and the funding a district would receive. The excluded allotments are the Tuition Allotment, the Advanced

Career and Technology Education Allotment, the Transportation Allotment, and the New Instructional Facilities Allotment.

Adopted new §61.1010 details the manner in which the TEA will calculate the difference in funding to arrive at the additional entitlement. The new rule also specifies that TEA will eliminate funding provided for the contracted campus or recover overallocated funds if a contract is found to be out of compliance with the TEC, §11.174, or 19 TAC §97.1075, Contracting to Partner to Operate a Campus under Texas Education Code, §11.174.

Based on public comment, new subsection (d) was added at adoption to specify that TEA will provide estimated funding for an eligible campus during the school year based on the prior year attendance data for that campus. Funding will be adjusted at the end of the school year based on the attendance data for the campus for the current school year. Any difference from the estimated funding will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §42.258.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began February 23, 2018, and ended March 26, 2018. Following is a summary of public comments received and corresponding agency responses.

Comment: The Charter District Alliance suggested that TEA provide funding for eligible campuses during the school year based on estimates instead of waiting until Public Education Information Management System (PEIMS) data is available at the end of the school year.

Agency Response: The agency agrees and has added new subsection (d) at adoption to specify that TEA will provide funding for an eligible campus during the school year based on the prior year Texas Student Data System (TSDS) PEIMS attendance data for that campus. Funding will be adjusted at the end of the school year based on the TSDS PEIMS attendance data for the campus for the current school year. Any difference from the estimated funding will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §42.258.

Comment: The Charter District Alliance suggested that TEA distinguish between partnerships to operate academically unacceptable campuses and other campus partnerships designed to extend the impact of proven operators and that funding should be streamlined for proven operators.

Agency Response: The agency disagrees. TEC, §42.2511, makes no provision for different treatment of campus operators. However, in response to other comments, TEA has revised the new rule at adoption to allow for the provision of funding for all campus partnerships during the school year.

Comment: The Charter District Alliance proposed that TEA clarify that it will not impose a new monitoring regime to implement the provisions of subsection (f) of the rule, which would recover the additional funding provided to operators that are not in compliance with the provisions of TEC, §11.174, or 19 TAC §97.1075. The commenter suggested TEA ensure compliance by using its complaint investigation program.

Agency Response: The agency disagrees and maintains the rule language as proposed. The TEA has determined it is important to ensure that the additional funding provided should only be sent to operators that are in compliance with the applicable laws and rules, and TEA will monitor operators accordingly.

Comment: The Charter District Alliance requested that the rule address the Elementary and Secondary Education Act (ESEA), Title I, comparability issues.

Agency Response: The agency disagrees and maintains the rule language as proposed. The TEA is unable to waive the ESEA, Title I, Part A, comparability requirement for local education agencies/campuses receiving SB 1882 funding.

Comment: The Charter District Alliance requested that TEA address the provision in federal law that prevents ESEA, Title I, funds from following a student who transfers to another district by adjusting the state aid downward to the sending district and making a corresponding upward adjustment to the receiving district.

Agency Response: The agency disagrees and maintains the rule language as proposed. TEA does not have authority to make such an adjustment.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §42.2511, which requires the commissioner of education to adopt rules necessary for the implementation of an entitlement for school districts that enter into a contract to operate a district campus under the TEC, §11.174.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §42.2511.

§61.1010. Additional State Aid for School Districts that Contract to Partner to Operate a District Campus.

(a) General provisions. This section implements the Texas Education Code (TEC), §42.2511 (School District Entitlement for Certain Students), which provides for additional funding for school districts that have entered into a contract to partner to operate a district campus under the TEC, §11.174.

(b) Definition. In this section, the term "contracted campus" means a campus for which the board of trustees of a school district has contracted to partner to operate a campus under the TEC, §11.174.

(c) Entitlement. In the fall of each school year, as part of the settle-up process for the preceding school year, the Texas Education Agency (TEA) will use the attendance reported through the Texas Student Data System Public Education Information Management System summer data submission, as well as campus-level data regarding the number of students eligible for free and reduced-price meals received from the Texas Department of Agriculture, to calculate the following for a contracted campus:

(1) the entitlement for each student in average daily attendance at the contracted campus, as if the campus were a charter school under the TEC, §12.106, using the state average adjusted allotment as defined under the TEC, §12.106(a-1), and state average tax effort for enrichment funding as defined by the TEC, §12.106(a-2);

(2) the entitlement for each student in average daily attendance at the contracted campus under the TEC, Chapter 42, Subchapters B, C, and F, as adjusted by subsection (d) of this section, using the district's adjusted allotment and enrichment tax effort without a local share component for those entitlements; and

(3) any positive difference that results from subtracting the amount calculated under paragraph (2) of this subsection from the amount calculated under paragraph (1) of this subsection, which shall be added to the district's Foundation School Fund Allotment.

(d) Estimates. School districts will be provided with estimated funding during a school year for eligible contracted campuses based

on the prior year's attendance and Texas Department of Agriculture data using the same methodology used in subsection (c) of this section to calculate the entitlement. The final entitlement will be based on data from the current school year as provided for in subsection (c) of this section. Any difference from the estimated entitlement will be addressed as part of the Foundation School Program settle-up process according to the provisions of TEC, §42.258.

(e) Exclusions. For purposes of the calculation in subsection (c) of this section, the following allotments shall be excluded from the entitlement:

(1) the Tuition Allotment for districts not offering all grade levels under the TEC, §42.106;

(2) the Advanced Career and Technology Education Allotment under the TEC, §42.154(a)(2);

(3) the Transportation Allotment under the TEC, §42.155; and

(4) the New Instructional Facility Allotment under the TEC, §42.158.

(f) Funding for instructional facilities for charter schools. Effective September 1, 2018, for purposes of the calculation in subsection (c)(1) of this section, any funding to which the contracted campus would be entitled under the TEC, §12.106(d), will be included in the calculation.

(g) Recovery of funds. If a contract is found to be out of compliance with the TEC, §11.174, or §97.1075 of this title (relating to Contracting to Partner to Operate a Campus under Texas Education Code, §11.174), the TEA will eliminate any funding provided for that campus under the TEC, §42.2511, and recover any funds overallocated under the provisions of the TEC, §42.258.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: June 19, 2018

Proposal publication date: February 23, 2018

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

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**SUBCHAPTER CC. COMMISSIONER'S
RULES CONCERNING SCHOOL FACILITIES**

19 TAC §61.1035

The Texas Education Agency (TEA) adopts an amendment to §61.1035, concerning assistance with payment of existing debt. The amendment is adopted without changes to the proposed text as published in the March 30, 2018 issue of the *Texas Register* (43 TexReg 1927) and will not be republished. The adopted amendment updates the rule to align with current practice for administering the Existing Debt Allotment (EDA) program and removes obsolete and redundant provisions.

REASONED JUSTIFICATION. The adopted amendment to 19 TAC §61.1035 exercises the commissioner's authority to adopt rules to implement the EDA program under the Texas Education

Code, Chapter 46, Subchapter B, which assists certain school districts with state support for the payment of principal and interest on eligible bonds. The adopted amendment simplifies the administration of the EDA program for the TEA and school districts and makes state assistance for this program more timely and with less administrative burden for school districts. The amendment updates the rule to reflect how the TEA currently administers this program. Specifically, the following changes were made.

The adopted changes simplify the requirements for school districts by removing obsolete requirements to report debt service changes to the TEA and to send debt service schedules for interest rate management agreements that are updated with the state information depository and sent electronically to the TEA.

Rule text that has expired, that restates statutory requirements, or is redundant was removed.

Language was removed to clarify that a lease purchase refinanced with a general obligation bond is immediately eligible for consideration for EDA funding.

New subsections (b) and (c) contain language from the former subsection (b) and clarify TEA's current practice. New subsection (b) clarifies the provisions applicable to debt service payments used in EDA funding calculations, and new subsection (c) clarifies how TEA calculates the amount of excess collections, if any, to be applied to satisfy the EDA local share requirement.

New subsection (d) contains language from the former subsection (c) and clarifies exclusions applied for purposes of computing the biennial limit to Existing Debt Tax Rate.

New subsection (e) contains language from the former subsection (d), and new subsection (e)(3) was added to clarify the data sources used in TEA's payment process.

New subsection (f) was relettered from the former subsection (e).

New subsection (g) contains language from the former subsection (f), and rule text that does not align with TEA's current practice was removed from subsection (g)(4).

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began March 30, 2018, and ended April 30, 2018. No public comments were received.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §46.031, which permits the commissioner of education to adopt rules necessary for the implementation of the TEC, Chapter 46, Subchapter B; TEC, §46.032, which provides for an allotment of state funds to certain school districts to assist with the payments of principal and interest on eligible bonds; TEC, §46.033, which specifies which bonds may be eligible for state assistance; TEC, §46.034, which provides for certain limits on state assistance; TEC, §46.035, which addresses the timing of payments of state assistance to school districts; TEC, §46.036, which clarifies that open-enrollment charter schools are not eligible for state assistance under the TEC, Chapter 46, Subchapter B; TEC, §46.037, which clarifies that school districts are not eligible for state assistance under the TEC, Chapter 46, Subchapter B, for any taxes for which a district receives assistance under the TEC, Chapter 42, Subchapter F; and TEC, §46.061, which authorizes the commissioner by rule to provide for the payment of state assistance under the TEC, Chapter 46, to refinance school district debt.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§46.031 - 46.037 and 46.061.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802367

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



TITLE 22. EXAMINING BOARDS

PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 1. ARCHITECTS

Introduction. The Texas Board of Architectural Examiners (Board) adopts amendments to §1.5 (Terms Defined Herein), §1.21 (Registration by Examination), §1.22 (Registration by Reciprocal Transfer), §1.41 (Requirements), and §1.123 (Titles). The amendments are adopted without changes to the proposed text as published in the April 6, 2018, issue of the *Texas Register* (43 TexReg 2109).

Reasoned Justification.

The adopted rules implement a non-substantive change in terminology for the program previously known in the Board's rules as the "Intern Development Program." This program is administered by the National Council of Architectural Registration Boards (NCARB). It is a standardized program that is accepted by Texas and most other jurisdictions to demonstrate sufficient experience to become registered as an architect. Recently, NCARB renamed this program the "Architectural Experience Program" or "AXP." To ensure that agency rules remain current, §§1.5, 1.21, 1.22, 1.41, and 1.123 are amended to replace obsolete references to the "Intern Development Program," with citations to the updated term "Architectural Experience Program." These amendments are non-substantive and will not affect the current or future eligibility of any person who completed the program under the previous name.

Additionally, the Board amends §1.5(39), which defines "National Council of Architectural Registration Boards (NCARB)." Previously, the definition stated that NCARB is a nonprofit federation of architectural registration boards from 55 states and territories of the United States. In fact, NCARB is made up of 54 jurisdictions. Therefore, the definition is amended to provide accurate information.

Summary of Comments and Agency Response. The Board did not receive any comments on the proposed rules.

SUBCHAPTER A. SCOPE; DEFINITIONS

22 TAC §1.5

Statutory Authority.

The amendment of §1.5 is adopted under Texas Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture,

and Texas Occupations Code §1051.705, which authorizes the Board to prescribe satisfactory architectural experience to sit for the registration examination. This rulemaking action amends the name of the program applicants must complete to show satisfactory architectural experience to sit for the examination.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 1, 2018.

TRD-201802389

Lance Brenton

General Counsel

Texas Board of Architectural Examiners

Effective date: June 21, 2018

Proposal publication date: April 6, 2018

For further information, please call: (512) 305-8519



SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §1.21, §1.22

The amendments to §1.21 and §1.22 are adopted under Texas Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture and Texas Occupations Code §1051.705, which authorizes the Board to prescribe satisfactory architectural experience to sit for the registration examination. This rulemaking action amends the name of the program applicants must complete to show satisfactory architectural experience to sit for the examination.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Lance Brenton

General Counsel

Texas Board of Architectural Examiners

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For further information, please call: (512) 305-8519



SUBCHAPTER C. EXAMINATION

22 TAC §1.41

Statutory Authority

The amendment of §1.41 is adopted under Texas Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture and Texas Occupations Code §1051.705, which authorizes the Board to prescribe satisfactory architectural experience to sit for the registration examination. This rulemaking action amends the name of the program applicants must complete to show satisfactory architectural experience to sit for the examination.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Lance Brenton

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Texas Board of Architectural Examiners

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For further information, please call: (512) 305-8519



SUBCHAPTER G. COMPLIANCE AND ENFORCEMENT

22 TAC §1.123

Statutory Authority

The amendment of §1.123 is adopted under Texas Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture and Texas Occupations Code §1051.705, which authorizes the Board to prescribe satisfactory architectural experience to sit for the registration examination. This rulemaking action amends the name of the program applicants must complete to show satisfactory architectural experience to sit for the examination.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Lance Brenton

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Texas Board of Architectural Examiners

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For further information, please call: (512) 305-8519



PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 78. RULES OF PRACTICE

22 TAC §78.3

The Texas Board of Chiropractic Examiners (Board) adopts amendments to Chapter 78, §78.3, concerning "Individuals with Criminal Backgrounds," without changes to the proposed text as published in the March 23, 2018, issue of the *Texas Register* (43 TexReg 1787); the amendment will not be republished.

The adoption of the proposed rule amendment will conform the rule to Sunset legislation, SB 304 (Regular Session, 85th Legislature), which dissolved the Board's statutory authority to register chiropractic facilities.

This rule was proposed for publication at the Board's quarterly meeting on February 15, 2018. The proposed language was

published in the Rules Committee and Board agenda. Comment on the proposal was sought during the Rules Committee and Board meeting prior to publication of the proposed rule in the Texas Register. The Agency also sought input through publication at the Board's website and newsletter. No comments were received.

This amended rule is adopted under Texas Occupations Code §201.152, relating to rules and Texas Occupations Code Chapter 201, Subchapter D, Board Powers and Duties. Section 201.152 authorizes the Board to adopt rules necessary to regulate the practice of chiropractic in order to protect the public health and safety and to enforce Chapter 201. Subchapters K and L provide the framework to authorize the Board to impose disciplinary action and administrative penalties.

This rule also implements Texas Occupations Code, Chapter 53, relating to criminal convictions. No other statutes, articles, or codes are affected by the amendment.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802377

Christopher Burnett

General Counsel

Texas Board of Chiropractic Examiners

Effective date: June 19, 2018

Proposal publication date: March 23, 2018

For further information, please call: (512) 305-6715



22 TAC §78.5

The Texas Board of Chiropractic Examiners (Board) adopts amendments to Chapter 78, §78.5, concerning "Duty to Respond to Complaint and Request for Information or Records," without changes to the proposed text as published in the March 23, 2018, issue of the *Texas Register* (43 TexReg 1789); the amendment will not be republished.

The adoption of the proposed rule amendment will conform the rule to Sunset legislation, SB 304 (Regular Session, 85th Legislature), which dissolved the Board's statutory authority to register chiropractic facilities.

This rule was proposed for publication at the Board's quarterly meeting on February 15, 2018. The proposed language was published in the Rules Committee and Board meeting agendas.

Comment on the proposal was sought during the Rules Committee and Board meetings prior to publication of the proposed rule in the *Texas Register*. The Agency also sought input through publication at the Board's website and newsletter. No comments were received.

This amended rule is adopted under Texas Occupations Code §201.152, relating to rules and Texas Occupations Code Chapter 201, Subchapter D, Board Powers and Duties. Section 201.152 authorizes the Board to adopt rules necessary to regulate the practice of chiropractic in order to protect the public health and safety and to enforce Chapter 201. Subchapters K and L provide the framework to authorize the Board to impose disciplinary action and administrative penalties.

This rule implements Occupations Code, Chapter 53, relating to Criminal Convictions.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802378

Christopher Burnett

General Counsel

Texas Board of Chiropractic Examiners

Effective date: June 19, 2018

Proposal publication date: March 23, 2018

For further information, please call: (512) 305-6715



22 TAC §78.7

The Texas Board of Chiropractic Examiners (Board) adopts amendments to Chapter 78, §78.7, concerning "Public Interest Information", without changes to the proposed text as published in the March 23, 2018, issue of the *Texas Register* (43 TexReg 1790); the amendment will not be republished.

The adoption of the proposed rule amendment will conform the rule to Sunset legislation, SB 304 (Regular Session, 85th Legislature), which dissolved the Board's statutory authority to register chiropractic facilities.

This rule was proposed for publication at the Board's quarterly meeting on February 15, 2018. The proposed language was published in the Rules Committee and Board meeting agendas. Comment on the proposal was sought during the Rules Committee and Board meetings prior to publication of the proposed rule in the Texas Register. The Agency also sought input through publication at the Board's website and newsletter. No comments were received.

This amended rule is adopted under Texas Occupations Code §201.152, relating to rules and Texas Occupations Code Chapter 201, Subchapter D, Board Powers and Duties. Section 201.152 authorizes the Board to adopt rules necessary to regulate the practice of chiropractic in order to protect the public health and safety and to enforce Chapter 201. Subchapters K and L provide the framework to authorize the Board to impose disciplinary action and administrative penalties.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802380

Christopher Burnett

General Counsel

Texas Board of Chiropractic Examiners

Effective date: June 19, 2018

Proposal publication date: March 23, 2018

For further information, please call: (512) 305-6715



22 TAC §78.8

The Texas Board of Chiropractic Examiners (Board) adopts amendments to Chapter 78, §78.8, concerning "Complaint Procedures," without changes to the proposed text as published in the March 23, 2018, issue of the *Texas Register* (43 TexReg 1790); the amendment will not be republished.

The adoption of the proposed rule amendment will conform the rule to Sunset legislation, SB 304 (Regular Session, 85th Legislature), which dissolved the Board's statutory authority to register chiropractic facilities.

This rule was proposed for publication at the Board's quarterly meeting on February 15, 2018. The proposed language was published in the Rules Committee and Board meeting agendas.

Comment on the proposal was sought during the Rules Committee and Board meetings prior to publication of the proposed rule in the *Texas Register*. The Agency also sought input through publication at the Board's website and newsletter. No comments were received.

This amended rule is adopted under Texas Occupations Code §201.152, relating to rules and Texas Occupations Code Chapter 201, Subchapter D, Board Powers and Duties. Section 201.152 authorizes the Board to adopt rules necessary to regulate the practice of chiropractic in order to protect the public health and safety and to enforce the Act. Subchapters K and L provide the framework to authorize the Board to impose disciplinary action and administrative penalties.

This rule implements Subchapter E of the Chiropractic Act, Public Interest Information and Complaint Procedures. No other statutes, articles, or codes are affected by the amendment.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802381

Christopher Burnett

General Counsel

Texas Board of Chiropractic Examiners

Effective date: June 19, 2018

Proposal publication date: March 23, 2018

For further information, please call: (512) 305-6715



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

DIVISION 4. CONSUMER ASSISTANCE; CLAIM PROCESSES

28 TAC §5.4203

The Commissioner of Insurance adopts new 28 TAC §5.4203, relating to extensions of deadlines in Insurance Code §2210.573(b) and (d). The new section is adopted without changes to the proposed text published in the March 30, 2018, issue of the *Texas Register* (43 TexReg 1940).

REASONED JUSTIFICATION. The new section is necessary to permanently implement the Commissioner's authority to extend for good cause the Texas Windstorm Insurance Association's deadlines to request information from a claimant and to accept or deny a claim.

The association is the residual insurer of last resort for windstorm and hail insurance coverage in designated parts of the seacoast territory for those who are unable to obtain that coverage in the private market. The Commissioner designates the catastrophe area eligible for coverage through the association under Insurance Code §2210.005. The catastrophe area currently includes the 14 first-tier coastal counties and parts of Harris County. The association's largest risk exposure is to catastrophic losses from hurricanes.

Insurance Code Chapter 2210, Subchapter L-1 governs claims under an association policy, and it governs the process for resolution of disputes on those claims. Under Insurance Code §2210.581, the Commissioner may by rule and for good cause extend any deadline in Subchapter L-1.

After Hurricane Harvey struck in August 2017, the department adopted 28 TAC §5.4203 under emergency rulemaking procedures. Section 5.4203 implemented the Commissioner's authority to extend the deadlines in Insurance Code §2210.573(b) and (d). Section 5.4203 was published in the October 6, 2017, issue of the *Texas Register* (42 TexReg 5293). As an emergency rule, it was effective from September 21, 2017, until January 20, 2018. The proposal for the new section, published in the March 30, 2018, issue of the *Texas Register* (43 TexReg 1940), describes the few differences between the new section and the section adopted as an emergency rule.

Section 5.4203 permanently establishes the process by which the association can request and receive extensions of the deadlines in Insurance Code §2210.573(b) and (d). Under Insurance Code §2210.573(b), the association must ask a claimant for information necessary to determine whether to accept or deny a claim not later than the 30th day after the claim is filed. Under Insurance Code §2210.573(d), the association must accept or deny a claim, either in full or in part, not later than 60 days after it receives the claim or receives additional information it has requested from the claimant.

The following paragraphs summarize the subsections of §5.4203.

Section 5.4203(a) defines "good cause" for the purpose of extending the deadlines in Insurance Code §2210.573(b) and (d). Insurance Code §2210.581 does not include a definition of "good cause." The definition in §5.4203 creates a reasonable, objective standard.

Section 5.4203(b) states that the Commissioner may extend the deadlines under Insurance Code §2210.573(b) and (d) if the association shows good cause. The Commissioner may also extend the deadlines in the absence of a request from the association if the Commissioner determines good cause exists. Subsection (d) allows the Commissioner to use any additional information the Commissioner deems appropriate when determining

if good cause exists under §5.4203. Subsections (b) and (d) give the Commissioner flexibility to determine that good cause exists without relying solely on the association's request.

Section 5.4203(c) requires a request to include information useful for the Commissioner to make a determination.

Section 5.4203(e) states that for claims filed in a particular catastrophe year, extensions granted under Insurance Code §2210.581 may not exceed 120 days in the aggregate.

Section 5.4203(f) states that the section applies to association policies ceded to voluntary market insurers under the assumption reinsurance program in Insurance Code Chapter 2210, Subchapter O, but that have not yet been renewed on the reinsurer's paper. The deadlines applicable to those policies are in Chapter 2210, Subchapter L-1 and cannot be extended under §542.059 as other voluntary market policy deadlines may.

SUMMARY OF COMMENTS. The department did not receive any comments on the proposed new section.

STATUTORY AUTHORITY. The Commissioner adopts new 28 TAC §5.4203 under Insurance Code §§2210.008, 2210.581, and 36.001.

Section 2210.008(b) provides that the Commissioner may adopt reasonable and necessary rules to implement Chapter 2210.

Section 2210.581 provides that the Commissioner may extend deadlines established under Subchapter L-1 by rule.

Section 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 4, 2018.

TRD-201802404

Norma Garcia

General Counsel

Texas Department of Insurance

Effective date: June 24, 2018

Proposal publication date: March 30, 2018

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CHAPTER 7. CORPORATE AND FINANCIAL REGULATION

SUBCHAPTER F. REINSURANCE

28 TAC §§7.601 - 7.612, 7.614, 7.621 - 7.627

The Texas Department of Insurance adopts amendments to 28 Texas Administrative Code §§7.601-7.612 and 7.614, and new §§7.621-7.627 concerning credit for reinsurance under Insurance Code Chapter 493. The amendments and new sections are adopted with changes to the proposed text published in the March 30, 2018, issue of the *Texas Register* (43 TexReg 1942). TDI adopts amended §§7.602, 7.603, 7.605, 7.607-7.611 and new §§7.621, 7.623, 7.624, 7.626, and 7.627 without changes to the proposed text. TDI revised §§7.601, 7.604, and 7.606 in response to public comments. TDI revised the effective date

in §7.612. TDI revised typographical errors in §§7.604, 7.614, 7.622, and 7.625.

REASONED JUSTIFICATION.

The amendments and new sections are necessary to implement Insurance Code Chapter 493, including changes made by Senate Bill 1070, 85th Legislature, Regular Session (2017). New §§7.621-7.627 implement legislative amendments to Insurance Code Chapter 493 made by SB 1070 that enacted Insurance Code §§493.1033-493.1038, which allows certified assuming insurers from qualified jurisdictions to post reduced collateral amounts for reinsurance ceded by Texas domestic insurers. Amendments to §§7.601-7.612 and 7.614 implement amendments that SB 1070 made to modernize reinsurance processes, including trust accounts and letters of credit that may affect certified assuming insurers; clarify filing requirements and reduce the administrative burden and cost of submissions both in number of filings and through alternative electronic means; update statutory references resulting from the nonsubstantive revision of statutes enacted in HB 2017, 79th Legislature, Regular Session (2005); and make nonsubstantive amendments to the prior sections to conform to the TDI style guidelines.

SB 1070 also repealed Insurance Code Chapter 492. However, the repeal of Insurance Code Chapter 492 does not substantively affect the requirements under §§7.601-7.612 and 7.614, because SB 1070 adopted provisions similar to those in Insurance Code Chapter 492 in Insurance Code Chapter 493, and §§7.601-7.612 and 7.614 applied similar requirements to reinsurance transactions sourced under Insurance Code Chapter 492 or Chapter 493.

Amendments to §7.601 divide the prior section into new subsections (a)-(c), update citations to applicable statutes, eliminate text that simply restates lists in the statute, and remove references to the titles of administrative code sections in this subchapter. The intent is to make the section more readable without changing the substance. An exception applicable to ceding insurers domiciled in another state, which is included in the last two sentences of the text incorporated in §7.601(b), has been removed because SB 1070 repealed §493.002(b), the provision on which the exception was based. In response to public comments, TDI has removed the term "between insurers" from §7.601(b). Restating that the activities are between insurers is unnecessary, because §7.602(1) and (3) define the activities of assuming and ceding insurance to be between insurers. The change does not add additional costs or affect persons not on notice of the proposed rules.

Section 7.601(c) is amended to reference Insurance Code §2551.3055, which is applicable to a title insurer seeking reinsurance under Chapter 493. Otherwise, title reinsurance is subject to the requirements of Insurance Code Chapter 2551, Subchapter G. The last two sentences of §7.601 are removed because they are redundant and unnecessary.

Amendments to §7.602 add new definitions, revise some prior definitions for clarity and consistent terminology, update citations, renumber the definitions, and make changes to conform to TDI drafting style guidelines.

The defined term "anniversary" is removed because it is not used in the revised subchapter.

The definition of "assuming insurer" is amended to reference the statutory definition for the term and clarify that the term includes insurers that assume obligations that the ceding insurer

may have assumed under a reinsurance agreement and obligations assumed under an assumption reinsurance agreement.

The definition of "assumption reinsurance" is amended to refer to the defined term "reinsurance agreement," rather than reinsurance transaction. Throughout this adoption the terms "reinsurance," "reinsurance contract," and "reinsurance transaction" have been revised to "reinsurance agreement" for consistency.

The definition of "ceding insurer" is revised for consistent reference to the transfer of an "insurance risk of loss" and use of the term "assuming insurer."

The definition of "indemnity reinsurance" is amended for consistent terminology as previously discussed and to clarify that the consideration must be commensurate with the risk transferred. The definition is also revised to clarify that certain references are to the ceding insurer.

The definition of "insurer" is amended to remove the reference to business entity, which is included in the new definition of "person." The amendments also clarify that the term insurer includes those entities listed in Insurance Code §493.002. The amended definition includes title insurers and domestic surplus lines insurers (DSLIs). Both are within the scope of Insurance Code §493.002, which by use of the term "includes" is not limited to the listed insurers as provided in Government Code §311.005(13). Title insurers are listed because they are insurers and under Insurance Code §2551.3055 may obtain reinsurance under Insurance Code Chapter 493; and DSLIs are included because they must be formed as stock property and casualty companies under Insurance Code Chapter 822 and because Insurance Code §981.073(a)(2) applies Insurance Code Title 4, which includes Insurance Code Chapter 493, to DSLIs.

The definition of "qualified United States financial institution" is updated to reflect the current location of the statutory definition.

The term "reinsurance" is amended to "reinsurance agreement" and the language limiting it to indemnity reinsurance has been deleted.

The defined term "nationally recognized statistical rating organization (NRSRO)" is added. These organizations are registered by the United States Securities and Exchange Commission. Although NRSROs can be registered to rate five classes of credit ratings, the definition is limited to those organizations registered to rate insurance companies because under this subchapter, NRSRO ratings are only considered in the scope of rating certified assuming insurers. The amendments to §7.602 also add definitions for four frequently used terms to avoid repetitive restatements in various sections and for style: "Commissioner," "GAAP," "NAIC," "Person," and "TDI."

Amendments to §7.603 change the title of the section, use the defined term "insurers" instead of "companies," update statutory references, and refer to "insurance risk of loss" for consistency with other references in the subchapter. The term "authorized" is substituted for "licensed," based on the consideration that in context the term "licensed" indicates an authorization, but most insurers will have a certificate of authority as an authorizing document. This substitution is repeated throughout the subchapter. These amendments do not change the substantive requirement of the section.

Amendments to §7.604 include a revision to the section's title to use the defined term "assumption reinsurance." References within the section are also revised to clarify that the section relates to assumption reinsurance agreements. The section is also

revised to emphasize that the information required by the section is to be provided to TDI before an insurer enters into an assumption reinsurance transaction. Additional language is added to §7.604(a)(1)-(7) and (b) to better explain the filing requirement encompassed within the scope of the prior requirement to submit "the written plan of reinsurance, including the assumption reinsurance agreement, and all necessary documents to allow the Commissioner to determine that the interests of all policyholders are fully protected." In response to public comment expressing concerns with the requirement for parties to submit a signed written assumption reinsurance agreement, TDI has changed the text of §7.604(a)(2) to read: "a copy of the assumption reinsurance agreement to be signed by officers of the parties to the agreement." TDI has changed §7.604(a)(3) to correct a typographical error by deleting the word "the." The changes do not add additional costs or affect persons not on notice of the proposed rules.

Forms, filing instructions, and filing locations for §7.604 and this subchapter are addressed in amendments to §7.614. These amendments do not change the substantive requirement of §7.604.

The amendment to §7.605 clarifies that the fee schedule in 28 TAC §7.1301 applies to assumption reinsurance agreements. TDI does not have specific fees for other types of reinsurance agreement filings, though other fees, such as affiliated transaction filing fees, may apply.

Amendments to §7.606 reduce accreditation filing requirements, implement changes in SB 1070, make conforming changes for consistent use of terminology in the subchapter, update statutory citations, and make changes in line with the TDI style guidelines. The amendment changes the title of the section to use the defined term "assuming insurer," and this change is also made throughout the section. The term "authorized" is substituted for "licensed" for reasons previously discussed in this adoption.

Section 7.606(a) addresses which insurers may apply for accreditation and that an insurer that cedes business to an accredited assuming insurer may receive the same credit for reinsurance that the ceding insurer would be entitled to receive from ceding to an authorized assuming insurer. Amendments to the section replace the use of pronouns with defined terms and make nonsubstantive changes for consistent references and for style.

Section 7.606(b) is amended to remove requirements for certified copies and to reduce the application requirements so that they include general identification and contact information and information that an accredited assuming insurer has likely already prepared for filings with its domiciliary regulator. The amendments also ask for form AR-1 in place of an affidavit for the way an insurer meets the requirement to submit to the state's jurisdiction and TDI's right to examine the accredited assuming insurer's books and records as required under Insurance Code §493.103. Form AR-1 is adopted by reference under §7.614, and TDI anticipates that most insurers will submit the required filings electronically as provided in that section.

Section 7.606(c) is amended to clarify that filings under the section are required, to provide consistent use of terminology, and to update a statutory reference.

Section 7.606(d) is amended to clarify the timing of submissions an accredited assuming insurer must submit to maintain its accreditation. The amendment does not change the required submission, and these submissions should be the same as the ac-

credited assuming insurer is required in its domiciliary jurisdiction.

Section 7.606(e) has been removed because, as previously discussed, TDI does not have a specific fee for accreditation reinsurance filings. Prior §7.606(f) has been redesignated as §7.606(e) and amended to update a statutory citation.

Section 7.606(g) and (h) have been redesignated §7.606(f) and (g). These subsections have been substantively amended to implement the suspension and revocation provision for accredited assuming insurers in Insurance Code §493.1038, which was enacted in SB 1070.

Section 7.606(f) addresses notice and hearing. Insurance Code §493.1038(b) provides that an accredited assuming insurer is entitled to notice and the opportunity for hearing prior to having accreditation suspended or revoked, with three listed exceptions. In response to public comments, TDI has changed §7.606(f) for clarity. Section 7.606(f) is changed to read "As provided in Insurance Code §493.1038, the Commissioner may suspend or revoke an assuming insurer's accreditation after notice and opportunity for hearing." The change does not add additional costs or affect persons not on notice of the proposed rules.

Section 7.606(g) addresses the effective date of a Commissioner's order suspending or revoking an assuming insurer's accreditation. It also addresses the requirement on the accredited assuming insurer to notify its ceding insurers.

Insurance Code §493.1038(c) and (d) address how a ceding insurer may continue to take credit for reinsurance following the suspension or revocation of an assuming insurer's accreditation, but it is silent as to allowing ceding insurers an adjustment period, if the reinsurance agreement is not secured as required under Insurance Code §493.1038(c) and (d). If the assuming insurer meets the requirement, the effect could be minimal. If the assuming insurer does not meet the requirement, ceding insurers could be rendered insolvent before they have an opportunity to remedy their situation. Prior to the amendments in this adoption, §7.606(h) allowed ceding insurers to claim credit for reinsurance for a four month period following the suspension or revocation of an assuming insurer's accreditation. This allowed ceding insurers an opportunity to obtain replacement coverage without a disruption to their financial statements. Adopted §7.606(g) recognizes the Commissioner's discretion in determining the effective date of the order while maintaining a period for ceding insurers to obtain replacement reinsurance. Section 7.606(g) allows up to 90 days rather than the four months under the prior provision. TDI considers this to be reasonable because advances in electronic commerce have reduced time periods for completing transactions.

Section 7.606(g) also shifts the ceding insurer notice requirement from TDI to the assuming insurer. The assuming insurer and ceding insurer have a contractual relationship that should require notice of events such as loss of accreditation. Notice under this section is not the only means that ceding insurers have of identifying changes in the status accredited assuming insurers, because TDI will continue to maintain and update its online list of accredited assuming insurers.

Amendments to §7.607 implement changes to Insurance Code §493.153, clarify submission requirements, update statutory citations, and make nonsubstantive changes for consistent references and for style, including its title.

Section 7.607(a) is amended to incorporate a March 1 submission date for filings required under Insurance Code §493.155(b). Section 7.607(a) amendments also add to the annual March 1 submission deadline a requirement for basic identifying information and the trustee's report that must be delivered to the assuming insurer under Insurance Code §493.155(a) and made part of the trust agreement under §7.607(c)(5).

Section 7.607(b) is amended to indicate the current applicable Insurance Code sections.

Section 7.607(c) is amended to implement the change in Insurance Code §493.153 that a single assuming insurer's trust fund must be in a form approved by Commissioner or the insurance regulatory official of another state who is designated in the trust as having primary oversight of the trust. The subsection is also amended to indicate the requirements of a trust that is subject to TDI approval. The remaining changes in the section are for consistent terminology and to conform to TDI style.

Amendments to §7.608 revise the title of the section for consistency with the wording used in other sections. The amendments also add references to the statutory requirements in Insurance Code §493.104, update wording for terminology consistent with other sections, and make updates to conform to TDI style.

Amendments to §7.609 change the title of the section for consistency with the wording used in other sections and to remove obsolete statutory references. The amendments also update wording for terminology consistent with other sections, and make updates to conform to TDI style. In addition, §7.609(b)(13) is added to provide notice that the new trust requirements stated in new Insurance Code §493.1561 exist, and they must, by statute, be incorporated into any trustee or certified trust agreement entered into or renewed on or after January 1, 2018, for the credit to be allowed.

Amendments to §7.610 change the title of the section for consistency with the wording used in other sections and to remove obsolete statutory references. The adopted amendments also correct a typographical error in the prior version of §7.610(a) that referenced subsection (i)(1), which does not exist. The section is corrected to refer to subsection (h)(1) of §7.610. Section 7.610(e) and (f) are amended to remove a version restriction on parties that agree to be governed by the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce. The letters of credit must comply with Insurance Code §493.104 and §493.105 and 28 TAC Chapter 7, Subchapter F. Other amendments in the section are made for consistency with the wording used in other sections and for TDI style.

Amendments to §7.611 update statutory references and amend the section for consistency with the wording used in other sections and for TDI style.

Section 7.612 is amended to add text stating that compliance with the regulatory filing requirements in the subchapter are required as of "July 1, 2018, or earlier date as the parties may agree." The date is extended from the proposed date of June 1, 2018, as indicated that it might be in the proposal. TDI has added that language allowing parties to proceed under the adopted sections prior to July 1, 2018, because agreements may be in process based on the proposed June 1, 2018, date. Adopted §7.612 continues in effect §§7.601-7.612, and §7.614 as they existed prior to July 1, 2018, for agreements that were entered into or renewed prior to July 1, 2018, and not agreed to by the parties to be governed by the rules in this adoption. The deci-

sion of which rules to apply is a business decision of the parties and not an additional cost imposed under these rules.

Amendments to §7.614 address submission requirements, forms adopted by reference, and other forms that TDI may create to assist insurers. The section title is amended to better reflect the content of the section. New subsection (a) and (c) are added, and the prior text is incorporated into new subsection (b).

In §7.614(b) TDI has added a comma following the phrase "subject to change," and in §7.614(b)(4) TDI has replaced the semicolon at the end of the series with a period. These changes are to correct typographical errors in the proposal.

Section 7.614(a) provides that submissions may be submitted either on paper or electronically. TDI prefers electronic submissions. The method of submission will depend on the form being submitted. In many cases, submissions required by the adopted sections are documents that are filed in the insurer's domiciliary jurisdiction. In these instances, the insurer may be able to complete the filing process by submitting that same filing to TDI directly, or by allowing TDI access to the filing with the domiciliary jurisdiction.

Section 7.614(b) is amended to list the four forms that TDI is adopting by reference for use as required in the rules. The forms comply with Insurance Code Chapter 493 requirements. The forms are also similar to those used in other states. This is intended to reduce administrative burdens on insurers that are required to make similar filings in other states. Because the forms are adopted by reference, substantive requirements on the forms will not change except through a subsequent rule amendment process. Nonsubstantive information on the forms is indicated in brackets, including TDI's physical, mailing address, and electronic addresses, and calendar year filing periods. Nonsubstantive information is subject to change. The current versions of the forms will be posted on TDI's website.

Section 7.614(c) requires information submitted under the subchapter to be submitted to the location stated on the form being used, or if not stated on the form or if the submitter is not using a TDI form, to the location stated on the TDI website. The section also provides a list of locations where information may be submitted if the submission location is not available on the form or the TDI website.

Sections 7.621-7.627 implement the certified assuming insurer provisions in SB 1070.

Section 7.621(a) sets forth the scope of insurers that can claim a credit for ceding insurance to a certified assuming insurer. As required under Insurance Code §493.1036(a) and (c), §7.621(b) and (c) provide requirements related to the assuming insurer's assigned financial strength rating and the amount of security that the assuming insurer must have for the ceding insurer to claim the reinsurance credit. Section 7.621(b) also addresses the form of security that must be held by the certified assuming insurer. As required under Insurance Code §493.1036(c), §7.621(c)(1) and Figure: 28 TAC 7.621(c)(1) list the minimum amounts of security that must be withheld to claim the credit for each rating that the Commissioner may assign. The amounts are stated as a minimum because the ceding insurance and assuming insurer may agree by contract to a greater amount of security as provided in §7.621(c)(5).

Section 7.621(c)(2) clarifies that the required minimum amount of security is the same for affiliated and non-affiliated trans-

actions. Based on the Commissioner's authority to determine adequate amounts of collateral under Insurance Code §493.104(a)(4), §7.621(c)(3) allows certified assuming insurers to defer posting collateral for reinsurance recoverables for listed lines of business for one year following a catastrophic event recognized by the Commissioner. The Commissioner has sole discretion to determine catastrophic events. To qualify for this deferral, a certified assuming insurer must continue to pay claims in a timely manner. Section 7.621(c)(4) provides that reinsurance agreements existing prior to an assuming insurer being certified will not be subject to the reduced collateral requirements. A new contract would be required.

In §7.622(d)(3), TDI has changed the reference to "applicants" into the possessive "applicant's" and removed an additional "s" to correct two typographical errors in the proposed text.

Section 7.622(a) and (b) provide the process and considerations for certifying and rating certified assuming insurers. Section 7.622(c) provides the time for submission of applications and the effective dates of certifications. Section 7.622(d) lists the documents required to complete the certification and rating process and when those documents must be submitted or made available to TDI.

Section 7.622(a)(1) provides that the certification is good for one year. The assuming insurer must reapply annually to continue the certification. This is the process in other states that have implemented similar credit for reinsurance programs to those set forth in Insurance Code §§493.1033-493.1038. Having a similar process and time lines as other states will reduce administrative burdens and costs on applicants while maintaining TDI's ability to thoroughly and efficiently evaluate the financial strength of all certified assuming insurer applicants, including those that have qualified in other states. As addressed in §7.614, submission of documents is not limited to paper filings. TDI considers electronic filings administratively more efficient and less burdensome. Further, TDI seeks the information, not a unique filing, and in these rules has tried to not duplicate the preparation of documents if the information is included in a filing the insurer must already make, or to duplicate the filing of a document filed in another jurisdiction that TDI can access.

Section 7.622(a)(2) provides that TDI will post on its website notice of the application and instructions for public comment on the application. The posting is not required by statute; however, the procedure is used in other states and will provide a means for TDI to receive additional information on the applicant. This subsection does not require a hearing on the application; require TDI to respond to any submission; or create any right in a commenter to object to the Commissioner's action on an application. Section 7.622(a)(3) provides that TDI will provide written notice to the applicant that its application has been approved. The application will not be deemed to have been approved at the expiration of any time period. An applicant may not act as a certified assuming insurer until after the applicant's application has been approved and it has been certified. TDI will publish a list of certified assuming insurers and their assigned ratings to provide notice to ceding insurers and the public.

Section 7.622(a)(4) states the eligibility requirements for a certified assuming insurer. Section 7.622(a)(4)(A) restates the qualified jurisdiction domicile requirement in Insurance Code §493.1033(b)(1). Section 7.622(a)(4)(B) establishes the minimum capital and surplus amount requirement that the Commissioner must adopt by rule under Insurance Code §493.1033(b)(2). The amount is set at \$250 million as calculated

under §7.622(b)(1)(G)(i), which requires audited United States Generally Accepted Accounting Principal (GAAP) statements, or audited International Financial Reporting Standards (IFRS) basis financial statements reconciled to GAAP.

Insurance Code §493.1034(b) requires that an association including incorporated and individual unincorporated underwriters must satisfy minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members that must include a joint central fund in an amount determined by the Commissioner to provide adequate protection that may be applied to any unsatisfied obligation of the association or any of its members. Section 7.622(a)(4)(B) provides that the association may satisfy the requirement by having minimum capital and surplus equivalents, net of liabilities, of at least \$250 million and a joint central fund containing a balance of at least \$250 million.

This amount of capital and surplus limits eligible certified assuming insurers to insurers that should have significant experience in the reinsurance markets. TDI considered that other states that have implemented similar certified assuming insurer programs have settled on the same or similar capital and surplus amount. Selecting a lesser amount of capital and surplus could open Texas insurers to greater financial risks. Selecting a greater amount could limit market competition and deprive Texas ceding insurers access to assuming insurers.

Section 7.622(a)(4)(C) lists five acceptable rating agencies and requires financial strength ratings from at least two of the listed rating agencies, which is the minimum number required under Insurance Code §493.1033(b)(3). Section 7.622(a)(4)(C) further establishes that an acceptable financial strength rating must be based on interactive communication between the rating agency and the assuming insurer and must not be based solely on publicly available information. The five listed rating agencies are NRSROs, as defined in §7.602. The listed NRSROs performed the greatest number of insurance company ratings during the 2015 calendar year according to the SEC's 2016 Report on NRSROs (www.sec.gov/files/2016-annual-report-on-nrsros.pdf) and have also been determined to be acceptable rating agencies by other states that have adopted similar certified assuming insurer programs, which will reduce costs and administrative burdens for insurers doing business in multiple jurisdictions. TDI has adopted a procedure for recognizing additional NRSRO as acceptable rating agencies in §7.727.

Section 7.622(a)(4)(D) is adopted under Insurance Code §493.102(4)(a) to ensure that the certified assuming insurer posts adequate collateral for a financially troubled or insolvent ceding insurer. Section 7.622(a)(4)(E) provides that the certified assuming insurer must also meet, or agree to, the eligibility requirements under Insurance Code §493.1033 and form CR-1.

Section 7.622(b) provides how a certified assuming insurer will be rated. As required under Insurance Code §493.1033(b)(3) and §493.1036(a), §7.622(b)(1)(A) provides that the rating will be based, in part, on the assuming insurer's lowest financial strength rating from an acceptable NRSROs. The financial strength ratings must be dated within at least 15 months prior to the assuming insurer's annual certification application as required in §7.622(d)(2)(G). The rating level in Figure: 28 TAC §7.622(b)(1)(A), and as may be expanded under §7.627, corresponds to the ratings in Figure: 28 TAC §7.621(c)(1) that states the minimum amount of collateral that certified assuming insurer must withhold. The rating based on the NRSRO's financial strength rating is the maximum rating that a certified assuming

insurer may be assigned; additional rating considerations may reduce the certified assuming insurer's final assigned rating.

Additional rating considerations in §7.622(b)(1)(B)-(J) include the assuming insurer's reinsurance business practices; Schedule F or S filed with the assuming insurer's domiciliary jurisdiction or forms CR-F or CR-S; the reputation of the assuming insurer for prompt payment based on TDI's analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables; regulatory actions against the certified assuming insurer; the report of the independent auditor on the financial statements of the certified assuming insurer and its financial statements prepared on a United States GAAP basis, or reconciled to a United States GAAP basis; the liquidation priority of obligations to a ceding insurer in the certified assuming insurer's domiciliary jurisdiction; a certified assuming insurer's participation in any solvent scheme of arrangement, or similar procedure, involving United States ceding insurers; and any other information the Commissioner deems relevant. Assuming insurers must submit information related to these considerations in §7.622(c) and (d).

Section 7.622(b)(2) provides that the Commissioner may require a certified assuming insurer to adjust the security it is required to post based on TDI's analysis of a certified assuming insurer's reputation for prompt payment of claims under subsection (b)(1)(E) of the section. Section 7.622(b)(2) further requires a certified assuming insurer to, without action of the Commissioner or TDI, increase the amount of posted security by one rating level if either of two stated situations occur.

Section 7.622(c) and §7.622(d) state submission requirements for assuming insurers seeking certification. The requirements are necessary for the Commissioner to qualify a certified assuming insurer and authorized under Insurance Code §493.1033, which provides a list of eligibility requirements that a certified assuming insurer applicant must comply with, including Insurance Code §493.1033(b)(8), which authorizes the Commissioner to supplement the list of requirements in that subsection with any other requirements for certification required by the Commissioner by rule.

Section 7.622(c) and §7.622(d)(1)-(7) address the component requirements of form CR-1.

Item 1 of form CR-1 is the certified assuming insurer submission to the jurisdiction of any court of competent jurisdiction in any state for the adjudication of any issues arising out of reinsurance agreements, and its agreement to abide by the final decision of such court or appellate court. This requirement is stated in §7.622(c)(1) and is based on the requirement to submit to the jurisdiction of a court of competent jurisdiction of any state under Insurance Code §493.1033(b)(4) and the requirement to post collateral if the insurer attempts to resist enforcement of the judgment under Insurance Code §493.1033(b)(6). Form CR-1 includes an exception for arbitration requirements in the reinsurance agreement.

Item 2 of form CR-1 is the certified assuming insurer's designation of the Commissioner as agent for service of process in Texas, as required under Insurance Code §493.1033(b)(5) and §7.622(c)(2).

Item 3 of form CR-1 is the certified assuming insurer's agreement to provide security in an amount equal to 100 percent of liabilities attributable to all United States ceding insurers if it resists enforcement of a final United States judgment or properly enforceable arbitration award, which is required under Insurance §493.1033(b)(6) and §7.622(c)(3).

Item 4 of form CR-1 is the certified assuming insurer's agreement to notify TDI within 10 days of any regulatory action taken against the certified assuming insurer, any change in the provisions of the certified assuming insurer's domiciliary license, or any change in the certified assuming insurer's rating by an approved rating agency, and to provide a statement describing the changes and reasons for the changes. Submission of this agreement is required under §7.622(d)(1) and (2) based on the authority in Insurance Code §493.1033(b)(8). The purpose of this agreement is to monitor that the certified assuming insurer maintains the qualifications under which it was certified, including Insurance Code §§493.102(a)(4); 493.1033(b)(1), (2), and (3); and 493.1036(c); and §7.622(b)(1)(A), (B), and (F).

Item 5 of form CR-1 is the certified assuming insurer's agreement to annually file information comparable to relevant provisions of the National Association of Insurance Commissioners (NAIC) financial statement for use by insurance markets in accordance with TDI rules at §7.622(b)(1)(C) and (D). Section 7.622(d)(3) requires the submission. For insurers domiciled in the United States or otherwise filing NAIC annual statement forms, this is Schedule F or S depending on the type of business the certified assuming insurer writes. Alien insurers that do not submit Schedule F or S would submit form CR-F or CR-S, which are adopted by reference in §7.614.

Item 6 of form CR-1 is the certified assuming insurer's agreement to annually submit the report of the independent auditor on the financial statements of the certified assuming insurer's insurance enterprise. Section 7.622(d)(4) requires the submission. The submission will provide TDI with necessary information to aid in its analysis of the each certified assuming insurer's financial condition under §7.622(b)(1)(G) and is based on the authority in Insurance Code §493.1033(b)(8).

Item 7 of form CR-1 is the certified assuming insurer's agreement to annually file audited financial statements, regulatory filings, and actuarial opinion filed with its domiciliary supervisor. Section 7.622(d)(4) and (5) requires the submission. The submission will provide TDI with information to aid in its analysis of the each certified assuming insurer's financial condition under §7.622(b)(1)(H) and is based on the authority in Insurance Code §493.1033(b)(8).

Item 8 of form CR-1 is the certified assuming insurer's agreement to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers. Section 7.622(d)(6) requires the submission. The submission will provide TDI with information to supplement TDI's review of the certified assuming insurer's reputation for prompt payment of claims under §7.622(b)(1)(E) and is based on the authority in Insurance Code 493.1033(b)(8).

Item 9 of form CR-1 is the certified assuming insurer's agreement to submit to TDI a statement that the certified assuming insurer is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction. Section 7.622(d)(7) requires the submission. Being in good standing with its domiciliary regulator is required under Insurance Code §493.1033(b)(1) and §7.622(a)(4)(A).

Section 7.622(d)(8)-(12) requires the submission of additional information, including interactive financial strength ratings, based on Insurance Code §493.1033(b)(3) and §493.1036(a) and §7.622(b)(1)(A); mechanisms certified assuming insurers will use to secure obligations incurred as a certified assuming

insurer, including multibeneficiary trusts, based on Insurance Code §493.1036(d) and (e); descriptions of any past, present, or proposed future participation in any solvent scheme of arrangement, or similar procedure, involving United States ceding insurers, based on §7.622(b)(1)(J); and basic applicant information and contact information.

Section 7.623(a) provides that the Commissioner will assign a new rating if the certified assuming insurer's NRSRO financial strength rating is downgraded.

Section 7.623(b) addresses the treatment of upgrades and downgrades in the certified assuming insurer's assigned rating. If the Commissioner upgrades the assigned rating, the new rating applies only to reinsurance agreements entered into after the effective date of the new rating, and not to existing reinsurance agreements. If the Commissioner downgrades the rating, the new rating applies to all the certified assuming insurer's outstanding reinsurance agreements.

Section 7.623(c) provides that suspension and revocation of a certified assuming insurer's certification will be after notice and opportunity for hearing as required under Insurance Code §493.1038(b). This does not affect the three circumstances under §493.1038(b) that allow for the suspension or revocation to take effect prior to the date of the Commissioner's order on the hearing.

Section 7.623(d) provides that after the effective date of the suspension or revocation of the certified assuming insurer's certification, ceding insurers may not continue to take credit for reinsurance ceded to the assuming insurer unless the assuming insurer posts security as required under Insurance Code §493.1038. Section 7.623(d) further provides that the Commissioner may delay the effective date of the order suspending or revoking the certified reinsurer's certification for up to 90 days.

The reasons for delaying the effective date of the order are the same as those in the discussion of delaying the effective date of an order suspending or revoking an accreditation under §7.606(g). Insurance Code §493.1038(c) and (d) address how a ceding insurer may continue to take credit for reinsurance following the suspension or revocation of an assuming insurer's accreditation, but it is silent as to allowing ceding insurers an adjustment period, if the reinsurance agreement is not secured as required under Insurance Code §493.1038(c) and (d). If the assuming insurer meets the requirement, the effect could be minimal. If the assuming insurer does not meet the requirement, ceding insurers could be rendered insolvent before they had an opportunity to remedy their situation. Because qualification of the security under Insurance Code §493.1038(c) and (d) this information could be known in a suspension or revocation action, §7.623(d) recognizes the Commissioner's discretion in determining the effective date of the order.

Section 7.624 addresses qualified jurisdictions. Section 7.624(a) provides that TDI will post a list of active and suspended qualified jurisdictions on its website. Section 7.624(a) provides that the Commissioner will review jurisdictions outside of the United States. United States jurisdictions are qualified under Insurance Code §493.1035(f) and as stated in §7.624(f).

The general qualifications stated in §7.624(b) are derived from the requirements of Insurance Code §493.105(c) and (d). Items listed in §7.624(b)(1)-(8) are considered necessary qualifications to evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction as required under Insurance Code §493.1038(b).

Section 7.624(c) implements Insurance Code §493.1035(a) and (e) concerning consideration of qualified jurisdictions included on the qualified jurisdiction list published by the NAIC and Commissioner approval of qualified jurisdictions not included on the qualified jurisdiction list published by the NAIC. Consideration of jurisdictions included on the NAIC's list does not change the requirements under Insurance Code §493.1035(b) to evaluate each jurisdiction prior to determining that it is a qualified jurisdiction for Texas.

Section 7.625 applies to assuming insurers that have been certified in other NAIC accredited jurisdictions and are seeking certification in Texas. In §7.625(d), TDI has capitalized "Commissioner" to correct a typographical error in the proposal.

Section 7.625(a) establishes the application timing requirement, the period the certification will be valid for, and the information that must be submitted. TDI will review the same information that is required of any other applicant under §7.622 and apply the same criteria. Because this same information is required by many states that have implemented certified assuming insurer programs, the information should be readily available to the applicant.

Section 7.625(b) provides a public comment process for certification applications similar to the public comment process for certified assuming insurer applications in §7.622(a)(2).

Section 7.625(c) provides that the Commissioner may approve the applicant with the same rating the applicant has already received from the other jurisdiction or a different rating determined by the Commissioner. The rating awarded will be based on the Commissioner's evaluation.

Section 7.625(d) provides that a change in rating by another jurisdiction will immediately apply to the certified assuming insurer just as a change in rating would apply to a Texas certified insurer under §7.623. The Commissioner may accept the rating issued in the other state or set a different rating under §7.622.

Section 7.625(e) and (f) provides that the Commissioner may withdraw recognition of another jurisdiction's rating or certification. If withdrawal of the other jurisdiction's recognition is part of an action to suspend or revoke the assuming insurer's certification, TDI will use the procedure set forth in Insurance Code §493.1038 and §7.723.

Section 7.626 prohibits a ceding insurer from entering into or renewing a reinsurance agreement with a certified assuming insurer, unless the certified reinsurance agreement includes a funding clause that requires the certified assuming insurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer for reinsurance ceded to the certified assuming insurer.

Section 7.627 sets forth the criteria and procedure that TDI will use to consider adding financial rating agencies to the list in §7.622(a)(4)(C). Insurance Code §493.1033(b)(3) requires the certified assuming insurer to have at least two financial ratings from agencies determined to be acceptable in accordance with rules adopted by the Commissioner. This statutory requirement does not limit TDI to either adopting a group of rating agencies by rule or alternatively an approval procedure. The adoption limits approved financial rating agencies to NRSROs that TDI has approved in accordance with TDI rules, either in §7.622(a)(4)(C) or by the process set out in §7.627. The section also provides that the Commissioner may withdraw recognition of an NRSRO that has been determined to be acceptable under the section if

the Commissioner determines that the NRSRO no longer meets the requirements of this section.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: TDI received written comments from seven commenters. The American Council of Life Insurers; American Insurance Association; Association of Fire and Casualty Companies of Texas; Insurance Council of Texas; and Reinsurance Association of America commented in support of the proposal. Mitchell, Williams, Selig, Gates & Woody P.L.L.C.; and the Texas Association of Life and Health Insurers commented in support of the proposal with changes.

General.

Five commenters supported the proposal.

Agency Response to Comment.

TDI appreciates the supportive comments.

General.

A commenter noted that in the future, changes to state laws and regulations may be required to comply with collateral requirements under the recently executed Bilateral Agreement between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance, which is also known as the covered agreement.

Agency Response to Comment.

TDI appreciates the comment. TDI will comply with the statutes enacted by the Texas Legislature, including adopting necessary rules to implement those statutes.

Comment on §7.601(b).

A commenter is concerned that the reference to "between insurers" in §7.601(b) creates an ambiguity. Specifically, the commenter is concerned that the reference would not apply to a non-authorized assuming insurer, because that transaction would not be "between insurers in this state."

Agency Response to Comment.

TDI disagrees that the statement between insurers limits the subchapter only to insurers authorized in Texas. Section 7.602(7) defines the term insurers to mean: "A person legally organized in and authorized by its domiciliary jurisdiction to do the business of insurance...." The definition includes insurers authorized in Texas and those not authorized in Texas, but authorized in other jurisdictions.

However, TDI agrees to remove the term "between insurers" because §7.602(1) and (3) define the activities of assuming and ceding insurance to be between insurers. Restating that the activities are "between insurers" is unnecessary. The change does not add additional costs or affect persons not on notice of the proposed rules.

Comments on §7.602(1)(A) and (B).

A commenter suggests that §7.602 (1)(A) and (B) be clarified to provide that the agreement is with the ceding insurer as follows:

"(A) the insurance risk of loss of the ceding insurer under the an indemnity reinsurance agreement with the ceding insurer, or

"(B) the policy obligations of the ceding insurer under an assumption reinsurance agreement with the ceding insurer."

Agency Response to Comment.

TDI disagrees with the commenter. Section 7.602(1)(A) tracks the language in the existing definition. The replacement of the word "its" with "ceding insurer's" clarifies that the word "its" referred to the ceding insurer.

The addition of the phrase "with the ceding insurer" in §7.602 (1)(A) and (B) is unnecessary. The references to the terms "assumption reinsurance" and "indemnity reinsurance" are defined in §7.602(2) and (6) as being between a ceding and assuming insurer. TDI has made no change based on this comment.

Comments on §7.603.

A commenter asserts that TDI has substantively changed §7.603, because companies under §841.204 would be prohibited from ceding risks to unlicensed insurers.

The commenter states that the current rule applies only to domestic stock life insurers and prohibits a company that has less than the minimum capital and surplus required for formation of a new company and prohibits such a company from "reinsuring" any risk with a company not licensed to do business in Texas. The commenter asserts that the current rules do not have a similar requirement applicable to a property and casualty insurance company.

The commenter states that the proposed changes to §7.603 would prohibit a company, with less than the minimum capital and surplus of a new company, from ceding an insurance risk with an assuming insurer not licensed in Texas. The commenter further states that §7.603 applies to a company operating under Insurance Code §841.204, which applies to certain grandfathered insurance companies that do not have to increase capital and surplus unless there is a change of control. The commenter asserts that these companies would now be prohibited from ceding risks to unlicensed insurers. This appears to be a material and substantive change that is inconsistent with §841.204, which allows such a company to continue to transact the kinds of business for which it holds a certificate of authority.

The commenter asserts that the concept of being able to cede risks to reinsurers that are not licensed is a concept firmly allowed in Texas law both before and after SB 1070. The commenter asserts that this could also be a material change and prohibit a company from being able to cede any business to a stronger assuming insurer authorized in another jurisdiction that is accredited, certified, or has provided adequate security as allowed by Ch. 493.

The commenter also questions the need to begin the section with the phrase "notwithstanding any other section in this subchapter." The commenter asserts that statutory requirement to impose such a broad sweeping change is inconsistent with statute and other proposed changes to the rules in Subchapter F. The commenter is concerned that this phrase would seem to eliminate the use of accredited reinsurers not licensed under amendments to §7.606; a trustee assuming insurer under the amendments to §7.607; or unlicensed assuming insurers providing collateral under amendments to §7.608.

Agency Response to Comments.

TDI disagrees that the amendments to §7.603 substantively change the section and has made no changes based on the comments.

As the commenter states, the current rule applies only to domestic stock life insurers and prohibits a company that has less than the minimum capital and surplus required for formation of

a new company and prohibits such a company from "reinsuring" any risk with a company not licensed to do business in Texas. The commenter asserts that the current rules do not have a similar requirement applicable to a property and casualty insurance company. The amendments to §7.603 do not change the prohibition under §7.603 or add any similar prohibition applicable to a property and casualty insurance company.

TDI disagrees with the commenter's statement concerning the application of §7.603. The section only applies to certain grandfathered insurance companies operating under Insurance Code §841.204. These are the same companies that the prior version of §7.603 applied to in its reference to Insurance Code Article 3.02, §2(a). The amendments update the reference to Insurance Code §841.204 that resulted from the nonsubstantive revision of statutes enacted in HB 2017, 79th Legislature, Regular Session (2005). The commenter does not question these references. The amendments do not change the application of the prohibition.

TDI disagrees that the prohibition is inconsistent with prior application of the current statute. Section 7.603 was adopted to be effective August 16, 1990. It has not been amended since that adoption. SB 1070 merged former Insurance Code Chapter 492 into Chapter 493, and added provisions related to certified assuming insurers. However, the statutory amendments do not affect the prohibition in this section or TDI's charge to adopt necessary and reasonable rules to protect the public interest under Insurance Code §493.003.

The use of the term "notwithstanding" is to clarify the prohibition, but it does not change the prior requirement.

TDI specifically proposed nonsubstantive amendments to §7.603. Removing the prohibition or changing its application would be a substantive change. A substantive change to §7.603 is beyond the scope of the proposal and the notice it provided. TDI has made no change to §7.603 based on the comments.

Comment on §7.604(a)(2).

A commenter notes a timing issue because §7.604(a) requires the filing of a plan of reinsurance prior to entering into an assumption reinsurance agreement, but §7.604(a)(2) requires the filing to include the signed agreement. The commenter suggests changing §7.604(a)(2) to refer to the unexecuted proposed agreement. This would also allow for the inclusion of any revisions that might result from TDI's review of the plan.

Agency Response to Comment.

TDI agrees with the suggested change. The text of §7.604(a)(2) has been changed to read: "a copy of the assumption reinsurance agreement to be signed by officers of the parties to the agreement."

Comment on §7.604(a)(3).

A commenter notes that the "settlement fee" identified in §7.604(a)(3) is commonly referred to as the "ceding commission." The commenter suggests adding that language to the description of the consideration for the transaction.

Agency Response to Comment.

TDI disagrees that a change is necessary. Section 7.604(a)(3) as drafted refers to the "the settlement fee or consideration reflecting the acquisition cost." Adding additional descriptions would not enhance, and may confuse, the reference to "con-

sideration reflecting the acquisition cost." TDI has not made a change based on this comment.

Comments on §7.606 and §7.623.

A commenter suggests changes to proposed §7.606 and §7.623, because ceding insurers and their policyholders are the most at risk in the event an accredited or certified reinsurer fails to meet the requirements to maintain their status. The commenter recommends the following changes to the rules:

1. Provide the ceding company the opportunity to request an additional 90 days to negotiate replacement reinsurance.

The commenter states that allowing only 90 days for securing replacement reinsurance severely limits the ceding companies' negotiating options, placing them at a disadvantage in seeking new reinsurance that is compatible with their existing rating and underwriting plans. It seems unfair to allow the reinsurers' failures to adversely impact the ceding companies and their Texas policyholders.

2. Require accredited and certified reinsurers to notify all ceding companies in writing immediately of any suspension or revocation of their status, and provide that the 90 day period for securing new reinsurance does not begin until that notice is provided.

Agency Response to Comment.

TDI disagrees with the commenter's suggestions to allow for an additional discretionary period or to base the beginning of the time period on the action of the assuming insurer.

Section 7.606 and §7.623 provide the Commissioner with discretion to grant up to 90 days for a ceding insurer to obtain replacement reinsurance coverage following the suspension or revocation of an assuming insurer's accreditation or certification. As stated in the proposal, the period is a reasonable change from the four month period allowed under the prior rule last amended in 1993, because advances in electronic commerce have reduced time periods for completing transactions. In addition, the 90 day period is consistent with time periods allowed in other states indicating that obtaining replacement coverage within the period is not a uniquely or unduly burdensome expectation.

Further, the requirement is reasonable based on the risk to the ceding insurer's policyholders and other insurers in the market place, particularly if the policies have guaranty fund protection. Extending the time for allowing an insurer to claim a credit for possibly non-existent reinsurance only increases the risk to policyholders and the insurance market place.

The decision to obtain reinsurance is a business decision of the ceding insurer. That decision comes with the credit risk that the assuming insurer may fail or no longer qualify to provide the ceding insurer with a credit for reinsurance. It is incumbent upon the ceding insurer to maintain a robust enterprise risk framework to monitor the credit risk associated with its reinsurance program. Ceding insurers are not prohibited from communicating directly with the assuming insurer or through brokers.

Section 7.606 and §7.623 requires the assuming insurer to notify their ceding insurers. But statute does not provide that an insurer may avoid statutory solvency requirements because another insurer has violated a statute or rule. Notice from the assuming insurer is also not the only means the ceding insurer may become aware of the suspension or revocation. As discussed, communication can provide a ceding insurer notice of a pending action against an assuming insurer under §7.606 or §7.623, and

also the result of that action. In addition, TDI will still maintain its online list of accredited and certified reinsurers.

TDI has made no change in response to these comments.

Comment on §7.606(f).

A commenter suggests that §7.606(f) should be revised to clarify that the Commissioner can suspend the accreditation only if the insurer fails to meet the requirements of the statute. The commenter suggests revising §7.606(f) to read as follows:

"(f) The Commissioner may suspend or revoke an assuming insurer's accreditation as provided under Insurance Code §493.1038, after notice and opportunity for hearing as provided in that section."

Agency Response to Comment.

TDI disagrees with the commenter's suggestion that the statement adds to the reasons stated in Insurance Code §493.1038 for suspended or revoking an assuming insurer's accreditation. However, TDI has changed the statement for clarity. The statement is changed to read "As provided in Insurance Code §493.1038, the Commissioner may suspend or revoke an assuming insurer's accreditation after notice and opportunity for hearing."

Comment on §7.610.

A commenter suggests that TDI remove the word "clean" from §7.610(a), because the commenter has had recent experience with financial institutions no longer recognizing the term. This creates a problem for bank compliance departments and the assuming insurer.

Agency Response to Comment.

TDI disagrees with the commenter's suggestion. The term "clean" is set forth as a required condition for letters of credit in Insurance Code §493.104(b)(2)(C). The Texas Legislature recently amended §493.104 in SB 1039, 84th Legislature, Regular Session (2015), but did not amend §493.103(b)(2)(C). Because the condition is required by statute, TDI has not made a change to §7.610(a) based on the comment.

Comment on §7.611.

A commenter requests that TDI review the final accounting requirement in §7.611(7), because the requirement is unnecessary with certain permanent yearly renewable term life reinsurance contracts. Those contracts cede only mortality risks on certain policies in excess of attachment points and become permanent reinsurance. If a particular insured dies, there is an accounting and payment after the death. There is typically no need for a final accounting and settlement because each policy is accounted for until the last insured dies or the policy lapses. There is quarterly accounting on a policy-by-policy basis.

The commenter states that final accounting and settlement is appropriate for most indemnity reinsurance, particularly in property and casualty lines, where risks are ceded over a certain period of time. It is somewhat unusual for permanent yearly renewal term life reinsurance contracts.

The commenter states that many other states do not have this requirement for these type of life reinsurance contracts. The commenter requests that this section be re-evaluated after closer review and inspection of this type of life reinsurance arrangement.

Agency Response to Comment.

TDI appreciates the comment, but has not made a change in §7.611(7). The section lists required provisions in an indemnity reinsurance contract. Section 7.611(7) requires that the contract "provide for a final accounting and settlement." But §7.611 does not prescribe the exact form that the final accounting and settlement must take. This allows the parties to contract in a reasonable and suitable manner concerning the transaction.

TDI did not propose a change to §7.611(7). A substantive change to §7.611 as requested by the commenters is beyond the scope of the proposal and the notice it provided.

STATUTORY AUTHORITY. The amended subchapter is adopted under Insurance Code §§404.005, 493.003, 493.1033(b)(3), 493.1035(e), 2551.003, 36.001, and 36.002(2)(D).

Insurance Code §404.005(a) provides that the Commissioner may adopt rules establishing uniform standards and criteria for early warning that the continued operation of an insurer might be hazardous to the insurer's policyholders or creditors or to the public, and that the Commissioner may establish standards for evaluating the financial condition of an insurer.

Insurance Code §493.003 provides that the Commissioner may adopt necessary and reasonable rules under Insurance Code Chapter 493 to protect the public interest.

Insurance Code §493.1033(b)(3) provides that to be eligible for certification, an assuming insurer must maintain a financial strength rating from not fewer than two rating agencies determined to be acceptable in accordance with rules adopted by the Commissioner.

Insurance Code §493.1035(e) addresses rules adopted by the Commissioner to approve a qualified jurisdiction that does not appear on the list of qualified jurisdictions published through the National Association of Insurance Commissioners committee process. The section provides that such rules must require a thoroughly documented justification of the approval of a qualified jurisdiction that is not on the NAIC list of qualified jurisdictions.

Insurance Code §2551.003 provides that the Commissioner may adopt and enforce rules the Commissioner determines are necessary to accomplish the purposes of Insurance Code Title 11, relating to title insurance.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the department's powers and duties under the Insurance Code and other laws of this state.

Insurance Code §36.002(2)(D) provides that the Commissioner may adopt reasonable rules that are appropriate to accomplish the purposes of a provision of Insurance Code Chapter 493.

§7.601. Scope.

(a) This subchapter implements Insurance Code Chapter 493.

(b) This subchapter applies to all insurers engaged in the business of ceding and assuming insurance in this state.

(c) This subchapter does not apply to the reinsurance of all or part of the liability of a policy of title insurance, except as provided under Insurance Code §2551.3055.

§7.604. Assumption Reinsurance.

(a) An insurer authorized to do the business of insurance in this state must, prior to entering into an assumption reinsurance agreement for its entire outstanding business, submit to TDI the written plan of

reinsurance, including the assumption reinsurance agreement, and all necessary documents to allow the Commissioner to determine that the interests of all policyholders are fully protected as follows:

(1) a letter signed by a company officer, and including the phone number and email of the appropriate company contact individual:

(A) explaining the transaction;

(B) identifying all parties involved and specifying which are affiliates;

(C) stating the intentions of all parties post transaction;

(D) stating whether the assumption reinsurance transaction is all of the ceding company's direct insurance exposure or only a portion and whether the transaction cedes all direct insurance exposure, the ceding company's plans going forward to maintain its certificate of authority or dissolve the entity;

(E) providing the date that any required assumption certificate or endorsement was filed with TDI;

(F) stating whether the policy reserves associated with the assumption reinsurance agreement are greater than 10 percent of the assuming insurer's total policyholder surplus or 25 percent of the ceding insurer's total assets;

(G) stating whether there is a settlement fee or consideration associated with the assumption reinsurance agreement;

(H) stating whether any parties to the agreement have assets deposited with or pledged to TDI and, if applicable, the party's expectations related to such deposits; and

(I) addressing any due diligence issues, including disclosure of any currently owned assets that may be nonadmitted as a result of the assumption reinsurance;

(J) stating the number of policies to be reinsured broken down by type of policy, form number, or other appropriate means;

(K) specifying in detail any changes in the policy coverage, provisions, rights or privileges, or in the actuarial reserving basis; and

(L) specifying a "date certain" for the effective date and contain the date by which all of the assumption certificates will be delivered or mailed (for group policies, each individual certificate holder must receive an assumption certificate);

(2) a copy of the assumption reinsurance agreement to be signed by officers of the parties to the agreement;

(3) a copy of any agreement governing the settlement fee or consideration reflecting the acquisition cost;

(4) if associated policy reserves of the business being ceded is greater than 10 percent of assuming insurer's total policyholder surplus or greater than 25 percent of ceding insurer's total assets, a four column balance sheet reflecting historical numbers from the most recently filed annual or quarterly statement, consistent with the following subparagraphs:

(A) the first column should reflect the ceding insurer's financial position pre-transaction;

(B) the second column should reflect assuming insurer's financial position pre-transaction;

(C) the third column should reflect the effect of the transaction on the applicable balance sheet accounts; and

(D) the fourth column should reflect the financial position of the assuming insurer post-transaction;

(5) if one of the companies involved in the transaction is a foreign domiciled insurer, provide evidence that the state of domicile has approved the assumption reinsurance, or if no approval is required in the state of domicile, an original letter from the domiciliary state insurance department stating such; and

(6) a copy of the letter appointing agents of the ceding insurer to the assuming insurer.

(b) If the assumption reinsurance agreement is between only foreign domiciled insurers that have policyholders or certificate holders located in Texas, the insurer must submit only the information and documents listed in subsection (a)(1), (2), (3), and (5) of this section.

§7.606. *Accredited Assuming Insurer.*

(a) An assuming insurer authorized by its state of domicile to assume the kind or kinds of insurance ceded to it, but which is not authorized to transact the business of insurance in this state, may apply for accreditation and such assuming insurer may be referred to as the "applicant" where appropriate in this section. A ceding insurer which cedes business to an accredited assuming insurer may receive the same credit for reinsurance as either an asset or a deduction from liability that the ceding insurer would be entitled to receive from ceding to an authorized assuming insurer.

(b) To apply for accreditation, the applicant must submit to TDI the following:

(1) applicant information, including the applicant's:

(A) full name;

(B) physical address for its principal place of business;

(C) mailing address;

(D) NAIC number, United States federal tax identification number, and International Securities Identification Number, as applicable; and

(E) contact individual's name, phone number, and email;

(2) a list of states where the applicant currently transacts business;

(3) a list of all lines and classifications of insurance business the applicant is authorized to insure or reinsure;

(4) the most recent financial statement the applicant submitted to its state of domicile;

(5) a copy of the applicant's certificate or letter of authority or of compliance issued by the state of domicile; and

(6) Form AR-1, signed by the applicant's president or chief executive officer, which submits the assuming insurer to both this state's jurisdiction and to this state's right to examine the applicant's books and records.

(c) Accreditation will not be granted by the Commissioner until the applicant has submitted all information and documents required under subsection (b) of this section, and has demonstrated to the satisfaction of the Commissioner that the applicant qualifies for accreditation under Insurance Code Chapter 493 and this subchapter.

(d) To maintain accreditation, the accredited assuming insurer must submit to TDI:

(1) annually on or before March 1 of each year, an annual financial statement, as filed with the insurance regulator of the accredited assuming insurer's state of domicile; and

(2) quarterly on or before March 1, May 15, August 15, and November 15 of each year, a listing of ceding insurers with whom reinsurance agreements have been entered during that calendar quarter, including the complete name and address of each ceding insurer.

(e) Renewal of accreditation will occur annually, subject to continuing compliance with Insurance Code Chapter 493 and this subchapter.

(f) As provided in Insurance Code §493.1038, the Commissioner may suspend or revoke an assuming insurer's accreditation after notice and opportunity for hearing.

(g) The Commissioner may allow up to 90 days for an order suspending or revoking an assuming insurer's accreditation to become effective. No credit will be allowed a ceding insurer with respect to reinsurance ceded after the effective date an assuming insurer's accreditation has been suspended or revoked, except as provided under Insurance Code §493.1038. TDI will maintain a list of accredited assuming insurers on the TDI website. The assuming insurer must notify all affected ceding insurers at the time an order is entered that the assuming insurer's accreditation is withdrawn, suspended, or revoked.

§7.612. *Reinsurance Agreements Affected.*

The requirements of this subchapter, as amended, apply to all reinsurance agreements entered into or renewed on or after July 1, 2018, or such earlier date as the parties may agree. Unless the parties have agreed to be covered by the requirements of this subchapter prior to July 1, 2018, the requirements for a reinsurance agreement that was entered into or renewed before July 1, 2018, are governed by §§7.601-7.612, and §7.614 of this title as those sections existed immediately prior to that date and those rules are continued in effect for that purpose.

§7.614. *Posting of Information, Submissions, and Adoption of Forms by Reference.*

(a) Information and filings required under this subchapter must be submitted to the Commissioner or TDI on paper or in an electronic format that is acceptable to TDI. TDI will specify acceptable electronic submission formats and methods on the TDI website or the form.

(b) TDI adopts by reference the following standard forms for use by all insurers that are subject to the provisions of this subchapter and Insurance Code Chapter 493. Bracketed information in the forms, including TDI submission locations, submission formats and methods, and contact information, is subject to change, and persons submitting the forms must confirm that they are using the most recent online version before submitting. These forms are available on the TDI website. These forms are more specifically identified as follows:

(1) Form AR-1, Certificate of Accredited Assuming Insurer;

(2) Form CR-1, Certificate of Certified Reinsurer;

(3) Form CR-F Reinsurance - Property/Casualty Business; and

(4) Form CR-S Reinsurance - Life Insurance, Annuities, Deposit Funds and Other Liabilities, and Accident and Health Insurance.

(c) All submissions to the Commissioner or TDI required in this subchapter must be sent to the appropriate physical, mailing, or electronic address:

(1) specified on the applicable TDI form being used;

or
(2) listed on the TDI website for a particular submission;

(3) if the address for the submission is not listed:

(A) electronically, to CLRfilings@tdi.texas.gov;

(B) by hand delivery, to Company Licensing and Registration, Texas Department of Insurance, 333 Guadalupe, Mail Code 103-CL, Austin, Texas 78701; or

(C) by mail, to Company Licensing and Registration, Texas Department of Insurance, P.O. Box 149104, Mail Code 103-CL, Austin, Texas 78714-9104.

§7.622. Certification and Rating.

(a) Certification.

(1) A certification issued under this section is valid for the following calendar year. To continue the certification, the certified assuming insurer must reapply on or before July 1 of the year that the certification expires.

(2) Following receipt of a certification application, TDI will post on the TDI website notice of the application and instructions on how the public may respond to or comment on the application. The notice will remain posted on the website for at least 30 days before the Commissioner will take final action on the application.

(3) TDI will provide written notice to an assuming insurer stating whether the assuming insurer's application to be a certified assuming insurer has been approved. If the application is approved, the notice will include the certified insurer's assigned rating. TDI will publish on the TDI website a list of all certified assuming insurers and their assigned ratings.

(4) To be eligible for certification, the assuming insurer must:

(A) be domiciled and authorized to transact the business of insurance or reinsurance in a qualified jurisdiction, as determined under Insurance Code §493.1035 and §7.624 of this subchapter;

(B) maintain capital and surplus, or its equivalent, of no less than \$250 million calculated in accordance with subsection (b) of this section. An association including incorporated and individual unincorporated underwriters may satisfy the requirement by having minimum capital and surplus equivalents, net of liabilities, of at least \$250 million and a joint central fund containing a balance of at least \$250 million;

(C) maintain financial strength ratings from two or more NRSROs that the Commissioner has determined to be acceptable. The NRSRO must base its financial strength rating on interactive communication between the NRSRO and the assuming insurer and must not be based solely on publicly available information. The financial strength ratings will be a factor used by the Commissioner in determining the rating that the Commissioner assigns to the assuming insurer. Acceptable NRSROs include the following:

(i) A.M. Best Rating Services, Inc. (Best);

(ii) Fitch Ratings, Inc. (Fitch);

(iii) Kroll Bond Rating Agency, Inc. (Kroll);

(iv) Moody's Investors Service, Inc. (Moody's);

(v) S&P Global Ratings; (S&P) and

(vi) any other NRSRO that the Commissioner determines to be acceptable under §7.627 of this title;

(D) agree to post 100 percent security for the benefit of the ceding insurer, or its estate, on the entry of an order of rehabilitation, liquidation, or conservation, against the ceding insurer;

(E) meet, or agree to, the requirements in Insurance Code §493.1033 and Form CR-1; and

(F) provide additional information necessary to demonstrate the creditworthiness of the assuming insurer.

(b) Rating.

(1) The Commissioner will rate each certified assuming insurer on a legal entity basis with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified assuming insurer may be evaluated on the basis of its group rating. In determining the rating, the Commissioner will consider relevant factors and review appropriate materials, including:

(A) the certified assuming insurer's financial strength rating from an acceptable NRSRO. The maximum rating that a certified assuming insurer may be assigned will correspond to its financial strength rating level in the security table in Figure: 28 TAC §7.622(b)(1)(A) of this section and as the security table is amended for additional NRSROs determined to be acceptable in accordance with §7.627 of this title. The Commissioner must use the lowest financial strength rating received from an acceptable NRSRO in establishing the maximum rating of a certified assuming insurer. The financial strength rating must be dated within 15 months of the certified assuming insurer's submission. An insurer that fails to obtain or maintain at least two financial strength ratings from acceptable NRSROs will lose the insurer's eligibility for certification. Figure: 28 TAC §7.622(b)(1)(A)

(B) the business practices of the certified assuming insurer in dealing with its ceding insurers, including its record of compliance with reinsurance agreement terms and obligations;

(C) for certified assuming insurers domiciled in the United States, the most recent applicable reinsurance schedule filed with the certified assuming insurer's state of domicile;

(D) for certified assuming insurers not domiciled in the United States, the most recent Form CR-F, for property and casualty assuming insurers, or Form CR-S, for life and health assuming insurers, which are adopted by reference;

(E) the reputation of the certified assuming insurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in supervision, conservation, receivership or similar proceeding;

(F) regulatory actions against the certified assuming insurer;

(G) the report of the independent auditor on the financial statements of the certified assuming insurer;

(H) for a certified assuming insurer not domiciled in the United States:

(i) its audited financial statements consisting of audited United States GAAP basis statements, if available; audited International Financial Reporting Standards (IFRS) basis statements with an audited footnote reconciling equity and net income to a United States GAAP basis; or with the written permission of the Commissioner, au-

dated IFRS statements with reconciliation to United States GAAP certified by an officer of the company;

(ii) its actuarial opinion and other regulatory filings as filed with the non-United States jurisdiction supervisor; and

(iii) with the initial application for certification, its three prior years' audited financial statements filed with its non-United States jurisdiction supervisor;

(I) the liquidation priority of obligations to a ceding insurer in the certified assuming insurer's domiciliary jurisdiction in the context of an insolvency proceeding;

(J) a certified assuming insurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. A certified assuming insurer that proposes participation in a solvent scheme of arrangement must provide the Commissioner with prior written notice, not less than 30 days prior to such participation; and

(K) any other information the Commissioner deems relevant.

(2) As directed by the Commissioner, a certified assuming insurer must adjust the security posted to protect its liabilities to United States ceding insurers as the Commissioner deems appropriate based on TDI's analysis of a certified assuming insurer's reputation for prompt payment of claims under subsection (b)(1)(E) of this section. Subject to any additional adjustments that the Commissioner may deem under this paragraph, the certified assuming insurer must, at a minimum, increase the security posted by one rating level under subsection (b)(1) of this section if:

(A) more than 15 percent of the certified assuming insurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and which exceed \$100,000 for each ceding insurer; or

(B) the aggregate amount of reinsurance recoverables on paid losses that are not in dispute and are overdue by 90 days or more exceeds \$50 million.

(c) Form CR-1 Submission Requirement. The certified assuming insurer applicant must submit with each certification application, a properly executed Form CR-1 as evidence of its:

(1) submission to the jurisdiction of any court of competent jurisdiction in any state of the United States;

(2) appointment of the Commissioner as an agent for service of process in this state;

(3) agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment. The Commissioner may not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards;

(4) agreement to notify the Commissioner within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license, or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons for the changes;

(5) agreement to annually file:

(A) information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with §7.622(d)(3) of this title;

(B) the report of the independent auditor on the financial statements of the insurance enterprise in accordance with §7.622(d)(4) of this title;

(C) audited financial statements, regulatory filings, and actuarial opinion in accordance with §7.622(d)(4) and (5) of this title;

(D) an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers in accordance with §7.622(d)(6) of this title; and

(E) a statement of its good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction in accordance with §7.622(d)(7) of this title.

(d) Submissions. The certified assuming insurer applicant must comply with the applicable information filing requirements in this subsection and submit the information it agreed to submit under subsection (c) of this section, with any certification application and in a manner consistent with the agreements included in Form CR-1. All information submitted by certified assuming insurers and applicants that is not otherwise public information subject to disclosure will be exempt from disclosure if provided by the Public Information Act, Government Code Chapter 552 and will be withheld from public disclosure. The certified assuming insurer applicant must submit with each certification application:

(1) a statement of any regulatory actions taken against the applicant within three years prior to the application including:

(A) fines and penalties; and

(B) changes in the provisions of the applicant's domiciliary license.

(2) a statement of changes in the applicant's financial strength rating by an acceptable NRSRO including any reports or supporting documentation provided by the NRSRO;

(3) for United States domiciled applicants, the most recent applicable reinsurance schedule filed with the applicant's domestic jurisdiction, or for applicants not domiciled in the United States, the most recent Form CR-F or CR-S, as applicable;

(4) for applicants not domiciled in the United States, the report of the independent auditor on the financial statements of the insurance enterprise. The basis for the auditor's report must be:

(A) audited United States GAAP basis statements, if available;

(B) audited IFRS basis statements with an audited footnote reconciling equity and net income to a United States GAAP basis; or

(C) with the permission of the Commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company;

(5) for applicants not domiciled in the United States, the following filings made with the applicant's domestic supervisor:

(A) the actuarial opinion and other regulatory filings; and

(B) audited financial statements for the prior three years;

(6) an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers. If the applicant's reinsurance obligations:

(A) to United States ceding insurers that are in dispute or more than 90 days past due exceed five percent of its total reinsurance obligations to United States cedents as of the end of its prior financial reporting year; or

(B) to any of the applicant's top 10 United States ceding insurers (based on the amount of outstanding reinsurance obligations as of the end of its prior financial reporting year) that are in dispute or more than 90 days past due exceed 10 percent of its reinsurance obligations to that United States ceding insurers; and

(C) in either situation, the applicant must:

(i) submit notice to the Commissioner of the fact and a detailed explanation regarding the reasons for the amount of disputed or overdue claims exceeding either or both of the levels listed in subparagraphs (A) and (B) of this paragraph;

(ii) a description of the applicant's business practices in dealing with United States ceding insurers;

(iii) a statement that the applicant commits to comply with all contractual requirements applicable to reinsurance contracts with United States ceding insurers; and

(iv) any such additional information concerning the applicant's claims practices with regard to any or all United States ceding insurers that the Commissioner may request following receipt of the notice;

(7) a certification from the certified assuming insurer's domestic regulator that the certified assuming insurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level;

(8) evidence of the applicant's financial strength by:

(A) confirming all interactive financial strength ratings currently maintained by the applicant;

(B) specifying the type of financial strength rating; and if the financial strength rating is not on a stand-alone basis, provide the rationale for the group rating;

(C) submitting copies of full NRSRO reports dated within 15 months of the application date all financial strength ratings currently maintained by the applicant, except if a full report is not available, the applicant must provide a letter from the applicable NRSRO affirming its current financial strength rating; and

(D) providing an explanation of any changes in the financial strength rating during the last three years;

(9) the mechanisms the applicant will use to secure obligations incurred as a certified assuming insurer in accordance with Insurance Code §§493.1033-493.1038 and this subchapter. If the applicant intends to utilize a multibeneficiary trust for this purpose, the applicant must submit:

(A) a copy of the approval from the domiciliary regulator with regulatory oversight of the 100 percent collateral and reduced collateral multibeneficiary trusts or its intention to secure the approval of the domiciliary regulator of the trust before either trust can be used;

(B) the form of the trust that will be used to secure obligations incurred as a certified assuming insurer; and

(C) the form of the trust that will be used to secure obligations incurred outside of the applicant's certified assuming insurer status; and

(10) a description of the applicant's past, present or proposed future participation in any solvent scheme of arrangement, or

similar procedure, involving United States ceding insurers and a statement that the applicant will notify the Commissioner in writing of any future proposed participation by the certified assuming insurer in a solvent scheme of arrangement, or similar procedure, not less than 30 days prior to such participation;

(11) applicant information, including the applicant's:

(A) full name;

(B) physical address for its principal place of business;

(C) mailing address;

(D) NAIC number, United States federal tax identification number, and ISI number; and

(E) contact individual's name, phone number, and email; and

(12) other information that the Commissioner may reasonably require.

§7.625. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

(a) An assuming insurer that has been certified as an assuming insurer in an NAIC-accredited jurisdiction may apply for certification in Texas under this section. A certification issued under this section is valid for the following calendar year. To continue the certification, the certified assuming insurer must reapply to TDI on or before July 1 of the year that the certification expires. The certified assuming insurer applicant must submit:

(1) Form CR-1 as required under §7.622(c) of this title;

(2) all information required under §7.622(d) of this title that is not available to TDI from the certifying jurisdiction; and

(3) when prepared a copy of the approval letter or other documentation provided to the applicant by an accredited jurisdiction, confirming the following information:

(A) the name of all states in which applicant is currently certified;

(B) the rating and collateral percentage assigned by the accredited jurisdiction with respect to the applicant;

(C) the effective and expiration dates with respect to the certification;

(D) the lines of business to which the certification is applicable; and

(E) the applicant's commitment to comply with all requirements necessary to maintain certification;

(b) Following receipt of a certification application, TDI will post on the TDI website notice of the application and instructions on how the public may respond to or comment on the application. The notice will remain posted on the website for at least 30 days before the Commissioner takes final action on the application.

(c) If the Commissioner makes a determination to accept another jurisdiction's certification and rating under this subsection, the assuming insurer will be considered to be a certified assuming insurer in this state. The Commissioner may also certify the assuming insurer and assign a rating in accordance with Insurance Code §493.1036 and §7.622 of this title.

(d) Any change in the certified assuming insurer's rating in another jurisdiction will apply in this state as of the date it takes effect in the other jurisdiction without the necessity for further action of the Commissioner. The change will be effective as described in §7.623 of

this title. The certified assuming insurer must notify the Commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(e) The Commissioner may withdraw recognition of another jurisdiction's rating at any time and assign a new rating in accordance with Insurance Code §493.1036 and §7.622 of this title.

(f) The Commissioner may withdraw recognition of another jurisdiction's certification at any time in accordance with Insurance Code §493.1038(b) and §7.623 of this title. Unless the Commissioner suspends or revokes the certified assuming insurer's certification in accordance with Insurance Code §493.1038 and §7.623 of this title, the certified assuming insurer's certification will remain in good standing in this state for a period of 90 days. This period may be extended if additional time is necessary to consider the assuming insurer's application for certification in this state, as provided under Insurance Code §493.1036(h).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6584



SUBCHAPTER R. WITHDRAWAL PLAN REQUIREMENTS AND PROCEDURES

28 TAC §§7.1801, 7.1802, 7.1804 - 7.1809

The Texas Department of Insurance adopts amendments to 28 Texas Administrative Code §§7.1801, 7.1802, 7.1804 - 7.1808, and new 7.1809, relating to withdrawal and restriction plan requirements and procedures. The amendments and new section are adopted with changes to the proposed text published in the March 9, 2018, issue of the *Texas Register* (43 TexReg 1383). The department adopts §§7.1801, 7.1802, and 7.1806 - 7.1809 without changes to the proposed text. The department adopts §7.1804 and §7.1805 with changes to the proposed text.

The department revised §7.1804 and §7.1805 in response to public comments. In addition, the department adopts §7.1805 with nonsubstantive changes to the proposed text to remove a duplicate word in the paragraph. These changes do not materially alter issues raised in the proposal, introduce new subject matter, or affect persons other than those previously on notice.

A public hearing was held to consider the proposed rules on April 4, 2018, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe St., Austin, Texas. The public comment period closed on April 9, 2018, and the department received written comments from five commenters.

Under Government Code §2001.033(a)(1), the department's reasoned justification for these amendments is set out in this order, which includes the preamble and rules.

REASONED JUSTIFICATION. The amendments and new section are necessary to implement Senate Bill 14, 78th Legislature,

Regular Session (2003) and House Bill 1789, 75th Legislature, Regular Session (1997) and to modernize the rule. The amendments implement SB 14, extending approval deemer dates and reducing the threshold for total annual premium with respect to withdrawals from 75 percent to 50 percent. The new section implements HB 1789, regarding requirements and procedures for restriction plans under Insurance Code §827.008. The amendments are also necessary to implement HB 1789, to include personal automobile and residential property insurance lines and the reduction of an insurer's annual premium by 75 percent or more in a line to the withdrawal criteria under Insurance Code §827.003.

In addition, the amendments are necessary to update Insurance Code citations and the department's mailing address. The amendments remove provisions requiring Health Maintenance Organizations (HMOs) to file quarterly financial projections, and they remove provisions requiring insurers and HMOs to file actuarial opinions because the information is readily available to the department. The amendments also delete a 10-business-day notification requirement so that the department has sufficient time to review a withdrawal plan before responding to an insurer or HMO. The amendments clarify when the five-year ban for the resumption of writing new business begins, and they clarify that the five-year ban applies to all lines. The amendments are necessary to clarify the definition for rating territory under Insurance Code §827.001(2). The amendments add a provision stating that compliance with statutory and regulatory provisions relating to renewability, continuation, and discontinuance of coverage apply to insurers and HMOs writing guaranteed renewable or noncancelable coverage.

The department amends §§7.1801, 7.1802(5), 7.1802(8), 7.1802(13), 7.1804(b)(1) and (2), 7.1805(a)(6)(B) - (D), 7.1805(c), and 7.1808 to update old Insurance Code citations to reflect that Insurance Code Chapter 827 was re-codified in 2001.

The department amends §7.1802(15) to align the definition of "withdrawal" to statute with a reference to Insurance Code §827.003. HB 1789 added withdrawal criteria to when an insurer must file a withdrawal plan, including instances when an insurer proposes to reduce its total annual premium volume in a line of personal automobile or residential property insurance by 50 percent or more or reduces its annual premium in a line by 75 percent or more. SB 14 lowers the total annual premium threshold for withdrawal from 75 percent to 50 percent. Instead of changing the definition for withdrawal and reciting the statute verbatim in the amendments, the department references the statute directly and removes the definitions for "total" and "substantial."

The department amends §§7.1804, 7.1805, 7.1807, and 7.1808 to remove the words "total" and "substantial" and related explanatory language that appear throughout the withdrawal rules, to align the adopted text with the amended definition for "withdrawal" in §7.1802(15) and the amended withdrawal criteria under Insurance Code §827.003.

The department amends §7.1802(16) to add a definition for "rating territory." This establishes that in the rules "rating territory" means "a county in Texas."

The department amends §7.1804 to add the word "withdrawal" to the section heading, to clarify that the section addresses withdrawal plans and not restriction plans.

In response to comment, the department has changed §7.1804(a), (a)(1), and (2) as proposed to delete the words "from a line of insurance." The department agrees to this change, because the definition of withdrawal under §7.1802(15) includes the criteria that encompass a line or lines of business.

The department amends §7.1804(b) to remove the introductory catchline in the subsection for consistency with agency rule drafting style.

In response to comment, the department has changed §7.1804(b)(1) and (3) as proposed to delete these provisions, so that notification to the department is no longer required when an HMO or insurer is exempt from filing a withdrawal plan under Insurance Code §827.002 or an HMO is transferring business from the HMO to an affiliated HMO. The remaining two paragraphs under §7.1804(b) are renumbered to reflect the deletions.

The department amends §7.1805(a) and (b) to explain that an insurer or HMO that meets any criteria in §7.1804(b) does not have to file a withdrawal plan.

The department amends §7.1805(a)(6)(E) and §7.1805(b)(6)(B) to add language stating that insurers and HMOs writing guaranteed renewable or noncancelable coverage must affirm the insurer's or HMO's compliance with the Insurance Code and corresponding regulatory provisions relating to renewability, continuation, and discontinuance of coverage. In response to comment, the department, in §7.1805(b)(6)(B), has changed the word "insurers" to "HMO's" because §7.1805(b)(6)(B) is specific to HMOs.

The department amends §7.1805(a)(8) and (b)(8) to remove the previous subparagraph (B) and combine the content from that subparagraph with subparagraph (A), to reflect that the definitions for "substantial" and "total" are no longer being used. The remaining subparagraphs in each paragraph are redesignated as appropriate.

The department amends §7.1805(a)(8)(A) and §7.1805(b)(8)(A) to add a requirement that the withdrawal plan include the total annual premium volume and the number of policies and certificates and covered persons in Texas "by county" for insurers, or contract holders and enrollees in Texas "by county in all service areas" for HMOs, respectively, for each line to be withdrawn and the estimates after withdrawal. In response to comment, the department has changed §7.1805(a)(8)(A) and (b)(8)(A) as proposed by replacing the words by "rating territory" with "county" in subsection (a)(8)(A) and by "county in all service areas" in subsection (b)(8)(A). This change clarifies that rating territory only applies to an insurer proposing to withdraw from personal automobile or residential property insurance for purposes of whether an insurer has to file a withdrawal plan under Insurance Code §827.003(3).

The department amends redesignated §7.1805(a)(8)(B) to require that a plan contain the estimate of what percentage of the market for each affected line of insurance in each county the withdrawal impacts. In response to comment, the department changed the text of the subparagraph as proposed by replacing the term "rating territory" with "county." This change reflects the fact that "rating territory" applies only to an insurer proposing to withdraw from personal automobile or residential property insurance for purposes of determining whether an insurer has to file a withdrawal plan under Insurance Code §827.003(3).

The department amends redesignated §7.1805(a)(8)(C) to delete examples concerning location and geographic area and types of risk no longer being covered, because the examples no longer apply under the amended definition for "rating territory."

The department amends §7.1805(a)(12)(C) and (b)(12)(C) to remove the requirement that insurers and HMOs must file actuarial opinions certifying that adequate reserves are available to pay outstanding claims, because the information is readily available to the department.

The department amends §7.1805(a)(16) and (b)(14) to delete language requiring an affirmation that no new business will be solicited by the insurer or HMO in Texas during or after the withdrawal, because it is redundant in light of the existing reference to §7.1808 relating to requirements to resume writing insurance. The amendments add "as applicable" to clarify that the writing ban applies only when the conditions in the section are met.

The department amends redesignated §7.1805(b)(8)(B) to require that a withdrawal plan contain an estimate of what percentage of the market for each affected line of insurance by county in all service areas the withdrawal impacts as measured by enrollee. In response to comment, the department changed the text of the subparagraph as proposed by replacing the phrase "in each service area county" with "by county in all service areas." This change provides clarification and consistency with the change in language in §7.1805(b)(8)(A).

The department amends redesignated §7.1805(b)(8)(C) to remove the requirement that an HMO provide information necessary to explain the extent of any specific market availability problem and what market assistance may be needed to alleviate the problem, because the HMO may not have the information to provide to the department.

The department deletes §7.1805(b)(8)(D) concerning the estimate of what percentage of the HMO's service area or service areas the withdrawal constitutes and the counties affected by the withdrawal, because the language is redundant in light of the amendments to §7.1805(b)(8)(B).

The department deletes §7.1805(b)(16) to remove the requirement in the provision, so that HMOs withdrawing from a line of business are no longer required to file quarterly financial projections, and to align the language of the subsection with the requirements for insurers in §7.1805(a).

The department amends §7.1806 to add the word "withdrawal" to the section heading to clarify that the plan submission and approval procedures apply to withdrawal plans and not restriction plans.

The department amends §7.1806(a) to update the department's mailing address, which contains an incorrect mail code. As amended, the subsection directs insurers and HMOs to the department website for the most recent address. In addition, the subsection notifies insurers and HMOs that the department will post forms and instructions on its website to assist filers with plan requirements.

The department amends §7.1806(b) to implement SB 14 by updating the time frame for when a withdrawal plan is deemed approved from 30 to 60 days.

The department deletes §7.1806(d) to remove the provision stating that the department will notify an insurer or HMO by letter within 10 business days of the Commissioner's receipt of the withdrawal plan that the plan is either sufficient or insufficient and

stating what information must be provided for a complete plan. Removal of the subsection is necessary to give department staff adequate time to review withdrawal plans and respond to insurers or HMOs.

The department amends §7.1808 to provide clarification and align the language of the section with Insurance Code §827.006, so that the five-year ban on the resumption of writing after a withdrawal applies to any insurer or HMO withdrawing from writing "all premium in all lines of insurance," instead of "any line of insurance" in the state. In addition, the amendments clarify that the five-year ban takes effect the later of the date the insurer or HMO intends to begin its withdrawal as stated in the plan approved by the Commissioner or on discovery by the department of an insurer's or HMO's failure to file a withdrawal plan.

The department adds new §7.1809 to interpret restriction plans under Insurance Code §827.008. The heading for new §7.1809 is "Restriction Plan Contents and Submission Requirements."

New §7.1809(a) references Insurance Code §827.008, which requires that an insurer file a proposed restriction plan with the Commissioner for review and approval.

New §7.1809(b) lists the required content of a restriction plan and states that the plan must be signed by at least one officer of the insurer. Paragraph (1) of the subsection requires identification of the applicable personal automobile and residential property line of insurance restricted. Paragraph (2) of the subsection requires the dates the insurer intends to begin and complete its restriction. Paragraph (3) of the subsection requires an explanation of the reasons for restricting new business. Paragraph (4) of the subsection requires a list of the affected rating territories. Paragraph (5) of the subsection requires information necessary to assist the Commissioner in determining how market availability of the line of business proposed to be restricted may be affected, including: a description of how restricting the writing of new business in a rating territory may affect other related lines of business written by the insurer, such as the potential effect of discounts no longer provided to insureds; a list of other insurer products within the line the insurer will continue to offer in Texas; and any other information related to the restriction plan that the Commissioner deems necessary.

New §7.1809(c) explains where to send restriction plans. An insurer filing a restriction plan must submit the plan at the location specified on the department's website to prevent using outdated information. The department will post forms and instructions on its website to assist filers.

New §7.1809(d) makes clear that the Commissioner may modify, restrict, or limit a restriction plan as provided for under Insurance Code §827.008(b).

New §7.1809(e) states that an insurer may not revise its underwriting guidelines in response to a catastrophic natural event that occurred within the previous six months without receiving Commissioner approval of its restriction plan under Insurance Code §827.008.

New §7.1809(f) states that the insurer must file a withdrawal plan if a restriction plan results in a withdrawal under Insurance Code §827.003 and §827.004.

In addition, the amendments include nonsubstantive editorial and formatting changes to conform to the agency's current style and to improve the rule's clarity.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. The department received written comments from five commenters, two from the same firm. The department received no oral comments at the public hearing held on April 4, 2018. Commenters in support of the proposal with changes were: Insurance Council of Texas; Mitchell, Williams, Selig, Gates, & Woodyard, P.L.L.C.; Texas Association of Health Plans; and Texas Association of Life and Health Insurers.

Comments on §7.1802(16).

A commenter commends the department's efforts to amend the rules, but has concerns about the definition of "rating territory." The commenter requests that the department consider an option to allow an insurer to file a written notice instead of a formal withdrawal plan if an insurer takes an action that reduces the insurer's total annual premium volume in a line of personal auto or residential property insurance by 50 percent or more in a rating territory that contains less than a specified minimum amount of the insurer's total annual premium. The commenter suggests another option to provide insurers the ability to combine whole single adjacent county rating territories to create a larger single rating territory to include a greater number of policyholders and increase the total amount of annual premium volume being considered. The commenter asserts that these options help assure that insurers only need to file a withdrawal plan when an action by the insurer is projected to impact a substantial number of policyholders and significantly reduce the insurer's total annual premium as provided in Insurance Code §827.003.

A second commenter requests the department add a qualifier to the definition of "rating area" to allow "rating area" to mean "zip code," if county information is unavailable. The commenter is not sure all insurers track their policyholders and certificate holders by county and some zip codes overlap more than one county.

A third commenter supports the proposed revised definition of "withdrawal" and proposed new definition of "rating territory" making it easier for insurers to comply under the file and use rating system allowing them more flexibility in defining rating territories for rating purposes. The commenter recommends specific language for a new definition of "residential property" to be included in the rule and requests that the term not include farm and ranch owners.

Agency Response to Comments on §7.1802(16).

The department disagrees with and declines to adopt the first commenter's recommendations. In the original 1993 rule adoption, the department declined to apply a de minimus exclusion based on an arbitrary selected minimum premium amount, because a major purpose of the withdrawal plan statute and rule is protection of the interests of the policyholders of the withdrawing insurer and other persons affected by the withdrawal regardless of the size of the withdrawal. This reasoning still holds true today, and the department determines that filing a written notice instead of a formal withdrawal plan and combining whole single adjacent county rating territories to create a larger single rating territory are not sufficient to determine market availability and protect consumers.

In response to the second commenter, it appears the commenter meant "rating territory," which is defined, instead of "rating area," which is not. The department disagrees with and declines to make the requested change for both the first and second commenters, because Insurance Code §827.001(2) authorizes the department to establish a rating territory. The department, in an effort to use the best method to provide consistent standards

for personal automobile and residential property insurance withdrawals, set rating territory by county. Although certain scenarios may trigger withdrawal plans, such method allows the Commissioner to determine market availability and protect consumers.

In response to the third commenter, the department appreciates the support on the "withdrawal" and "rating territory" definitions, but disagrees with and declines to include a definition for residential property because it is outside the scope of the amendments.

Comments on §7.1804(a).

One commenter seeks clarification that when market forces beyond the reasonable control of an insurer or HMO result in a drop in annual premium, the affected insurer or HMO is not taking action on its own initiative.

A second commenter requests the words "from a line of insurance" be eliminated in §7.1804(a) and paragraphs (a)(1) and (2) to reflect that a withdrawal plan may be required in situations other than just a line of insurance.

Agency Response to Comments on §7.1804(a).

The department disagrees with the first commenter and declines to make a change based on the comment. Market forces and a resulting drop in annual premium causing an insurer or HMO to file a withdrawal plan is considered taking action on its own initiative. An insurer or HMO does not act on its own initiative under §7.1804(a)(2) when acting under a Commissioner disciplinary or administrative directive or order, or when the insurer or HMO acts under a directive of a supervisor, conservator, or receiver.

In response to the second commenter, the department agrees and removes "line of insurance" from §7.1804(a) and the corresponding paragraphs, because the definition of "withdrawal" under 7.1802(15) includes the criteria that encompass a line and lines of business.

Comments on §7.1804(b).

Two commenters ask why notice is still required when certain types of transactions are exempted from the requirements of Insurance Code §827.002.

Agency Response to Comments on §7.1804(b).

The department agrees and deletes the exceptions under §7.1804(b)(1) and (3) so that notification to the department is no longer required when an HMO or insurer is exempt under Insurance Code §827.002. The remaining two paragraphs under §7.1804(b) are renumbered to reflect the deletions.

Comments on §7.1805(a)(8)(A).

Two commenters state that information that may not be readily available or maintained by each rating territory should not be required if a total withdrawal or a withdrawal from a line of business is proposed, and should only be required if an insurer is proposing to withdraw from personal automobile or residential property insurance in a rating territory. Further, the commenter recommends that the requirement to show additional information for each rating territory not be adopted and continue to require aggregate premium and covered persons in Texas.

Agency Response to Comments on §7.1805(a)(8)(A).

The department agrees that rating territory only applies to an insurer proposing to withdraw from personal automobile or residential property insurance for purposes of whether an insurer

has to file a withdrawal plan under Insurance Code §827.003(3). Because the contents of a withdrawal plan apply to insurers other than personal automobile and residential property insurance lines, and HMOs, the department deletes "rating territory" and replaces it with "county" for clarification. The department requires the best available additional information from all insurers and HMOs so that the Commissioner can determine market availability and protect consumers.

Comments on §7.1805(a)(8)(B).

Two commenters state that information requiring an estimate of percentage of the market by each rating territory should not be required unless an insurer is proposing to withdraw from a particular rating territory in personal automobile or residential property insurance. Further, the commenters state that individual insurers do not have market share data by rating territory and it is provided by the department through market analysis reports and generally shown on a statewide basis. The commenters assert that the Texas courts and the Attorney General have held that individual writings by county and zip code are confidential trade secrets or financial information and excepted from disclosure under the Texas Open Records Act.

Agency Response to Comments on §7.1805(a)(8)(B).

The department agrees that rating territory only applies to an insurer proposing to withdraw from personal automobile or residential property insurance for purposes of whether an insurer has to file a withdrawal plan under Insurance Code §827.003(3). Because the contents of a withdrawal plan apply to insurers other than personal automobile and residential property insurance lines, and HMOs, the department deletes "rating territory" and replaces it with "county" for clarification. The department requires the best available additional information so that the Commissioner can determine market availability and protect consumers. Further, if an insurer or HMO submits market share information to the department that is excepted from disclosure under the Texas Open Records Act, then the department would not release the information without a ruling from the Attorney General's Office.

Comment on §7.1805(b)(6)(B).

One commenter recommends that "insurer" be replaced with "HMO" in one part of the sentence because §7.1805(b)(6)(B) is specific to HMOs. Further, the commenter requests that "applicable" be inserted so that HMOs must affirm compliance only with the appropriate referenced statutory provisions relating to guaranteed renewable and noncancelable coverage.

Agency Response to Comment on §7.1805(b)(6)(B).

The department agrees to make the recommended change and replace "insurer's" with "HMO's" in part of the sentence. The department declines to add "applicable" because if one of the statutory citation references relating to guaranteed renewable and noncancelable coverage do not apply, then the respective affirmation is not required.

Comment on §7.1805(b)(8).

One commenter seeks confirmation that under the revised rule, an HMO may withdraw from one or more counties in that its service area would be viewed on a county-by-county basis. The commenter further objects to the requirement that HMOs have to perform an analysis and file an estimate of what percentage of the market for each affected line of insurance is impacted in

each service area county unless HMOs are allowed to withdraw on a county-by-county basis.

Agency Response to Comment on §7.1805(b)(8).

An HMO may not withdraw on a county-by-county basis, only by service areas. For clarification, the department deletes references to "rating territory" in §7.1805(b)(8)(A) because rating territory only applies to whether an insurer needs to file a withdrawal plan for personal automobile and residential property insurance lines. The department adds "by county in all service areas" for the purpose of providing information in a withdrawal plan. The department updates the service area language in §7.1805(b)(8)(B) to be consistent with §7.1805(b)(8)(A). The department requires the best available additional information on the estimate of what percentage of the market for each affected line of insurance is necessary to determine market availability and protect consumers.

Comments on §7.1805(b)(12)(C).

Two commenters commend the department for deleting the requirement to file an actuarial opinion on reserve adequacy with a withdrawal plan.

Agency Response to Comments on §7.1805(b)(12)(C).

The department appreciates the comments.

Comments on §7.1806(c).

Two commenters recommend that §7.1806(c) be amended to delete the word "necessary" and add the language "required under Section 7.1805" to constitute a complete plan of withdrawal. The commenters suggest that the department has requested additional information not specifically required in the rule to avoid the 60-day review on the basis that all necessary information has not been "filed."

Agency Response to Comments on §7.1806(c).

The department disagrees and declines to make the change because the recommendation is outside the scope of the amendments. There are instances where the Commissioner needs the information to determine the impact to the market and harm to consumers. Because of the complexity of the Texas insurance market, withdrawal plans are a priority of the department.

Comment on §7.1806(d).

One commenter commends the Financial staff for providing excellent service to the industry on filings. The commenter requests that the 10 business days requirement for the department to notify an insurer or HMO whether its plan is complete and, if complete, starts the statutory 60-day deemer period, not be deleted. The commenter states that time constraints imposed by law on the health industry necessitate reasonably prompt review of the withdrawal plan. The commenter further states that proposed revision to §7.1805(b)(8)(C) leaves open-ended the requirements for a "completed plan" such that the plan must contain "any other information necessary to assist the Commissioner in determining whether a market availability problem is created by the withdrawal."

Agency Response to Comment on §7.1806(d).

The department appreciates the comment that Financial staff provide excellent service to the industry on filings. The department disagrees and declines to make a change, because the department does not send notification letters in response to other similarly complex filings received by the department. Because

of the complexity of the Texas insurance market and the time frames, withdrawal plans are a priority of the department.

Comments on §7.1809.

One commenter supports the new restriction plan rule and believes it adequately clarifies what is required by statute. A second commenter seeks confirmation that the new rule only applies to personal automobile or residential property insurance and does not apply to accident and health or HMO coverage.

Agency Response to Comments on §7.1809.

The department appreciates the comment. Further, the department confirms that the new rule relating to restriction plans only applies to personal automobile or residential property insurance and does not apply to accident and health or HMO coverage.

STATUTORY AUTHORITY. The Commissioner adopts the amendments and new sections under Insurance Code §§827.001(2), 827.002, 827.003, 827.004, 827.005, 827.006, 827.008, 827.011, 843.051(b)(2) and 36.001.

Insurance Code §827.001(2) states that "rating territory" means a rating territory established by the department.

Insurance Code §827.002 provides that Chapter 827 does not apply to a transfer of business from an insurer to a company that is within the same insurance group as the insurer; is authorized to engage in the business of insurance in this state; and is not a reciprocal or interinsurance exchange, a Lloyd's plan, a county mutual insurance company, or a farm mutual insurance company.

Insurance Code §827.003 requires that an insurer must file with the Commissioner a plan for orderly withdrawal if the insurer proposes to reduce the insurer's total annual premium volume by 50 percent or more; reduce the insurer's annual premium by 75 percent or more in a line of insurance in this state; or reduce in this state, or in any applicable rating territory, the insurer's total annual premium volume in a line of personal automobile or residential property insurance by 50 percent or more.

Insurance Code §827.004 requires that a withdrawal plan filed under §827.003 must be constructed to protect the interests of the people of this state; indicate the dates on which the insurer intends to begin and to complete the plan; and provide for meeting the insurer's contractual obligations, provide service to the insurer's policyholders and claimants in this state; and meet any applicable statutory obligations, such as payment of assessments to the guaranty fund and participation in an assigned risk plan or joint underwriting arrangement.

Insurance Code §827.005(a) states that except as provided by subsection (b) of the section, the Commissioner will approve a withdrawal plan that adequately provides for meeting the requirements in §827.004(3). Section 827.005(b) provides that the Commissioner may modify, restrict, or limit a withdrawal plan under this section as necessary if the Commissioner finds that a line of insurance subject to the withdrawal plan is not offered in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state. The Commissioner may by order set the date on which the insurer's withdrawal begins. Section 827.005(c) provides that a withdrawal plan is deemed approved if the Commissioner does not hold a hearing on the plan before the 61st day after the date the plan is filed with the Commissioner or does not deny approval before the 61st day after the date a hearing on the plan is held.

Insurance Code §827.006 requires that an insurer that withdraws from writing all lines of insurance in this state may not, without the approval of the Commissioner, resume writing insurance in this state before the fifth anniversary of the date of withdrawal.

Insurance Code §827.008(a) states that before an insurer, in response to a catastrophic natural event that occurred during the preceding six months, may restrict writing new business in a rating territory in a line of personal automobile or residential property insurance, the insurer must file a proposed restriction plan with the Commissioner for the Commissioner's review and approval. Section 827.008(b) provides that the Commissioner may modify, restrict, or limit a restriction plan under this section as necessary if the Commissioner finds that a line of insurance subject to the restriction plan is not offered in this state in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state in light of the impact of the catastrophic natural event. The Commissioner may by order set the date on which the insurer's restriction begins. Section 827.008(c) requires that a withdrawal plan must be filed and approved under §827.003 and §827.004 if an insurer's decision not to accept new business in a line of personal automobile or residential property insurance results in a reduction of the insurer's total annual premium volume by 50 percent or more.

Insurance Code §827.011 states that the Commissioner may adopt rules as necessary to enforce Chapter 827.

Insurance Code §843.051(b)(2) states that a health maintenance organization is subject to Chapter 827 and is an authorized insurer for purposes of that chapter.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of Texas.

§7.1804. When a Withdrawal Plan is Required.

(a) Any authorized insurer or HMO must file with the Commissioner of Insurance a plan of orderly withdrawal before the insurer or HMO undertakes a withdrawal.

(1) The insurer or HMO undertakes a withdrawal when it takes any action on its own initiative that will result in the insurer or HMO meeting the criteria under Insurance Code §827.003.

(2) An insurer or HMO will not be held to have acted on its own initiative in effecting a withdrawal when it acts under a Commissioner disciplinary or administrative directive or order, or when the insurer or HMO acts under a directive of a supervisor, conservator, or receiver. If an out-of-state directive or order is not provided to the Commissioner within 30 days of the issuance of such directive or order, the insurer or HMO will be held to have acted on its own initiative.

(b) An insurer or HMO is not required to file a plan of orderly withdrawal, but must instead notify the department, when:

(1) the line of business is written by a stipulated premium company unless such line is written under Insurance Code §884.303 and §884.307 or Chapter 884, Subchapter I; or

(2) the line of insurance from which the HMO is withdrawing is Medicare, a Medicare+Choice plan or a Medicaid contract as provided in §7.1803(a) of this title (relating to What Constitutes a Line of Insurance).

(c) If an insurer or HMO comes within an exception provided in subsection (b) of this section, such notification must be sent to the department simultaneously with any notification required to be provided

to any other state or federal agency. The notification will be accepted for information only and must affirm that any appropriate state or federal agency has been notified of the company's intent to withdraw, and must include the effective date of nonrenewal, the names of the Texas counties affected, and the number of insureds or enrollees affected.

(d) This subchapter does not modify or supercede any requirement under the Insurance Code or any other state or federal law to notify policyholders or enrollees that an insurer or HMO will not renew any coverage; however, before any such notice is given a withdrawal plan must be filed with the department and approved by the department under §7.1806 of this title (relating to Withdrawal Plan Submission and Approval Procedures) when a plan is required by this section.

§7.1805. Contents of Withdrawal Plan.

(a) Except for withdrawing HMOs, which are addressed under subsection (b) of this section and insurers meeting the criteria under §7.1804(b) of this title (relating to When a Plan is Required), a withdrawing insurer must file a plan of orderly withdrawal with the Commissioner that is constructed to protect the interests of the people of this state. The plan must be signed by at least one officer of the insurer and must contain the following:

(1) identification, in accordance with the line of insurance designations in §7.1803 of this title (relating to What Constitutes a Line of Insurance), of the line or lines of insurance being withdrawn;

(2) identification of the policy forms by number and type affected by the withdrawal;

(3) the dates the insurer intends to begin and complete its withdrawal;

(4) an explanation of the reasons for the withdrawal;

(5) provisions for notifying all of the affected Texas policyholders and certificate holders of the dates of the beginning and completion of the withdrawal and how the withdrawal will affect them, including, but not limited to:

(A) a copy of the notice and an explanation of the manner in which the notice will be provided to policyholders and certificate holders;

(B) either affirmation that such notice will be provided within 30 days of the approval of the withdrawal plan or a request to provide the notice at some other specified date or time, and such request must be approved by the Commissioner; and

(C) identification of any provision of the Insurance Code or Texas Administrative Code under which notice is mandated;

(6) provisions for meeting all of the insurer's contractual obligations, including, but not limited to:

(A) notification of all affected agents of the insurer of the date the insurer intends to begin and complete the withdrawal;

(B) for fire and casualty insurers, a statement affirming the insurer's compliance with the provisions of Insurance Code Chapter 4051, Subchapter H, relating to cancellation of agency contracts;

(C) for insurers writing liability coverage as specified in Insurance Code Chapter 551, Subchapter B, a statement affirming the insurer's compliance with the provisions of Insurance Code Chapter 551, Subchapter B, relating to cancellation and nonrenewal of certain liability insurance coverage;

(D) for insurers writing property and casualty coverage as specified in Insurance Code Chapter 551, Subchapter C, a statement affirming the insurer's compliance with the provisions of Insurance

Code Chapter 551, Subchapter C, relating to cancellation and nonrenewal of certain property and casualty policies; and

(E) for insurers writing guaranteed renewable or non-cancelable coverage, a statement affirming the insurer's compliance with the provisions of Insurance Code §1202.051, concerning renewability and continuation of individual health insurance policies, and Insurance Code §1501.109, concerning refusal to renew and discontinuation of coverage, and any corresponding regulations;

(7) provisions for providing service to the insurer's Texas policyholders and claimants;

(8) information on Texas business, including:

(A) the total annual premium volume and the number of policies and certificates and covered persons in Texas by county for each line to be withdrawn and the estimated total annual premium volume and number of policies and certificates and covered persons in Texas by county after withdrawal;

(B) an estimate of what percentage of the market for each affected line of insurance in each county the withdrawal impacts;

(C) any other information necessary to assist the Commissioner in determining whether a market availability problem is created by the withdrawal; and

(D) if an insurer is unable to provide the exact number of policies and certificates and covered persons, the insurer must provide estimates and explain how the estimates were determined;

(9) provisions for identifying policyholders or certificate holders of special circumstances;

(10) identification of any third party contracts which may provide for the continuity of care to enrollees of special circumstances;

(11) number of and estimated amount of all losses outstanding in Texas, including claims incurred but not reported;

(12) a plan to handle the losses specified in paragraph (11) of this subsection, including, but not limited to:

(A) identification of what assets will be available for paying outstanding incurred but not reported claims, claims in the course of settlement, and associated loss adjustment expenses; and

(B) identification of who specifically will administer the run off of the business;

(13) if Texas policyholders or certificate holders are to be reinsured, the filing of a reinsurance agreement under all statutory and regulatory requirements and, when applicable, the filing of an assumption certificate;

(14) provisions for meeting any applicable statutory obligations, including, but not limited to:

(A) payment of any guaranty fund assessments;

(B) participation in any assigned risk plan, pool, fund, facility, or joint underwriting arrangement; and

(C) payment of any taxes;

(15) a list of any other products the insurer will continue to offer in Texas; and

(16) affirmation that the insurer will comply with §7.1808 of this title (relating to Requirements to Resume Writing Insurance), as applicable.

(b) Unless it meets the criteria under §7.1804(b) of this title, a withdrawing HMO must file a plan of orderly withdrawal with the

Commissioner that is constructed to protect the interests of the people of Texas. The plan must be signed by at least one officer of the HMO and must contain the following:

(1) identification, in accordance with the line of insurance designations in §7.1803 of this title, of the line or lines of insurance being withdrawn;

(2) identification by form number of the evidences of coverage affected by withdrawal;

(3) the dates the HMO intends to begin and complete its withdrawal;

(4) an explanation of the reasons for the withdrawal;

(5) provisions for notifying all of the affected Texas enrollees and contract holders of the dates of the beginning and completion of the withdrawal and how the withdrawal will affect them, including, but not limited to:

(A) a copy of the notice and an explanation of the manner in which the notice will be provided to enrollees or contract holders;

(B) either an affirmation that such notice will be provided within 30 days of the approval of the withdrawal plan or a request to provide the notice at some other specified date or time, and such request must be approved by the Commissioner; and

(C) identification of any provisions of the Insurance Code or the Texas Administrative Code under which notice is mandated;

(6) provisions for meeting all of the HMO's contractual obligations, including, but not limited to:

(A) notification to all affected agents of the HMO of the dates the HMO intends to begin and complete the withdrawal; and

(B) for HMOs writing guaranteed renewable or non-cancelable coverage, a statement affirming the HMO's compliance with the provisions of Insurance Code §843.208, concerning cancellation or nonrenewal of coverage; §1271.307, concerning renewability of coverage for individual health care plans and conversion contracts; and §1501.109, concerning refusal to renew and discontinuation of coverage, and any corresponding regulations;

(7) provisions for providing service to the HMO's Texas enrollees and providers;

(8) information on Texas business, including:

(A) the total annual premium volume and the number of affected contract holders and enrollees in Texas by county in all service areas for each line to be withdrawn and the estimated total annual premium volume and number of enrollees and contract holders in Texas by county in all service areas after withdrawal;

(B) an estimate of what percentage of the market for each affected line of insurance by county in all service areas the withdrawal impacts, as measured by enrollee; and

(C) any other information necessary to assist the Commissioner in determining whether a market availability problem is created by the withdrawal;

(9) provisions for identifying enrollees of special circumstance;

(10) identification of any third-party contracts that may provide for the continuity of care to enrollees of special circumstance;

(11) number of and estimated amount of all losses outstanding in Texas, including claims incurred but not reported;

(12) a plan to handle the losses specified in paragraph (11) of this subsection, including, but not limited to:

(A) identification of what assets will be available for paying outstanding incurred but not reported claims, claims in the course of settlement, and associated loss adjustment expenses; and

(B) identification of who specifically will administer the run off of the business, if any;

(13) provisions for meeting any applicable statutory obligations;

(14) affirmation that the HMO will comply with §7.1808 of this title, as applicable; and

(15) a list of any other products the HMO will continue to sell in Texas in each service area.

(c) The filing of a single consolidated withdrawal plan for all withdrawing insurance companies or HMOs in the same holding company system, as defined in Insurance Code §823.006, does not meet the requirements of this subchapter. A separate withdrawal plan must be filed for each insurance company or HMO intending to withdraw from a line or lines of insurance.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 30, 2018.

TRD-201802379

Norma Garcia

General Counsel

Texas Department of Insurance

Effective date: June 19, 2018

Proposal publication date: March 9, 2018

For further information, please call: (512) 676-6584



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES

SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §4.11

The Texas Department of Public Safety (the department) adopts amendments to §4.11, concerning General Applicability and Definitions. This rule is adopted without changes to the proposed text as published in the April 27, 2018 issue of the *Texas Register* (43 TexReg 2533) and will not be republished.

The adopted amendments are necessary to harmonize updates to 49 Code of Federal Regulations with those laws adopted by Texas. Additionally, the registration threshold was removed from the applicability standard for intrastate purposes. Registration has no safety component and removing this language makes it consistent with language in commercial driver license law in Transportation Code, §522.003 and federal regulations in 49 CFR Part 390.5 and Part 383.5.

No comments were received regarding the adoption of this rule.

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

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 31, 2018.

TRD-201802385

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: June 20, 2018

Proposal publication date: April 27, 2018

For further information, please call: (512) 424-5848





REVIEW OF AGENCY RULES

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

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

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

Adopted Rule Reviews

Public Utility Commission of Texas

Title 16, Part 2

The Public Utility Commission of Texas (commission) re-adopts the Texas Administrative Code (TAC), Chapter 28, Substantive Rules Applicable to Cable and Video Service Providers pursuant to the Administrative Procedure Act (APA), Texas Government Code §2001.039, Agency Review of Existing Rules. The notice of intention to review Chapter 28 was published in the *Texas Register* on March 2, 2018, (43 TexReg 1285).

APA §2001.039 requires that each state agency review its rules every four years and readopt, readopt with amendments, or repeal the rules adopted by that agency pursuant to the Texas Government Code, Chapter 2001. Such reviews shall include, at a minimum, an assessment by the agency as to whether the reason for adopting or readopting the rules continues to exist.

The commission requested specific comments on whether the reasons for adopting the rules in Chapter 28 continue to exist. The commission received no comments on the notice of intention to review.

The commission has completed the review of the rules in Chapter 28 pursuant to APA §2001.039 and finds that the reasons for adopting the rules in Chapter 28 continue to exist.

The commission declines to make any changes to Chapter 28 in this rule review at this time.

The commission has completed the review of the rules in Chapter 28 as required by Texas Government Code §2001.039 and has determined that the reasons for initially adopting the rules in Chapter 28 continue to exist. Therefore, the commission re-adopts Chapter 28, Substan-

tive Rules Applicable to Cable and Video Service Providers, in its entirety, under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2016 and Supp. 2017) (PURA), which requires the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052, which requires the commission to adopt and enforce rules governing practice and procedure before the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission; §§66.001-66.004, which designate the Commission as the franchising authority for a state-issued franchise for the provision of cable service or video service; and Texas Government Code §2001.039 (West 2017), which requires each state agency to review and re-adopt its rules every four years.

Cross reference to Statutes: PURA §14.002, §14.052, and §§66.001-66.004; APA §2001.039.

This agency hereby certifies that the rules in Chapter 28, as re-adopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that Chapter 28, Substantive Rules Applicable to Cable and Video Service Providers, is hereby re-adopted under Texas Government Code §2001.039 with no changes to this chapter.

TRD-201802388

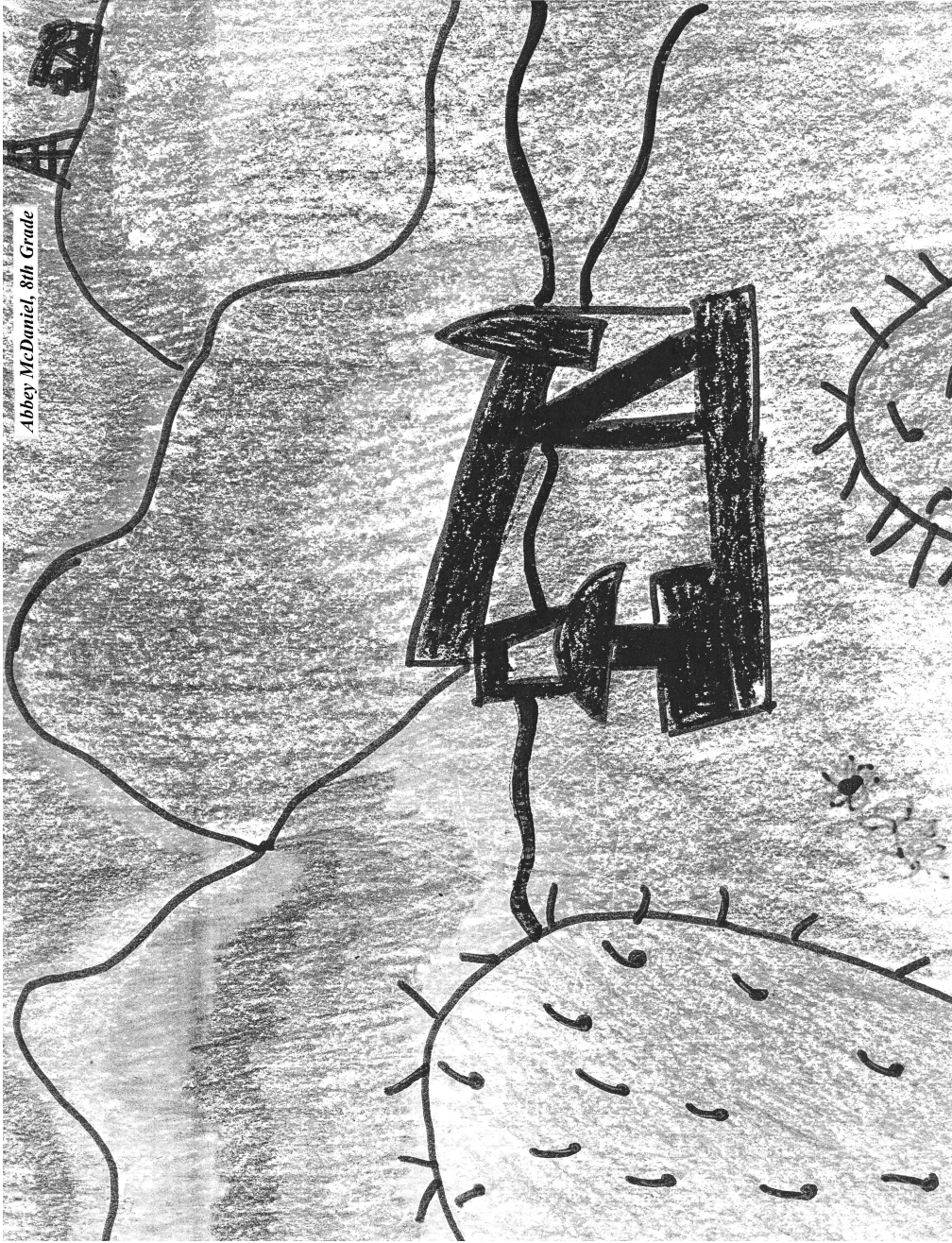
Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: May 31, 2018





Abbey McDaniel, 8th Grade

TABLES & GRAPHICS

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

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

Figure: 4 TAC §20.22(a)(3)

Pest Mgmt Zone	Earliest Planting Date	Destruction Deadline	End Date for Destruction Requirements
1	February 1	September 1	March 1
2 - Area 1	February 1	September 1	March 1
2 - Area 2	February 1	September 1	March 1
2 - Area 3	February 1	September 15	March 1
2 - Area 4	February 1	October 1	March 1
3 [- Area 1]	February 1	October <u>31</u> [1]	Emergence of new crop
[3 - Area 2]	[February 1]	[October 15]	[Emergence of new crop]
[3 - Area 3]	[February 1]	[October 20]	[Emergence of new crop]
4	February 1	October 10	Emergence of new crop
6	February 1	October 31	Emergence of new crop
7 - Area 1	February 1	November 30	Emergence of new crop
7 - Area 2	February 1	November 30	Emergence of new crop
8 - Area 1	February 1	October 31	Emergence of new crop
8 - Area 2	February 1	November 20	Emergence of new crop
9	April 1	March 1	May 1
10	March 25	February 1	March 25

Figure: 28 TAC §7.622(b)(1)(A)

Rating	Best	Fitch	Kroll	Moody's	S&P
Secure - 1	A++	AAA	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	AA+, AA, AA-	Aa1, Aa2, Aa3	A++, AA, AA-
Secure - 3	A	A+, A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable - 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R

IN

ADDITION

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

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/11/18 - 06/17/18 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/11/18 - 06/17/18 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009³ for the period of 06/01/18 - 06/30/18 is 18% or Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 06/01/18 - 06/30/18 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

³ For variable rate commercial transactions only.

TRD-201802423

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: June 5, 2018



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is July 17, 2018. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the ap-

plicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on July 17, 2018. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: AMERICAN PETROLEUM WELDING, INCORPORATED; DOCKET NUMBER: 2018-0100-PWS-E; IDENTIFIER: RN105368120; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.109(d)(4)(B) (formerly §290.109(c)(4)(B)), by failing to collect, within 24 hours of notification of the routine distribution total coliform-positive sample on July 24, 2014, one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from the groundwater source in use at the time the distribution coliform-positive sample was collected; 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failing to mail a copy of the consumer notification of tap results to the executive director along with certification that the consumer notification has been distributed for the January 1, 2015 - June 30, 2015, monitoring period; and 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$560; ENFORCEMENT COORDINATOR: Soraya Bun, (512) 239-2695; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(2) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2018-0026-PWS-E; IDENTIFIER: RN101198810; LOCATION: Harper, Gillespie County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 0.6 gallon per minute (gpm) per connection; 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the facility and its equipment; 30 TAC §290.41(c)(3)(O), by failing to protect all completed well units by an intruder-resistant fence, the gates of which are provided with locks or shall be enclosed in locked, ventilated well houses to exclude possible contaminants or damage to the facilities by trespassing; 30 TAC §290.45(b)(1)(C)(iii) and THSC, §341.0315(c), by failing to provide two or more pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane; and 30 TAC §290.46(n)(1), by failing to maintain accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank at the public water system until the facility is decommissioned; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Sarah Kim, (512) 239-4728;

REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Billy Peoples; DOCKET NUMBER: 2018-0021-PST-E; IDENTIFIER: RN101534840; LOCATION: Rockwall, Rockwall County; TYPE OF FACILITY: underground storage tank system; RULE VIOLATED: 30 TAC §334.78, by failing to conduct a complete site assessment in response to the permanent removal from service of an underground storage tank system; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Jonathan Nguyen, (512) 239-1661; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Bontke Brothers Construction Company; DOCKET NUMBER: 2018-0583-WQ-E; IDENTIFIER: RN110314788; LOCATION: Tuscola, Taylor County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Chase Davenport, (512) 239-2615; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(5) COMPANY: CEDAR SHELL LLC; DOCKET NUMBER: 2018-0105-PST-E; IDENTIFIER: RN101433902; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tank (UST) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failing to provide release detection for the pressurized piping associated with the UST system; 30 TAC §334.602(a), by failing to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C; and 30 TAC §334.10(b)(2), by failing to assure that all UST record keeping requirements are met; PENALTY: \$4,395; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Chris Pena dba Texas Lonestar Recycling; DOCKET NUMBER: 2017-1748-MSW-E; IDENTIFIER: RN110032232; LOCATION: Abernathy, Hale County; TYPE OF FACILITY: unauthorized used or scrap tires storage; RULES VIOLATED: 30 TAC §328.60(a) and Texas Health and Safety Code, §361.112(a), by failing to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers; and 30 TAC §328.57(c)(3), by failing to ensure that used or scrap tires or tire pieces are transported to an authorized facility; PENALTY: \$11,250; ENFORCEMENT COORDINATOR: Rahim Momin, (512) 239-2544; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(7) COMPANY: City of Commerce; DOCKET NUMBER: 2018-0270-PWS-E; IDENTIFIER: RN101376788; LOCATION: Commerce, Hunt County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition; 30 TAC §290.46(m)(6), by failing to maintain all pumps, motors, valves, and other mechanical devices in good working condition; and 30 TAC §290.44(h)(1)(A), by failing to install a backflow prevention assembly at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TAC §290.47(f); PENALTY: \$937; ENFORCEMENT COORDINATOR: Sarah Kim, (512) 239-4728; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: City of Eustace; DOCKET NUMBER: 2017-1791-MWD-E; IDENTIFIER: RN101919140; LOCATION: Henderson County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014789001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$9,000; Supplemental Environmental Project offset amount of \$7,200; ENFORCEMENT COORDINATOR: Sandra Douglas, (512) 239-2549; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(9) COMPANY: City of Hewitt; DOCKET NUMBER: 2018-0233-WQ-E; IDENTIFIER: RN105495444; LOCATION: Hewitt, McLennan County; TYPE OF FACILITY: municipal separate storm sewer system; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System General Permit Number TXR040090, Part IV, Section B(2), by failing to submit the annual report within 90 days of the end of the reporting period; PENALTY: \$3,750; Supplemental Environmental Project offset amount of \$3,000; ENFORCEMENT COORDINATOR: Caleb Olson, (512) 239-2541; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(10) COMPANY: City of Rocksprings; DOCKET NUMBER: 2018-0226-MWD-E; IDENTIFIER: RN102074796; LOCATION: Rocksprings, Edwards County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.65 and §305.125(2) and TWC, §26.121(a)(1), by failing to maintain authorization to discharge wastewater into, or adjacent to, any water in the state; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Chase Davenport, (512) 239-2615; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(11) COMPANY: David E. Zieske, Jr.; DOCKET NUMBER: 2018-0475-WOC-E; IDENTIFIER: RN105973440; LOCATION: Mission, Hidalgo County; TYPE OF FACILITY: wastewater operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(12) COMPANY: Deyma Davila dba Dey's RV and Mobile Park, LLC; DOCKET NUMBER: 2017-1160-PWS-E; IDENTIFIER: RN106914047; LOCATION: Andrews, Andrews County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the executive director (ED) regarding the failure to submit a Disinfectant Level Quarterly Operating Report to the ED for the third quarter of 2015 through the third quarter of 2016; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to conduct triggered source coliform monitoring for the month of October 2014; and 30 TAC §290.122(b)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to comply with the maximum contaminant level for arsenic for the first quarter of 2017; PENALTY: \$715; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(13) COMPANY: EAST RIO HONDO WATER SUPPLY CORPORATION; DOCKET NUMBER: 2018-0348-MWD-E; IDENTIFIER: RN106879737; LOCATION: Rio Hondo, Cameron County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Dis-

charge Elimination System Permit Number WQ0015162001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(14) COMPANY: HABIB TRADING INCORPORATED dba Super Stop; DOCKET NUMBER: 2017-1717-PST-E; IDENTIFIER: RN102130879; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(15) COMPANY: INEOS NITRILES USA LLC; DOCKET NUMBER: 2017-1788-WDW-E; IDENTIFIER: RN100210038; LOCATION: Port Lavaca, Calhoun County; TYPE OF FACILITY: industrial chemical manufacturing and underground injection well; RULES VIOLATED: 30 TAC §331.64(g) and Waste Disposal Well (WDW) Permit Number WDW-165 Provision VIII(H) Monitoring and Testing and Provision IX(E)(1) and XI(A) Additional Requirements, by failing to conduct quarterly corrosion monitoring of well materials; 30 TAC §305.125 and §331.63(c), 40 Code of Federal Regulations §146.13(a)(1), and WDW Permit Number WDW-165, Permit Provision VII(B) Operating Requirements, XI(A) and XI(E)(1) Additional Requirements, by failing to maintain an operating wellhead injection pressure that does not exceed the permitted maximum; and 30 TAC §331.63(h) and WDW Permit Number WDW-165 Provision Numbers XI(A) and XI(E)(1) Additional Requirements and V(C) Character of the Waste Stream, by failing to maintain chemical or physical characteristics of the injected fluids within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the facility; PENALTY: \$15,802; Supplemental Environmental Project offset amount of \$6,321; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(16) COMPANY: Llano County Municipal Utility District 1; DOCKET NUMBER: 2018-0099-PWS-E; IDENTIFIER: RN101425544; LOCATION: Horseshoe Bay, Llano County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: \$208; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(17) COMPANY: Love's Travel Stops and Country Stores, Incorporated; DOCKET NUMBER: 2017-1713-PWS-E; IDENTIFIER: RN102228939; LOCATION: Conway, Carson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$612; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(18) COMPANY: Mauser USA, LLC; DOCKET NUMBER: 2018-0135-AIR-E; IDENTIFIER: RN100211002; LOCATION:

Houston, Harris County; TYPE OF FACILITY: steel and plastic drum manufacturing facility; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(2), Federal Operating Permit (FOP) Number O3319, General Terms and Conditions (GTC), and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a permit compliance certification no later than 30 days after the end of the certification period; and 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O3319, GTC, and THSC, §382.085(b), by failing to submit a deviation report within 30 days after the end of each reporting period; PENALTY: \$12,187; ENFORCEMENT COORDINATOR: Shelby Orme, (512) 239-1001; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(19) COMPANY: McMahon Contracting, L.P.; DOCKET NUMBER: 2018-0130-AIR-E; IDENTIFIER: RN105829246; LOCATION: Carrollton, Dallas County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to operating a source of air contaminants; PENALTY: \$13,020; Supplemental Environmental Project offset amount of \$5,208; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Miller Environmental Services, LLC; DOCKET NUMBER: 2018-0083-IHW-E; IDENTIFIER: RN107648925; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: environmental service facility; RULES VIOLATED: 30 TAC §327.3(b) and §335.93(a), TWC, §26.039(b), and 40 Code of Federal Regulations (CFR) §263.30(a), by failing to notify the TCEQ as soon as possible but not later than 24 hours after the discovery of an unauthorized discharge of hazardous waste; 30 TAC §327.5(a)(5), §335.93(e), TWC, §26.121(a), and 40 CFR §263.30, by failing to immediately abate and contain the spill or discharge; and 30 TAC §335.10(a) and 40 CFR §262.20(a)(1), by failing to properly complete all manifests for the shipment of hazardous waste; PENALTY: \$4,963; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(21) COMPANY: SUKHANI MANAGEMENT, LLC dba Airport Shell; DOCKET NUMBER: 2017-1305-PST-E; IDENTIFIER: RN102469491; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$6,900; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(22) COMPANY: Talk O Texas Brands, Incorporated; DOCKET NUMBER: 2018-0600-WR-E; IDENTIFIER: RN105417372; LOCATION: San Angelo, Tom Green County; TYPE OF FACILITY: food production facility; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(23) COMPANY: Wilma Turner; DOCKET NUMBER: 2018-0283-MSW-E; IDENTIFIER: RN109472654; LOCATION: Grapeland, Houston County; TYPE OF FACILITY: unauthorized municipal solid waste site; RULES VIOLATED: 30 TAC §330.15(a) and (c) and TWC, §26.121, by failing to not cause, suffer, allow, or permit the unauthorized disposal of municipal solid waste; PENALTY:

\$3,750; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(24) COMPANY: Wonderful Citrus Packing LLC; DOCKET NUMBER: 2018-0311-WQ-E; IDENTIFIER: RN100837939; LOCATION: Mission, Hidalgo County; TYPE OF FACILITY: citrus processing facility; RULES VIOLATED: TWC, §26.121, 30 TAC §281.25(a)(4), and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization to discharge stormwater under a Texas Pollutant Discharge Elimination System General Permit for industrial activities; PENALTY: \$813; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(25) COMPANY: WTG FUELS, INCORPORATED. dba Sunnyside Gascard 150403; DOCKET NUMBER: 2018-0409-PST-E; IDENTIFIER: RN102225935; LOCATION: Dimmitt, Dimmit County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Berenice Munoz, (512) 239-2617; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

TRD-201802409

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: June 5, 2018



Enforcement Orders

An agreed order was adopted regarding City of Floresville, Docket No. 2015-1240-MLM-E on June 6, 2018 assessing \$35,207 in administrative penalties with \$7,041 deferred. Information concerning any aspect of this order may be obtained by contacting Sandra Douglas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Conecus LLC, Docket No. 2015-1321-IHW-E on June 6, 2018 assessing \$9,688 in administrative penalties with \$1,937 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kelli D. Cook, Danny Allen Cook, and Cook & Clader Construction, LLC, Docket No. 2016-0558-WQ-E on June 6, 2018 assessing \$32,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Isaac Ta, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Michael Rodriguez dba Oak Acres Mobile Home Park, Docket No. 2016-0705-PWS-E on June 6, 2018 assessing \$622 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Harkrider, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AZTECA MILLING, L.P., Docket No. 2016-0830-IWD-E on June 6, 2018 assessing \$25,265 in administrative penalties with \$5,053 deferred. Information concern-

ing any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Enterprise Products Operating LLC, Docket No. 2016-1003-AIR-E on June 6, 2018 assessing \$119,750 in administrative penalties with \$23,950 deferred. Information concerning any aspect of this order may be obtained by contacting Joanna Hunsberger, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Waterwood Municipal Utility District No. 1, Docket No. 2016-1099-MWD-E on June 6, 2018 assessing \$21,390 in administrative penalties with \$4,278 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kenneth Dupuis dba Dupuis Chevron, Docket No. 2016-1343-PST-E on June 6, 2018 assessing \$20,349 in administrative penalties with \$19,149 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Gerhardt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding North Alamo Water Supply Corporation, Docket No. 2016-1466-MWD-E on June 6, 2018 assessing \$9,205 in administrative penalties with \$1,841 deferred. Information concerning any aspect of this order may be obtained by contacting Sandra Douglas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of De Kalb, Docket No. 2016-1485-MWD-E on June 6, 2018 assessing \$13,562 in administrative penalties with \$13,562 deferred. Information concerning any aspect of this order may be obtained by contacting Farhaud Abbaszadeh, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Elsa Salazar, Docket No. 2016-1637-MSW-E on June 6, 2018 assessing \$22,500 in administrative penalties with \$21,300 deferred. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ALVIN RETAILS, INC. dba Spin N Market 11, Docket No. 2016-1649-PST-E on June 6, 2018 assessing \$8,788 in administrative penalties with \$1,757 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Gas N Grub 102 LLC dba GNG 102, Docket No. 2016-1714-PST-E on June 6, 2018 assessing \$16,501 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SILVERLAKE CHURCH, Docket No. 2016-1784-PWS-E on June 6, 2018 assessing \$2,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Harkrider, Staff

Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Town & Country Food Stores, Inc., Docket No. 2016-1902-PWS-E on June 6, 2018 assessing \$396 in administrative penalties with \$396 deferred. Information concerning any aspect of this order may be obtained by contacting Sandra Douglas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AIR PRODUCTS LLC, Docket No. 2016-1983-IHW-E on June 6, 2018 assessing \$8,925 in administrative penalties with \$1,785 deferred. Information concerning any aspect of this order may be obtained by contacting Huan Nguyen, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Oiler Country Store, LLC, Docket No. 2016-2131-PST-E on June 6, 2018 assessing \$10,153 in administrative penalties with \$2,030 deferred. Information concerning any aspect of this order may be obtained by contacting Joanna Hunsberger, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Micci Carter, Docket No. 2017-0310-LII-E on June 6, 2018 assessing \$948 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amanda Patel, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cesar Duron dba Texas International Recycling, Docket No. 2017-0738-MLM-E on June 6, 2018 assessing \$50,700 in administrative penalties with \$44,950 deferred. Information concerning any aspect of this order may be obtained by contacting Isaac Ta, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding A C Mobile Inc, Docket No. 2017-0826-PST-E on June 6, 2018 assessing \$10,129 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SAM BROTHERS, INC. dba Greentop 3, Docket No. 2017-1241-PST-E on June 6, 2018 assessing \$7,582 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Michael Rodriguez dba Oak Acres Mobile Home Park, Docket No. 2017-1430-PWS-E on June 6, 2018 assessing \$317 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Harkrider, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201802452

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018



Enforcement Orders

An agreed order was adopted regarding ARC Talent LLC dba Beverage World, Docket No. 2016-1946-PST-E on June 5, 2018 assessing \$2,567 in administrative penalties with \$513 deferred. Information concerning any aspect of this order may be obtained by contacting James Boyle, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ExxonMobil Oil Corporation, Docket No. 2016-1967-AIR-E on June 5, 2018 assessing \$6,525 in administrative penalties with \$1,305 deferred. Information concerning any aspect of this order may be obtained by contacting Shelby Orme, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Chart House Condominium Association, Inc., Docket No. 2017-0321-PWS-E on June 5, 2018 assessing \$345 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Mohammad Geelani dba K & W Corner Store, Docket No. 2017-0479-PST-E on June 5, 2018 assessing \$4,725 in administrative penalties with \$945 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Anahuac and Trinity Bay Conservation District, Docket No. 2017-0786-MWD-E on June 5, 2018 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TPC Group LLC, Docket No. 2017-0911-AIR-E on June 5, 2018 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Stanley Haedge dba Kow Castle Dairy, Docket No. 2017-0925-AGR-E on June 5, 2018 assessing \$4,663 in administrative penalties with \$932 deferred. Information concerning any aspect of this order may be obtained by contacting Austin Henck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Oakmont Georgetown, LLC, Docket No. 2017-0992-EAQ-E on June 5, 2018 assessing \$5,625 in administrative penalties with \$1,125 deferred. Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Lone Star, Docket No. 2017-1022-MWD-E on June 5, 2018 assessing \$1,313 in administrative penalties with \$262 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CEDAR SHELL LLC dba Lancaster Express, Docket No. 2017-1091-PST-E on June 5, 2018 assessing \$6,563 in administrative penalties with \$1,312 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding THB Construction L.L.C., Docket No. 2017-1101-AIR-E on June 5, 2018 assessing \$1,063 in administrative penalties with \$212 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Fresh Water Supply District 1-A, Docket No. 2017-1110-PWS-E on June 5, 2018 assessing \$157 in administrative penalties with \$31 deferred. Information concerning any aspect of this order may be obtained by contacting Ross Luedtke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Charles Machacek dba Machacek's Rockin' M RV & Campground, Docket No. 2017-1141-PWS-E on June 5, 2018 assessing \$350 in administrative penalties with \$70 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SHKH LLC dba I K Food Mart, Docket No. 2017-1158-PST-E on June 5, 2018 assessing \$3,517 in administrative penalties with \$703 deferred. Information concerning any aspect of this order may be obtained by contacting Jonathan Nguyen, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SAM'S \$1.25 CLEANERS, INC. dba Sam's Cleaners, Docket No. 2017-1173-DCL-E on June 5, 2018 assessing \$1,475 in administrative penalties with \$295 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TERRA SOUTHWEST, INC., Docket No. 2017-1210-PWS-E on June 5, 2018 assessing \$1,019 in administrative penalties with \$203 deferred. Information concerning any aspect of this order may be obtained by contacting Jason Fraley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Phillips 66 Pipeline LLC, Docket No. 2017-1218-AIR-E on June 5, 2018 assessing \$3,750 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Austin Henck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PMG Auto Investments of South Dallas, LP dba Atkinson Toyota, Docket No. 2017-1272-AIR-E on June 5, 2018 assessing \$1,968 in administrative penalties with \$393 deferred. Information concerning any aspect of this order may be obtained by contacting Jo Hunsberger, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MAY MAN CORP. dba Nevon Food Mart, Docket No. 2017-1276-PST-E on June 5, 2018 assessing \$7,249 in administrative penalties with \$1,449 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Mineral Wells, Docket No. 2017-1296-PST-E on June 5, 2018 assessing \$2,813 in administrative penalties with \$562 deferred. Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TLG Properties, Ltd. dba TNL Shell Station, Docket No. 2017-1308-PST-E on June 5, 2018 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cartwright Springs, Ltd., Docket No. 2017-1310-PWS-E on June 5, 2018 assessing \$287 in administrative penalties with \$57 deferred. Information concerning any aspect of this order may be obtained by contacting Ross Luedtke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Shreedevi AA Corporation dba Luckys 7 Discount Store, Docket No. 2017-1322-PST-E on June 5, 2018 assessing \$4,500 in administrative penalties with \$900 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding WEST BAY ASSEMBLY OF GOD, Docket No. 2017-1344-PWS-E on June 5, 2018 assessing \$232 in administrative penalties with \$46 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jim Hogg County Water Control and Improvement District No. 2, Docket No. 2017-1375-MWD-E on June 5, 2018 assessing \$2,150 in administrative penalties with \$430 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Tanzil Enterprise Inc dba Carry On 302, Docket No. 2017-1377-PST-E on June 5, 2018 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PJ & MGR LLC dba Big Sandy Food Mart, Docket No. 2017-1379-PST-E on June 5, 2018 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545,

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

An agreed order was adopted regarding Culebra Phillips Mart, Inc. dba Culebra Phillips 6, Docket No. 2017-1381-PST-E on June 5, 2018 assessing \$2,562 in administrative penalties with \$512 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TA & JP Company dba Discount Mart 4, Docket No. 2017-1395-PST-E on June 5, 2018 assessing \$4,500 in administrative penalties with \$900 deferred. Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Joe Deleon, Docket No. 2017-1403-EAQ-E on June 5, 2018 assessing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting Sandra Douglas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SAI JBA INC dba Saturn Fuel Center, Docket No. 2017-1407-PST-E on June 5, 2018 assessing \$6,750 in administrative penalties with \$1,350 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding WEST & WEST EXPRESS INC dba SNS Express, Docket No. 2017-1445-PST-E on June 5, 2018 assessing \$7,000 in administrative penalties with \$1,400 deferred. Information concerning any aspect of this order may be obtained by contacting John Paul Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DEEP ROOTS RECYCLING, INC., Docket No. 2017-1496-WQ-E on June 5, 2018 assessing \$876 in administrative penalties with \$175 deferred. Information concerning any aspect of this order may be obtained by contacting Austin Henck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Desoto, Docket No. 2017-1500-PWS-E on June 5, 2018 assessing \$120 in administrative penalties with \$24 deferred. Information concerning any aspect of this order may be obtained by contacting Sarah Kim, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Realty Income Properties 22, LLC, Docket No. 2017-1505-PWS-E on June 5, 2018 assessing \$216 in administrative penalties with \$43 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NEW PROGRESS WATER SUPPLY CORPORATION, Docket No. 2017-1511-PWS-E on June 5, 2018 assessing \$702 in administrative penalties with \$140 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545,

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

An agreed order was adopted regarding C4 Fuels, LLC, Docket No. 2017-1524-PST-E on June 5, 2018 assessing \$2,601 in administrative penalties with \$520 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CENTRAL BOWIE COUNTY WATER SUPPLY CORPORATION, Docket No. 2017-1544-PWS-E on June 5, 2018 assessing \$143 in administrative penalties with \$28 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PETERSON CONSTRUCTION, INC., Docket No. 2017-1555-WQ-E on June 5, 2018 assessing \$1,188 in administrative penalties with \$237 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding K & K Construction, Inc., Docket No. 2017-1566-AIR-E on June 5, 2018 assessing \$1,063 in administrative penalties with \$212 deferred. Information concerning any aspect of this order may be obtained by contacting Jo Hunsberger, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Matheson Tri-Gas, Inc., Docket No. 2017-1618-AIR-E on June 5, 2018 assessing \$2,500 in administrative penalties with \$500 deferred. Information concerning any aspect of this order may be obtained by contacting Shelby Orme, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Driftwood Diesel, LLC, Docket No. 2017-1638-EAQ-E on June 5, 2018 assessing \$938 in administrative penalties with \$187 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Duval County Conservation and Reclamation District, Docket No. 2017-1680-PWS-E on June 5, 2018 assessing \$205 in administrative penalties with \$41 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 811 Paloma Drive, LLC, Docket No. 2017-1709-EAQ-E on June 5, 2018 assessing \$1,875 in administrative penalties with \$375 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201802453

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018

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Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 151717

APPLICATION. 15 Rivers Ready Mix LLC, 771 East U.S. Highway 80, Suite 201, Forney, Texas 75126-6373 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 151717 to authorize the operation of a concrete batch plant. The facility is proposed to be located at the following driving directions: from the intersection of U.S. 175 and Farm-to-Market Road 148, go northeast on Farm-to-Market Road 148 for approximately 0.2 mile, site entrance will be on the right, Crandall, Kaufman County, Texas 75114. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.629023&lng=-96.443648&zoom=13&type=r>. This application was submitted to the TCEQ on May 2, 2018. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on May 22, 2018.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, TX 78711-3087, or electronically at www.tceq.texas.gov/about/comments.html. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Monday, July 9, 2018, at 6:00 p.m.

Crandall Community Center

500 West Lewis

Crandall, Texas 75114

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Dr, Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from 15 Rivers Ready Mix, LLC, 771 East U.S. Highway 80, Suite 201, Forney, Texas 75126-6373, or by calling Mr. Josh Butler, Project Manager, Elm Creek Environmental LLC at (214) 334-6954.

Notice Issuance Date: May 31, 2018

TRD-201802455

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018

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Notice of Deletion of the James Barr Facility State Superfund Site from the State Superfund Registry

The executive director (ED) of the Texas Commission on Environmental Quality (TCEQ or commission) is issuing this notice of deletion of the James Barr Facility state Superfund site (the site) from the state Superfund registry (registry). The registry lists the contaminated sites which may constitute an imminent and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances into the environment. This notice will also be published in the Pearland Reporter News newspaper on June 20, 2018.

The site, including all land, structures, appurtenances, and other improvements, is approximately two acres and located in the 3300 block of Industrial Drive, Pearland, Brazoria County, Texas. The site also includes any areas where hazardous substances had come to be located as a result, either directly or indirectly, of releases of hazardous substances from the site.

The site was formerly operated as a storage site for hazardous waste. The waste was transported to the site by vacuum trucks and unloaded into various aboveground storage tanks located on the property. In April 1997, during salvage operations at the site, a hazardous spill occurred that caused benzene and 1,2-dichloroethane to be released onto the ground. The TCEQ conducted a removal action at the site in 2001. During the removal action, the TCEQ removed 19 drums containing contaminated soil for off-site disposal and erected a fence to restrict access to the site.

The site was proposed for listing on the registry in the November 8, 2002, issue of the *Texas Register* (27 TexReg 10644). Between 2003 and 2011, remedial investigations were conducted, including ground-water monitoring. In addition, removal actions in 2011 and 2012 included excavation and off-site disposal of soil, sediment, and sludges; the surface impoundments were backfilled and graded.

In August 2013, a remedy was selected for the site consisting of an on-site plume management zone (PMZ) to control and monitor arsenic impacts in the uppermost groundwater bearing zone at the site. In February 2014, TCEQ filed a deed notice, as an institutional control, in the real property records of Brazoria County to establish the PMZ.

The PMZ was monitored on a quarterly basis from February 2014 to August 2016. During this monitoring period, all arsenic detections were below the protective concentration level and a decreasing trend for arsenic was indicated in each of the PMZ monitoring wells. Based on the monitoring data, remedial action objectives for the site have been permanently achieved, and further groundwater monitoring is unnecessary. Therefore, TCEQ will be filing a superseding deed notice to remove the institutional control regarding the PMZ.

Pursuant to 30 TAC §335.344(c), the ED has determined that due to the remedial actions that have been performed, the site no longer presents an imminent and substantial endangerment to public health and safety or the environment. The site is appropriate for commercial/industrial land use according to Texas Risk Reduction Program rules.

In accordance with 30 TAC §335.344(b), the commission held a public meeting to receive comments on the intended deletion of the site on January 25, 2018 at the Public Safety Building, 2nd Floor, 2555 Cullen Parkway, Pearland, Texas 77584. No comments were received at the public meeting. In accordance with Texas Health and Safety Code, §361.188(d), a notice will be filed in the real property records of Brazoria County, Texas stating that the site has been deleted from the registry.

A portion of the record for the site including a transcript of the public meeting, is available for review during regular business hours at the Pearland Library, located at 3522 Liberty Drive, Pearland, Texas 77581. The complete public file may be obtained during regular business hours at the TCEQ's Central File Room, Building E, Room 103, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-2900. Additional files may be obtained by contacting the TCEQ project manager for the site, Sherell Heidt at (713) 767-3708. Fees are charged for photocopying file information. Parking for persons with disabilities is available on the east side of Building D, convenient to access ramps that are between Buildings D and E. Information is also available regarding the site's state Superfund history at <https://www.tceq.texas.gov/remediation/superfund/state/jamesbarr.html>.

For further information concerning the deletion of the site from the registry, please call Crystal Taylor, Community Relations Liaison, at (800) 633-9363.

TRD-201802412

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: June 5, 2018



Notice of Opportunity to Comment on a Shutdown/Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Shutdown/Default Order (S/DO). Texas Water Code (TWC), §26.3475 authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overfill prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown

Order after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill and overfill prevention, and/or after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations, the proposed penalty, the proposed technical requirements necessary to bring the entity back into compliance, and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. In accordance with TWC, §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 17, 2018**. The commission will consider any written comments received and the commission may withdraw or withhold approval of an S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed S/DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed S/DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the S/DO shall be sent to the attorney designated for the S/DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 17, 2018**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorney is available to discuss the S/DO and/or the comment procedure at the listed phone number; however, comments on the S/DO shall be submitted to the commission in **writing**.

(1) COMPANY: M.A.A.A. ENTERPRISES, INC. dba Clinton Food Market; DOCKET NUMBER: 2017-0804-PST-E; TCEQ ID NUMBER: RN100647593; LOCATION: 9919 Clinton Drive, Houston, Harris County; TYPE OF FACILITY: UST system and a convenience store with retail sales of gasoline; RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(b) and 30 TAC §115.244(1) and (3), by failing to conduct daily and monthly inspections of the Stage II vapor recovery system; THSC, §382.085(b) and 30 TAC §115.246(a)(1), (3), and (4), by failing to maintain Stage II records at the station and make them immediately available for review upon request by agency personnel; 30 TAC §§37.815(a), 334.10(b)(1)(B), 334.49(e)(2), 334.51(c)(1), 334.603(b)(1) and (2), and 334.606, by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and TWC, §26.3475(c)(2) and 30 TAC §334.42(i), by failing to remove and properly dispose of any liquid or debris found in any sumps, manways, overspill containers or catchment basins associated with a UST system within 96 hours of discovery; PENALTY: \$24,800; STAFF ATTORNEY: Isaac Ta, Litigation Division, MC 175, (512) 239-0683; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-201802410



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 17, 2018**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 17, 2018**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: AARYA & ARJUN INC dba 24/7 Convenience Store; DOCKET NUMBER: 2017-1037-PST-E; TCEQ ID NUMBER: RN101545515; LOCATION: 8008 South Polk Street, Dallas, Dallas County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: Texas Health and Safety Code, §382.085(b) and 30 TAC §115.246(a)(7), by failing to maintain Stage II decommissioning records at the station; TWC, §26.3475(d) and 30 TAC §334.49(a)(1), by failing to provide corrosion protection for the UST system; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and TWC, §26.3475(b) and 30 TAC §334.50(b)(2), by failing to provide release detection for the suction piping associated with the UST system; PENALTY: \$8,453; STAFF ATTORNEY: Joey Washburn, Litigation Division, MC 175, (512) 239-1297; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Hedwig Francisca Leyendekker; DOCKET NUMBER: 2016-0602-AGR-E; TCEQ ID NUMBER: RN102898350; LOCATION: 2030 County Road 231, Hico, Erath County; TYPE OF FACILITY: concentrated animal feeding operation; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1) and §321.40(d),

and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0003745000, Part VII, Section A.8.(f)(2), by failing to prevent the discharge of agricultural waste into or adjacent to water in the state; and 30 TAC §305.125(1) and §321.44(a) and TPDES Permit Number WQ0003745000, Part VIII, Section B.3., by failing to submit written notification to the TCEQ within 14 working days of a discharge of manure, sludge or wastewater into water in the state; PENALTY: \$3,663; STAFF ATTORNEY: Audrey Liter, Litigation Division, MC 175, (512) 239-0684; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: Leemak LP dba Teravista Q Mart; DOCKET NUMBER: 2016-1464-PST-E; TCEQ ID NUMBER: RN105622799; LOCATION: 4410 Sunrise Road, Round Rock, Williamson County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$7,500; STAFF ATTORNEY: Amanda Patel, Litigation Division, MC 175, (512) 239-3990; REGIONAL OFFICE: Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753, (512) 339-2929.

(4) COMPANY: MCSB INVESTMENT GROUP LLC dba New Summerfield Country Store; DOCKET NUMBER: 2017-1697-PST-E; TCEQ ID NUMBER: RN101433530; LOCATION: 21415 United States Highway 79 East, New Summerfield, Cherokee County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and 30 TAC §334.10(b)(2), by failing to assure all UST recordkeeping requirements are met; PENALTY: \$5,600; STAFF ATTORNEY: Logan Harrell, Litigation Division, MC 175, (512) 239-1439; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(5) COMPANY: Samuel Coronado dba Citrus Trailer Park; DOCKET NUMBER: 2016-0632-PWS-E; TCEQ ID NUMBER: RN102319720; LOCATION: 11348 United States Highway 83 Business near La Feria, Cameron County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §§290.46(f)(4), 290.106(e), 290.107(e), and 290.115(e), by failing to submit routine reports and any additional documentation that the executive director (ED) may require to determine compliance with the requirements of this chapter; 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year and failing to submit to the TCEQ by July 1st of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with the compliance monitoring data; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples; and TWC, §5.702 and 30 TAC §290.51(a)(6), by failing to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account Number 90310017; PENALTY: \$1,176; STAFF ATTORNEY: Audrey Liter, Litigation Division, MC 175, (512) 239-0684; REGIONAL OFFICE: Harlingen Regional

Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(6) COMPANY: STAFFORD CHEVRON, INC. dba Jacks Grocery 16; DOCKET NUMBER: 2017-0113-PST-E; TCEQ ID NUMBER: RN101774057; LOCATION: 2238 South Main Street, Stafford, Fort Bend County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.74(3), by failing to file a release determination report with the commission within 45 days after a suspected release occurred; 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$17,075; STAFF ATTORNEY: Jake Marx, Litigation Division, MC 175, (512) 239-5111; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: TURLINGTON WATER SUPPLY CORPORATION; DOCKET NUMBER: 2017-1299-PWS-E; TCEQ ID NUMBER: RN101241446; LOCATION: near the intersection of United States Highway 84 West and Private Road 443 near Fairfield, Freestone County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the executive director (ED) for the January 1 - June 30, 2017 monitoring period; 30 TAC §290.117(c)(2)(B), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED for the January 1 - December 31, 2016 monitoring period; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples for the January 1 - December 31, 2016 monitoring period; 30 TAC §290.117(c)(2)(C), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2013 - December 31, 2015 monitoring period; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples for the January 1, 2013 - December 31, 2015 monitoring period; and 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year and failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ for years 2013, 2014, and 2015; PENALTY: \$732; STAFF ATTORNEY: Jess Robinson, Litigation Division, MC 175, (512) 239-0455; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(8) COMPANY: UNIVERSAL ENTERPRISES, INC. dba Handi Stop 116; DOCKET NUMBER: 2016-1675-PST-E; TCEQ ID NUMBER: RN102235025; LOCATION: 46135 Interstate Highway 10 West, Winnie, Chambers County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; 30 TAC §334.74, by failing to investigate a suspected release within 30 days of discovery; and 30 TAC §334.55(a)(6), by failing to conduct the

required release determination in conjunction with permanent removal of a UST system from service; PENALTY: \$16,900; STAFF ATTORNEY: Jess Robinson, Litigation Division, MC 175, (512) 239-0455; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-201802411

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: June 5, 2018



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Bhatti's Grocery LLC dba S&A Grocery

SOAH Docket No. 582-18-3839

TCEQ Docket No. 2017-0702-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - June 28, 2018

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed February 5, 2018 concerning assessing administrative penalties against and requiring certain actions of BHATTI'S GROCERY LLC dba S&A GROCERY, for violations in Jefferson County, Texas, of: Tex. Water Code §26.3475(d) and 30 Tex. Admin. Code §§334.7(d)(1)(A) and (d)(3), 334.42(a), 334.49(c)(2)(C) and 334.54(c)(1).

The hearing will allow BHATTI'S GROCERY LLC dba S&A GROCERY, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford BHATTI'S GROCERY LLC dba S&A GROCERY, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of **BHATTI'S GROCERY LLC dba S&A GROCERY to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** BHATTI'S GROCERY LLC dba S&A GROCERY, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and Tex. Water Code chs. 7 and 26 and 30 Tex. Admin. Code chs. 70 and 334; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings,

including 30 Tex. Admin. Code §70.108 and §70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Joseph K. Washburn, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Tex. Admin. Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: May 30, 2018

TRD-201802456

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Perry J. Sheffield DBA Sheffield Recycling

SOAH Docket No. 582-18-3840

TCEQ Docket No. 2017-1205-MSW-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - June 28, 2018

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed December 5, 2017, concerning assessing administrative penalties against and requiring certain actions of Perry J. Sheffield dba Sheffield Recycling, for violations in Hays County, Texas, of: Tex. Health & Safety Code §361.112(a) and 30 Tex. Admin. Code §§328.56(d)(2), 328.60(a), and 328.63(c).

The hearing will allow Perry J. Sheffield dba Sheffield Recycling, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Perry J. Sheffield dba Sheffield Recycling, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Perry J. Sheffield dba Sheffield Recycling to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Perry J. Sheffield dba Sheffield Recycling, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and 30 Tex. Admin. Code chs. 70 and 328; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §70.108 and §70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Isaac Ta, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Tex. Admin. Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: May 30, 2018

TRD-201802457

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Winter Garden Park Corporation

SOAH Docket No. 582-18-3841

TCEQ Docket No. 2017-0561-MWD-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - June 28, 2018

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed October 24, 2017, concerning assessing administrative penalties against and requiring certain actions of Winter Garden Park Corporation, for violations in Cameron County, Texas, of: 30 Tex. Admin. Code §§30.350(d), 305.125(1) and (5), and 317.7(g), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011628001, Operational Requirements Nos. 1 and 9 and Other Requirements No. 1.

The hearing will allow Winter Garden Park Corporation, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Winter Garden Park Corporation, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Winter Garden Park Corporation to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Winter Garden Park Corporation, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code chs. 7 and 26, and 30 Tex. Admin. Code chs. 30, 70, 305, 317, and 350; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §70.108 and §70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Isaac Ta, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following

address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Tex. Admin. Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: May 30, 2018

TRD-201802458

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018



Notice of Water Rights Application

Notice issued June 06, 2018

APPLICATION NO. 02-5123A; City of Wichita Falls and Wichita County Water Improvement District 2, 1300 7th Street, Wichita Falls, TX 76307, Applicants, seek an amendment to Certificate of Adjudication No. 02-5123 to add municipal and industrial use to the 16,660 acre-feet of water per year that can be directly diverted from the Wichita River for agricultural purposes and to add a diversion reach between two authorized diversion points for municipal and industrial purposes on the Wichita River in Wichita County. More information on the application and how to participate in the permitting process is given below. The application and fees were received on March 25, 2015. Additional information and fees were received on August 12, 2015. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 22, 2015.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, maintaining a water flow measuring device at the downstream boundary of the diversion reach. The application, technical memoranda, and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, TX 78753.

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 by June 22, 2018. To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a con-

tested 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; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ 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 permit and may forward the application and hearing request to the TCEQ 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, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201802465

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018



Notice of Water Rights Application

Notice issued June 07, 2018

APPLICATION NO. 13190; Walter Development Corporation, 1100 Louisiana Street, Suite 200, Houston, Texas, 77002, Applicant, requests authorization to maintain an existing dam and reservoir on Shores Creek, Red River Basin, in Cottle and Childress Counties, impounding 1,329 acre-feet of water for domestic, livestock, and wildlife purposes with no right of diversion. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on April 30, 2015. Additional information was received on March 1, 3, and 10, 2016. The application was declared administratively complete and filed with the Office of the Chief Clerk on April 1, 2016.

The Executive Director has completed the technical review of the application and prepared a draft water use permit. The draft permit, if granted, would include special conditions, including, but not limited to, conditions to protect other water rights. The application, technical memoranda, and Executive Director's draft water use permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F., Austin, Texas 78753.

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. To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results. A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. 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; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ 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 permit and may forward the application and hearing request to the TCEQ 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, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201802471

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 6, 2018



Notice of Water Rights Application

Notice issued June 07, 2018

APPLICATION NO. 12-2822A; Artesian Ranch, LLC (Owner/Applicant), 4519 11th Street, Lubbock, Texas 79416, Applicant/Owner, seeks to sever its 29 acre-feet of water per year authorized by Certificate of Adjudication No. 12-2821 and combine those rights with the 106 acre-feet of water authorized by Certificate No. 12-2822 for a total of 135 acre-feet of water, designating said combination as Certificate of Adjudication No.12-2822A. The Applicant further seeks to amend Certificate No. 12-2822 to add a 5.37-acre-foot reservoir on the Leon River, authorize the use of the bed and banks of the reservoir to convey groundwater, to add a place of use in Comanche County and to change the diversion points to a diversion reach on the Leon River, Brazos River Basin. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on September 18, 2013. Additional information and fees were received on July 16 and 19, 2014, October 31, 2014, and March 26, 2015. The application was declared administratively complete and filed with the Office of the Chief Clerk on August 22, 2014.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions, including, but not limited to, maintenance of an alternate source of water and metering requirements. The application, executive order, technical memoranda, and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F., Austin, TX 78753.

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. To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results. A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. 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; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ 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 permit and may forward the application and hearing request to the TCEQ 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, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201802472
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: June 6, 2018



Notice of Water Rights Application

Notice issued June 08, 2018

APPLICATION NO. 13369; Intergulf Corporation, 12003 Strang Road, La Porte TX, 77571-9734, Applicant, has applied for a water use permit to divert and use not to exceed 2.45 acre-feet of water per year from a point on San Jacinto Bay, San Jacinto River Basin for industrial purposes in Harris County. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on April 7, 2017. Additional information and fees were received on May 30, June 8, June 12 and November 13, 2017. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on November 27, 2017.

The Executive Director has completed the technical review of the application and prepared a draft Water Use Permit. The draft Water Use Permit, if granted, would contain special conditions including, but not limited to, maintaining a measuring device at the diversion point. The application, technical memoranda, and Executive Director's draft Wa-

ter Use Permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, TX 78753.

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. To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results. A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. 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; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ 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 permit and may forward the application and hearing request to the TCEQ 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, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201802473
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: June 6, 2018



Request for Nominations for Appointment to Serve on the Irrigator Advisory Council

The Texas Commission on Environmental Quality (TCEQ) is requesting nominations for 3 individuals to serve on the Irrigator Advisory Council (council). Two of the individuals must be irrigators licensed to work in Texas, and one individual must represent the public. To be eligible to be a "public member", the person or person's spouse may not be licensed by an occupational regulatory agency in the field of irrigation. The person or the person's spouse may not be employed by, participate in the management of, or have, other than as a consumer, a financial interest in a business entity or other organization related to the field of irrigation. Council members will be asked to serve a six-year term beginning in 2019.

The Texas Occupations Code, Chapter 1903, Subchapter D (see also 30 TAC §344.80) provides the structure of the nine-member council appointed by the TCEQ. The council is comprised of nine members

appointed by the TCEQ: six licensed irrigators, who are residents of Texas, experienced in the irrigation business, and familiar with irrigation methods and techniques; and three public members.

The council provides advice to the TCEQ and TCEQ Staff concerning matters relating to irrigation. It is grounds for removal from the council when a council member misses three consecutive, regularly, scheduled meetings or more than half of all the regularly scheduled meetings in a one-year period. The council members generally meet for one day in Austin in February, May, August, and November of each year. Council members are not paid for their services, but are eligible for reimbursement of travel expenses at state rates as appropriated by the legislature.

To nominate an individual: 1) ensure that the individual is qualified for the position for which he/she is being considered; 2) submit a brief resume which includes relevant work experience; and 3) provide the nominee a copy of the nomination. The nominee must submit a letter indicating his/her agreement to serve, if appointed. A person may nominate themselves by: 1) ensuring that he/she is qualified for the position; 2) submitting a brief resume which includes relevant work experience; and 3) submitting a letter indicating his/her agreement to serve, if appointed.

Written nominations and letters from nominees must be received by 5:00 p.m. on July 31, 2018. The appointments will be considered by the TCEQ at a future agenda. Please mail all correspondence to James Hemple, Texas Commission on Environmental Quality, Program Support Section, MC-235, P.O. Box 13087, Austin, Texas 78711-3087 or fax to (512) 239-2249. Questions regarding the council may be directed to James Hemple at (512) 239-1935 or e-mail: james.hemple@tceq.texas.gov. Additional information regarding the council is available on the website: https://www.tceq.texas.gov/drinkingwater/irrigation/irr_advisory.html.

TRD-201802428

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: June 5, 2018

Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Julia Shinn at (512) 463-5797.

Deadline: 30 Day Pre-Election Report due February 5, 2018, for Candidates and Officeholders

Candace A. Aylor, P.O. Box 1371, Austin, Texas 78767

TRD-201802386

Seana Willing

Executive Director

Texas Ethics Commission

Filed: May 31, 2018

Texas Facilities Commission

Request for Proposals #303-9-20635

The Texas Facilities Commission (TFC), on behalf of the Department of Family and Protective Services (DFPS) and the Health and Human Services Commission (HHSC), announces the issuance of Request for

Proposals (RFP) #303-9-20635. TFC seeks a five (5) or ten (10) year lease of approximately 9,862 square feet of office space in Taylor, Williamson County, Texas.

The deadline for questions is June 25, 2018, and the deadline for proposals is July 2, 2018, at 3:00 p.m. The award date is August 16, 2018. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at <http://www.txsmartbuy.com/sp/303-9-20635>.

TRD-201802444

Naomi Gonzalez

Acting General Counsel

Texas Facilities Commission

Filed: June 6, 2018

General Land Office

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

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of April 23, 2018, to April 27, 2018. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, June 8, 2018. The public comment period for this project will close at 5:00 p.m. on Tuesday, July 9, 2018.

FEDERAL AGENCY ACTIONS:

Applicant: Manley Builders

Location: Dune swale wetlands adjacent to the Gulf of Mexico

Latitude & Longitude (NAD 83): 29.441431 -94.653107

Project Description: The applicant seeks an after-the-fact permit to retain impacts to waters of the United States associated with the development of a lot and a driveway. There was a permanent discharge of dredged or fill material into 0.03 acre of dune swale wetland.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2016-00191. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

CMP Project No: 18-1225-F1

Applicant: Matagorda Offshore, LLC

Location: Keller Bay, Texas, Port Lavaca East, Texas, and Port O'Connor, Texas

Latitude & Longitude (NAD 83): Start Point: 28.456713 -96.381399; End Point: 28.564836 -96.547957

Project Description: The applicant proposes to decommission-in-place a 20-inch natural gas pipeline located in water depths between approximately -3 feet to -16 feet. Approximately 350 feet of pipeline have been removed from the Gulf Intracoastal Waterway. In accordance with the Bureau of Safety and Environmental Enforcement (BSEE) 30 CFR 250.1750 pipeline decommissioning requirements, the applicant has: 1) disconnected from previously serviced production platform; 2) flushed by pigging and filled with seawater to equalize the line pressure; 3) removed a 50-foot section of riser pipe turn at the platform and plugged the remaining end; and 4) confirmed depth of cover at the pipeline ends and cover endpoints with 3 feet of protective sand/cement bags. Jetting was used to expose pipeline riser endpoints and allow pipe "cold cuts."

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2016-00902. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

CMP Project No: 18-1213-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from Ms. Allison Buchtien, P.O. Box 12873, Austin, Texas 78711-2873, or via email at federal.consistency@glo.texas.gov. Comments should be sent to Ms. Buchtien at the above address or by email.

TRD-201802459

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: June 6, 2018



Notice of Derelict Vessel

OFFICIAL NOTICE TO VESSEL OWNER/OPERATOR

(Pursuant to §40.254, Tex Nat. Res. Code)

This preliminary report and notice of violation was issued by Jimmy A. Martinez, Deputy Director, Oil Spill Prevention and Response Division (OSPR), Texas General Land Office, on April 27, 2018.

PRELIMINARY REPORT

Based on an investigation conducted by Texas General Land Office-Region 2 staff on April 27, 2018, the Commissioner of the General Land Office (GLO), has determined that an approximately 50' Steel hull Shrimp Boat vessel identified as **GLO Vessel Tracking Number 2-1727** is in a wrecked, derelict and substantially dismantled condition without the consent of the commissioner. The vessel is located in Dickinson Bay.

The GLO determined that pursuant to OSPRA §40.254(b)(2)(B), that the vessel has intrinsic value. Finally, the GLO determined that, because of the vessel's location and condition, It is a NAVIGATION HAZARD and THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE.

Violation

YOU ARE HEREBY GIVEN NOTICE, pursuant to the provisions of §40.254 of the Texas Natural Resources Code, (OSPRA) that you are in violation of OSPRA §40.108(a) that prohibits a person from leaving, abandoning, or maintaining any structure or vessel in or on coastal waters, on public or private lands, or at a public or private port or dock

if the structure or vessel is in a wrecked, derelict, or substantially dismantled condition, and the Commissioner determines the vessel is involved in an actual or unauthorized discharge of oil, a threat to the public health, safety, and welfare, or a hazard to the environment or navigation. The Commissioner is authorized by OSPRA §40.108(b) to dispose of or contract for the disposal of any vessel described in §40.108(a).

Recommendation

The Commissioner recommends that the vessel be removed from Texas coastal waters and disposed of in accordance with OSPRA §40.108.

The owner or operator of this vessel can request a hearing to contest the violation and the removal and disposal of the vessel. If the owner or operator wants to request a hearing, a request in writing must be made within twenty (20) days of this notice being posted on the vessel. The request for a hearing must be sent to: Texas General Land Office, Oil Spill Prevention and Response Division, P.O. Box 12873, Austin, Texas 78711. Failure to request a hearing may result in the removal and disposal of the vessel by the TGLO. If the TGLO removes and disposes of the vessel, the TGLO has authority under TNRC §40.108(b) to recover the costs of removal and disposal from the vessel's owner or operator. For additional information contact Michelle Castilleja at (512) 463-2613.

TRD-201802417

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: June 5, 2018



Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Payment Rate for Truman W. Smith Children's Care Center

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on July 2, 2018, at 9:00 a.m., to receive public comment on the proposed Medicaid payment rate for the Truman W. Smith Children's Care Center, a nursing facility in the pediatric care facility special reimbursement class of the Nursing Facility Program.

The public hearing will be held in the Public Hearing Room of the Brown-Healy Building located at 4900 N. Lamar Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Lamar Boulevard. Free parking is available in front of the building and in the adjacent parking garage. The hearing will be held in compliance with Texas Human Resources Code §32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Proposal. HHSC proposes to increase the payment rate for the pediatric care facility special reimbursement class, of which the Truman W. Smith Children's Care Center is the sole provider, from \$270.17 a day to \$291.17 a day. The proposed rate will be retroactively effective January 1, 2018.

Methodology and Justification. The proposed payment rate was calculated in accordance with Title 1 of the Texas Administrative Code §355.307, which addresses the reimbursement setting methodology for nursing facilities.

Briefing Package. A briefing package describing the proposed payment rate will be available at <https://rad.hhs.texas.gov/rate-packets> on or after June 8, 2018. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting the HHSC Rate Analysis Department by telephone at (512) 730-7401; by fax at (512)

730-7475; or by e-mail at RAD-LTSS@hhsc.state.tx.us. In addition, the briefing package will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rate may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Health and Human Services Commission, Rate Analysis Department, H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Rate Analysis at (512)730-7475; or by e-mail to RAD-LTSS@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to the Health and Human Services Commission, Rate Analysis Department, H-400, Brown-Heatly Building, 4900 North Lamar Boulevard, Austin, Texas 78751.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 730-7401 at least 72 hours prior to the hearing so appropriate arrangements can be made.

TRD-201802429

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: June 5, 2018



Department of State Health Services

Designation of a Practice Serving a Medically Underserved Population

The Texas Department of State Health Services (department) is required under Texas Occupations Code §157.051 to designate practices

-serving a medically underserved population. In addition, the department is required to publish notice of such designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has proposed designating the following as a practice serving a medically underserved population: Liberty Hill Pediatrics, 101 Jonathan Avenue, Liberty Hill, Texas 78642. The designation is based on eligibility as a site serving a disproportionate number of clients eligible for federal, state or locally funded health care programs.

Oral and written comments on this designation may be directed to Matthew Turner, PhD, MPH, Program Director, Health Professions Resource Center - Mail Code 1898, Center for Health Statistics, Texas Department of State Health Services, P.O. Box 149347, Austin, Texas 78714-9347; telephone (512) 776-6541. Comments will be accepted for 30 days from the publication date of this notice.

TRD-201802405

Barbara L. Klein

General Counsel

Department of State Health Services

Filed: June 4, 2018



Licensing Actions for Radioactive Materials

During the first half of May, 2018, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Radiation Safety Licensing Branch has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.state.tx.us.

NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Queen City	Graphic Packaging International L.L.C.	L06934	Queen City	00	05/07/18
New Caney	Barry G. Willens M.D., P.A.	L06935	New Caney	00	05/14/18

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Abilene	Desert NDT L.L.C. dba Shawcor	L06462	Abilene	40	05/15/18
Arlington	Texas Health Arlington Memorial Hospital	L02217	Arlington	115	05/09/18
Arlington	Health Imaging Partners L.L.C. dba Envision Imaging	L06634	Arlington	06	05/15/18
Austin	Seton family of Hospitals	L00268	Austin	167	05/07/18
Austin	Techcomp USA Inc. dba Scion Instruments	L06800	Austin	01	05/14/18
Borger	Agrium US Inc.	L02772	Borger	22	05/10/18
Cleveland	Emergency Hospital Systems L.L.C.	L06886	Cleveland	01	05/10/18
Dallas	University of Texas Southwestern Medical Center at Dallas	L05947	Dallas	38	05/04/18
El Paso	El Paso Healthcare System Ltd. dba Las Palmas Medical Center	L02715	El Paso	95	05/07/18
Fort Worth	Tarrant County Hospital District dba JPS Health Network	L02208	Fort Worth	88	05/14/18
Fort Worth	Texas Oncology P.A.	L05545	Fort Worth	61	05/14/18
Houston	The Methodist Hospital dba Houston Methodist	L00457	Houston	203	05/07/18

AMENDMENTS TO EXISTING LICENSES ISSUED (continued):

Houston	The University of Texas M.D. Anderson Cancer Center	L06227	Houston	40	05/14/18
Houston	The University of Texas M.D. Anderson Cancer Center	L06366	Houston	17	05/07/18
Houston	Republic Industrial and Energy Solutions L.L.C.	L06870	Houston	02	05/09/18
McKinney	Professional Technical Solutions L.L.C.	L06911	McKinney	02	05/15/18
Midlothian	Holcim (Texas) L.P.	L05888	Midlothian	13	05/15/18
Mission	Mission Hospital Inc. dba Mission Regional Medical Center	L06192	Mission	04	05/07/18
Mount Pleasant	Titus County Memorial Hospital dba Titus Regional Medical Center	L02921	Mount Pleasant	52	05/08/18
Orange	E I Du Pont De Nemours & Co.	L00005	Orange	82	05/15/18
Pasadena	Equistar Chemicals L.P.	L01854	Pasadena	49	05/11/18
Pasadena	Bayport Polymers L.L.C. dba Bay-Pol L.L.C.	L06922	Pasadena	01	05/10/18
Plano	Physicians Medical Center L.L.C. dba Texas Health Center for Diagnostics and Surgery Plano	L06328	Plano	01	05/15/18
San Antonio	Methodist Healthcare System of San Antonio Ltd., L.L.P.	L00594	San Antonio	370	05/09/18
San Antonio	M M Ontiveros M.D., P.A.	L05675	San Antonio	18	05/08/18
San Antonio	BHS Physicians Network Inc. dba Heart & Vascular Institute of Texas	L06750	San Antonio	08	05/14/18
Sugar Land	Best Friends Veterinary Services Inc. dba Sugar Land Veterinary Specialists	L06613	Sugar Land	01	05/14/18
Throughout TX	The University of Texas at Austin	L00485	Austin	92	05/04/18
Throughout TX	Central Texas Medical Specialists P.L.L.C. dba Austin Cancer Centers	L06618	Austin	16	05/08/18
Throughout TX	Texas A&M University	L05683	College Station	36	05/10/18
Throughout TX	Spur Industrial L.L.C. dba Spur Environmental Services	L06888	Cresson	01	05/09/18
Throughout TX	Alpha Testing Inc.	L03411	Dallas	32	05/04/18
Throughout TX	United States Environmental Services L.L.C.	L05801	Deer Park	14	05/14/18
Throughout TX	Lockheed Martin Corporation dba Lockheed Martin Aeronautics Company	L05633	Fort Worth	17	05/15/18
Throughout TX	Gammatron Inc.	L02148	Friendswood	27	05/04/18
Throughout TX	DMS Health Technologies, Inc.	L05594	Garland	29	05/10/18
Throughout TX	Memorial Hermann Health System dba Memorial Hermann Memorial City Medical Center	L01168	Houston	174	05/10/18
Throughout TX	Geoscience Engineering & Testing Inc.	L05180	Houston	18	05/03/18
Throughout TX	Allied Wireline Services L.L.C.	L06374	Houston	16	05/09/18
Throughout TX	Stronghold Inspection Ltd.	L06918	La Porte	02	05/04/18
Throughout TX	Oil Mop L.L.C. dba Omi Environmental Solutions	L06528	Pasadena	03	05/07/18
Throughout TX	BRL NDT Consultants Inc.	L06860	San Antonio	01	05/09/18
Throughout TX	BJ Services L.L.C.	L06859	Tomball	02	05/07/18

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Alvin	Equistar Chemicals L.P.	L03363	Alvin	29	05/07/18
Amarillo	Texas Oncology P.A.	L06149	Amarillo	08	05/02/18
Houston	Protechnics Environmental Division of Core Laboratories	L04477	Houston	23	05/10/18

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
El Paso	Cemex Construction Materials South L.L.C.	L06626	El Paso	02	05/10/18
Austin	The Austin Diagnostic Clinic Association	L05646	Austin	18	05/04/18

TRD-201802447
 Barbara L. Klein
 General Counsel
 Department of State Health Services
 Filed: June 6, 2018

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Texas Department of Housing and Community Affairs

Notice of Public Hearings, Input Requested for the State of Texas Draft Analysis of Impediments to Fair Housing Choice

The Texas Department of Housing and Community Affairs, General Land Office, Department of State Health Services, and the Texas Department of Agriculture are requesting public input for the development of the state's draft Analysis of Impediments ("AI") to Fair Housing Choice.

Public consultation will take place during June and July 2018 with 40 meetings held throughout the state, along with four conference calls, to gather input on the needs and goals of Texans for future use of federal program funds. Details regarding the development of the draft AI are available at: <https://www.tdhca.state.tx.us/fair-housing/analysis-impediments.htm>.

After extensive input is obtained, staff will then compile those results of input with objective data analysis and research efforts to present a draft AI to the Department's Governing Board for consideration in fall/winter 2018. The draft AI will then be published and released for a formal statewide public comment period to follow. Public comment will be considered and then a final AI will be presented to the Department's Governing Board for consideration and approval. That final State AI is due on May 7, 2019.

Public hearings for the Analysis of Impediments to Fair Housing Choice will be held as follows:

Thursday, June 14, 2018, at 1:00 p.m. at the Gulf Coast Community Services Association, 9320 Kirby Drive, Houston, Texas 77054

Friday, June 22, 2018, at 10:00 a.m. at the Texas Capitol, Capitol Extension Room E2.026, Austin, Texas 78701

Thursday, July 12, 2018, at 5:30 p.m. at the Greater East Texas Community Action Program, Head Start Skills Center, 1902 Old Tyler Road, Nacogdoches, Texas 75963

Friday, July 27, 2018, at 11:00 a.m. at Nueces County Community Action Agency, 101 South Padre Island Drive, Corpus Christi, Texas 78405

At the hearing the public may provide input regarding fair housing issues, particularly issues affecting protected classes under the Fair Housing Act: race, color, religion, national origin, sex, disability, and familial status; and the ability of those persons to exercise housing choice. Persons may provide public comment to be considered for the draft Analysis of Impediments either through oral testimony or written testimony. A representative from TDHCA will be present at the

hearing to explain the planning process and receive comments from interested persons.

Those unable to attend a meeting are welcome to submit written input to Nathan Darus, c/o TDHCA, P.O. Box 13941, Austin, Texas 78711-3941 or Nathan.Darus@tdhca.state.tx.us. Written input received by 5:00 p.m. Austin local time on Friday, August 10, 2018, will be considered as consultation for the draft Analysis of Impediments to Fair Housing Choice.

For more information about the draft AI to Fair Housing Choice, please contact TDHCA Fair Housing Research Specialist Nathan Darus at (512) 475-0306 or at nathan.darus@tdhca.state.tx.us.

To view all of the AI events, please visit TDHCA's online calendar at: <http://www.tdhca.state.tx.us/events/index.jsp?eventTypeID=all&showNum=20> and select "Fair Housing Listings" in the "Future" drop-down menu.

Individuals who require auxiliary aids, services, or sign language interpreters for this meeting should contact Nathan Darus at (512) 475-0306 or Relay Texas at (800) 735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for meetings should contact Nathan Darus at (512) 475-0306 at least five days before a specific meeting so that appropriate arrangements can be made.

Las personas que no hablan inglés y que necesitan intérpretes para las reuniones deben comunicarse con Nathan Darus al (512) 475-0306 al menos cinco días antes de una reunión específica para que se puedan hacer los arreglos necesarios.

Những cá nhân cần sự giúp đỡ, dịch vụ phụ trợ hoặc thông dịch viên ngôn ngữ ký hiệu cho cuộc họp này cần liên hệ với Nathan Darus theo số (512) 475-0306 hoặc Đường Dây Tiếp Âm Texas theo số (800) 735-2989, ít nhất ba (3) ngày trước khi cuộc họp diễn ra để các sắp xếp hợp lý có thể được thực hiện.

Những cá nhân không nói Tiếng Anh cần thông dịch viên cho các cuộc họp cần liên hệ với Nathan Darus theo số (512) 475-0306 ít nhất năm ngày trước khi cuộc họp cụ thể diễn ra để các sắp xếp hợp lý có thể được thực hiện.

TRD-201802466
 Timothy K. Irvine
 Executive Director
 Texas Department of Housing and Community Affairs
 Filed: June 6, 2018

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Texas Department of Insurance

Company Licensing

Application for MEMORIAL HERMANN HEALTH PLAN, INC., a domestic Health Maintenance Organization, DBA (doing business as) MEMORIAL HERMANN ADVANTAGE HMO. The home office is in Houston, Texas.

Application for MEMORIAL HERMANN COMMERCIAL HEALTH PLAN, INC., a domestic Health Maintenance Organization, DBA (doing business as) MEMORIAL HERMANN FREEDOM HMO. The home office is in Houston, Texas.

Application to do business in the state of Texas by MG INSURANCE COMPANY, a foreign life, accident and/or health company. The home office is in San Diego, California.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Jeff Hunt, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-201802470

Norma Garcia

General Counsel

Texas Department of Insurance

Filed: June 6, 2018

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Texas Department of Insurance, Division of Workers' Compensation

Public Hearing Notice

Public Hearing: 28 Texas Administrative Code (TAC) Chapter 127 - Designated Doctor Procedures and Requirements.

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) will hold a public hearing on Monday, June 18, 2018, in the Tippy Foster Room at the TDI-DWC Central Office, 7551 Metro Center Drive, Suite 100 in Austin, Texas. Streaming audio of the public hearing will be available at <http://tdimss.tdi.texas.gov/tdi/tdi.asx>.

The meeting will begin at 10:00 a.m. and TDI-DWC will receive comments on the following rules:

Amended 28 TAC §127.1. Requesting Designated Doctor Examinations.

Amended 28 TAC §127.5. Scheduling Designated Doctor Appointments.

Amended 28 TAC §127.10. General Procedures for Designated Doctor Examinations.

Amended 28 TAC §127.100. Designated Doctor Certification.

Amended 28 TAC §127.110. Designated Doctor Recertification.

Amended 28 TAC §127.130. Qualifications Standards for Designated Doctor Examinations.

Amended 28 TAC §127.140. Disqualifying Associations.

Amended 28 TAC §127.220. Designated Doctor Reports.

The rule proposal was published in the May 18, 2018, issue of the *Texas Register*. The comment period closes on June 18, 2018, at 5:00 p.m. CST.

TDI-DWC offers reasonable accommodations for persons attending meetings, hearings, or educational events, as required by the Americans with Disabilities Act. If you require special accommodations, contact Maria Jimenez at (512) 804-4703.

TRD-201802468

Nicholas Canaday III

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: June 6, 2018

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Texas Lottery Commission

Scratch Ticket Game Number 2056 "\$200 Million Cash Explosion®"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2056 is "\$200 MILLION CASH EXPLOSION®". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2056 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2056.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, MONEYBAG SYMBOL, 20X SYMBOL, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$200, \$500, \$1,000, \$5,000, \$50,000 and \$1,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2056 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX

37	TRSV
38	TRET
39	TRNI
40	FRTY
MONEYBAG SYMBOL	WIN
20X SYMBOL	WINX20
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$5,000	FVTH
\$50,000	50TH
\$1,000,000	TPPZ

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2056), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2056-000001-001.

H. Pack - A Pack of "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Games contains 050 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the books will be in an A, B, C and D configuration.

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

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game No. 2056.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 57 (fifty-seven) Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "MONEYBAG" Play Symbol, the player wins the prize for that symbol instantly! If the player reveals a 20X Play Symbol, the player wins 20 TIMES the prize for that symbol.

No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 57 (fifty-seven) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly 57 (fifty-seven) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 57 (fifty-seven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 57 (fifty-seven) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. No matching WINNING NUMBERS Play Symbols on a Ticket.

D. The "20X" (WINX20) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

E. The "MONEYBAG" (WIN) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 10 and \$10).

G. A non-winning Prize Symbol will never match a winning Prize Symbol.

H. A Ticket may have up to five (5) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

I. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game prize of \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game prize of \$1,000, \$5,000, \$50,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

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

- a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
- b. in default on a loan made under Chapter 52, Education Code; or
- c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

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

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

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$200 MILLION CASH EXPLOSION®" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

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

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

3.0 Scratch Ticket Ownership.

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

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 28,080,000 Scratch Tickets in the Scratch Ticket Game No. 2056. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2056 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10	3,088,800	9.09
\$15	1,404,000	20.00
\$20	982,800	28.57
\$30	561,600	50.00
\$50	561,600	50.00
\$100	424,008	66.23
\$200	140,400	200.00
\$500	10,062	2,790.70
\$1,000	1,638	17,142.86
\$5,000	15	1,872,000.00
\$50,000	10	2,808,000.00
\$1,000,000	8	3,510,000.00

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

**The overall odds of winning a prize are 1 in 3.91. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

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

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2056 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the Scratch Ticket Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2056, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201802418
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: June 5, 2018

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Public Utility Commission of Texas

Announcement of Application to Amend a State-Issued Certificate of Franchise Authority

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 31, 2018, to amend a state-issued certificate of franchise authority.

Project Title and Number: Application of WesTex Telco LLC to Amend a State-Issued Certificate of Franchise Authority, Project Number 48417.

The applicant seeks to amend its state-issued certificate of franchise authority number 90103 to expand its service area footprint to include all areas within the unincorporated areas of Coke and Taylor counties, excluding any federal properties, and the boundaries of the municipalities, including any future annexations, of Bronte, Merkel and Robert Lee. The applicant seeks to change the name on its SICFA to its assumed name WesTex Communications.

Information on the application may be obtained by contacting the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477. Hearing and

speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Project Number 48417.

TRD-201802416
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Application for a System Average Interruption Duration Index Adjustment

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on June 1, 2018, under the Public Utility Regulatory Act, Tex. Util. Code Ann. §14.001 and §38.005.

Docket Style and Number: Application of Centerpoint Energy Houston Electric, LLC to Adjust its System Average Interruption Duration Index, Docket Number 48426.

The Application: On June 1, 2018, Centerpoint Energy Houston Electric, LLC filed an application for approval to adjust its system average interruption duration index (SAIDI). Centerpoint seeks to adjust their SAIDI from 107.49882 to 125.71513 due to the installation of a new advanced distribution management system as well as the adoption of new safety rules that have resulted in longer outage duration times.

Persons wishing to intervene or comment on the action sought should contact the Commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48426.

TRD-201802437
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Application for Approval of a Service Area Contract

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) for approval of a service area contract designating areas to be served.

Docket Style and Number: Application of the City of Justin and Aqua Texas, Inc. for Approval of Service Area Contract Under Texas Water Code §13.248 and to Amend Certificates of Convenience and Necessity in Denton County, Docket Number 48396.

The Application: City of Justin and Aqua Texas, Inc. filed an application under Texas Water Code §13.248 for approval of a service area contract and to amend their water certificates of convenience and necessity (CCN) in Denton County. Justin holds water CCN No. 10167 and Aqua holds water CCN No. 13201. Applicants have agreed to alter the boundaries of their respective CCNs and transfer an affected area comprising 61.8 acres and 0 current customers. There are no transfer of assets and facilities between the applicants.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as

an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48396.

TRD-201802407
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 4, 2018



Notice of Application for Approval of the Provision of Non-Emergency 311 Service

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) for approval to provide non-emergency 311 services.

Docket Style and Number: Application of Southwestern Bell Telephone Company dba AT&T Texas for Approval to Provide Non-Emergency 311 Service for the City of McAllen, Docket Number 48398.

The Application: On May 29, 2018, Southwestern Bell Telephone Company dba AT&T Texas filed an application with the commission under 16 Texas Administrative Code §26.127, for approval to provide non-emergency 311 service for the City of McAllen.

NE311 service is available to local governmental entities to provide to their residents an easy-to-remember number to call for access to non-emergency services. By implementing 311 service, communities can improve 911 response times for those callers with true emergencies. Each local government entity that elects to implement 311 service will determine the types of non-emergency calls their 311 call center will handle.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is July 15, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48398.

TRD-201802403
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 4, 2018



Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 24, 2018, in accordance with the Texas Water Code.

Docket Style and Number: Application of Chuck Bell dba Chuck Bell Water Systems, LLC and Undine Texas, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Johnson and Tarrant Counties, Docket Number 48388.

The Application: Chuck Bell dba Chuck Bell Water Systems, LLC and Undine Texas, LLC, filed an application for the sale, transfer, or merger of facilities and certificate rights in Johnson and Tarrant Counties. Specifically, Chuck Bell dba Chuck Bell Water Systems, LLC seeks approval to transfer its facilities and water service area under certificate of convenience and necessity number 12190 to Undine Texas, LLC. The transfer includes several hundred acres and approximately 288 current customers.

Undine noted that recent Commission action requesting the Attorney General to seek the appointment of a receiver for the Chuck Bell water systems serves as good cause for an exception to the notice requirements in 16 Texas Administrative Code §24.109(b).

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48388.

TRD-201802382
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 30, 2018



Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 31, 2018, in accordance with the Texas Water Code.

Docket Style and Number: Application of the City of Schertz and Green Valley Special Utility District for Sale, Transfer, or Merger of Certificate Rights in Guadalupe County, Docket Number 48409.

The Application: The City of Schertz and Green Valley Special Utility District filed an application for the sale, transfer, or merger of facilities and certificate rights in Guadalupe County. If approved, the City of Schertz's facilities and water service area under certificate of convenience and necessity number 10645 will transfer to Green Valley Special Utility District. The transfer includes 4.66 acres and 0 current customers.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48409.

TRD-201802467
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 6, 2018



Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 31, 2018, in accordance with the Texas Water Code.

Docket Style and Number: Application of the Green Valley Special Utility District and the City of Schertz for Sale, Transfer, or Merger of Certificate Rights in Guadalupe County, Docket Number 48410.

The Application: Green Valley Special Utility District and the City of Schertz filed an application for the sale, transfer, or merger of facilities and certificate rights in Guadalupe County. If approved, the Green Valley Special Utility District's facilities and water service area under certificate of convenience and necessity number 10646 will transfer to the City of Schertz. The transfer includes 9.04 acres and 0 current customers.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48410.

TRD-201802469
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 6, 2018



Notice of Application for Service Area Exception

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on June 1, 2018, for a certificate of convenience and necessity service area exception within Lynn County.

Docket Style and Number: Application of Lyntegar Electric Cooperative, Inc. for a Certificate of Convenience and Necessity Service Area Exception in Lynn County. Docket Number 48423.

The Application: Lyntegar Electric Cooperative, Inc. (Lyntegar) filed an application for a service area exception to allow Lyntegar to serve a specific customer located within the certificated service area of Southwestern Public Service Company (SPS). SPS has provided Lyntegar an affidavit of relinquishment for the proposed change.

Persons wishing to comment on the action sought or intervene should contact the commission no later than June 22, 2018, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48423.

TRD-201802419
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 25, 2018, to amend a certificate of convenience and necessity (CCN) for a proposed transmission line in Hale County.

Docket Style and Number: Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a Proposed 230-kV Transmission Line within Hale County, Docket Number 48253.

The Application: Southwestern Public Service Company (SPS) filed an application to amend its CCN to construct and operate a single circuit 230-kV transmission line to be built with single-circuit, concrete monopole structures between the existing TUCO substation and the new Hale Wind Collection substation. The total cost, including the transmission line and substation costs, is approximately \$9,441,644.00 for the proposed route. The Commission may approve any other route or route segment.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is July 9, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48253.

TRD-201802415

Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 11, 2018, to amend a certificate of convenience and necessity (CCN) for a proposed transmission line in Winkler County.

Docket Style and Number: Application of Oncor Electric Delivery Company LLC to Amend a Certificate of Convenience and Necessity for a Proposed 138-kV Transmission Line in Winkler County, Docket Number 48310.

The Application: Oncor Electric Delivery Company LLC (Oncor) filed an application to amend its CCN to construct and operate a new double-circuit 138-kV transmission line to be built on double-circuit steel or concrete monopole structures between the proposed Dune Switch station and the existing Oncor Wink-Yukon 138-kV transmission line in Winkler County. The proposed transmission line will be approximately two miles in length, depending on the route certificated by the Commission. The total cost, including the transmission line and substation costs, is approximately \$6,875,000. The Commission may approve other routes or route segments.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is June 25, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48310.

TRD-201802430
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 25, 2018, to amend a certificate of convenience and necessity (CCN) for a proposed transmission line in Foard County.

Docket Style and Number: Application of Electric Transmission Texas, LLC to Amend its Certificates of Convenience and Necessity for the Edith Clarke to Foard City Double-Circuit 345-kV Transmission Line in Foard County, Docket Number 48341.

The Application: Electric Transmission Texas, LLC (ETT) filed an application to amend its CCN to construct and operate a new single-circuit 345-kV transmission line, built on double-circuit capable tubular steel monopole structures, which will interconnect a new wind facility. The line will extend from the ETT Edith Clarke 345-kV station to the windfarm Foard City substation. The proposed project will be approximately 2.6 miles in length. The estimated total cost, including the transmission line and substation improvement costs, is approximately \$12.8 million for the proposed consensus route. The Commission may approve any other route or route segment.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is July 9, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48341.

TRD-201802413
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 31, 2018, to amend a certificate of convenience and necessity (CCN) for a proposed transmission line in Burleson County.

Docket Style and Number: Application of LCRA Transmission Services Corporation to Amend a Certificate of Convenience and Necessity for the Cooks Point 138-kV Transmission Line in Burleson County, Docket Number 48358.

The Application: The Lower Colorado River Authority (LCRA) filed an application to amend its CCN in order to construct and operate a new single circuit 138-kV transmission line in Burleson County. The entire project will be approximately 17 to 23 miles in length, and is estimated to cost approximately \$35 million to \$44 million, depending upon the final route chosen by the Commission. The Commission may approve any of the routes or route segments presented in the application.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is July 16, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48358.

TRD-201802414
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 5, 2018



Notice of Petition for Amendment to Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on May 29, 2018, a petition to amend a water certificate of convenience and necessity in Montgomery County by expedited release.

Docket Style and Number: Petition of Stoecker Corporation to Amend the Town of Cut and Shoot Certificate of Convenience and Necessity in Montgomery County by Expedited Release, Docket Number 48397.

The Petition: Stoecker Corporation filed a petition for expedited release of approximately 52.6244 acres of land within Town of Cut and Shoot water certificate of convenience and necessity number 11615 in Montgomery County under Texas Water Code §13.254(a-5) and 16 Texas Administrative Code §24.113(l).

Persons wishing to file a written protest or motion to intervene and file comments on the petition should contact the commission no later than June 28, 2018, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48397.

TRD-201802440
Andrea Gonzalez
Assistant Rules Coordinator
Public Utility Commission of Texas
Filed: June 6, 2018



Texas Workforce Commission

Request for Comment Regarding the Management Fee Rate Charged by TIBH Industries Inc. (Central Nonprofit Agency)

Notice is hereby given that the Texas Workforce Commission (the Commission) will review and make a decision on the management fee rate charged by the central nonprofit agency, TIBH Industries Inc., for its services to the community rehabilitation programs and operation of the State Use Program for Fiscal Year 2018 as required by §122.019(e) of the Texas Human Resources Code. This review will be considered by the Commission no earlier than Friday, August 31, 2018, in a duly-posted Open Meeting. TIBH Industries Inc. has requested that the Commission set the Fiscal Year 2018 management fee rate at 6% of the sales price for products, 6% of the contract price for services and 5% of the contract price for temporary services. The Commission seeks public comment on TIBH Industries Inc.'s management fee rate request as required by §122.030 of the Texas Human Resources Code.

Comments should be submitted in writing on or before July 31, 2018, to Kelvin Moore of the Purchasing from People with Disabilities Section of TWC, 101 East 15th Street, Room 316T, Austin, Texas 78711, or via email to: kelvin.moore@twc.state.tx.us

For all other questions, contact the Texas Workforce Commission at (512) 436-3244.

TRD-201802481
Les Trobman
General Counsel
Texas Workforce Commission
Filed: June 6, 2018



Request for Comment Regarding the Services Performed by TIBH Industries Inc.

Notice is hereby given that the Texas Workforce Commission (the Commission) intends to review the services provided by the central nonprofit agency, TIBH Industries Inc., for Fiscal Year 2018 as required by §122.019(c) of the Texas Human Resources Code. As required by that section, the Commission will review the performance of TIBH to determine whether that agency's performance complies with the Commission's contractual specifications. This review will be considered by the Commission no earlier than Friday, August 31, 2018, in a duly-posted Open Meeting. The Commission's meeting will be held at the Texas Workforce Commission Building, 101 East 15th Street, Room 265 Austin, Texas. The Commission requests that interested parties submit comments regarding the services of TIBH Industries Inc. in its operation of the State Use Program, under §122.019(a)-(b) of the Texas Human Resources Code no later than Tuesday, July 31, 2018. Comments shall be submitted to Kelvin Moore, Program Manager, 101 E. 15th St., Room 651-T, Austin, Texas 78701, or via email to: PurchasingfromPeoplewithDisabilities@twc.state.tx.us.

For all other questions or comments, contact the Texas Workforce Commission at (512) 436-3244. In addition, persons with disabilities who plan to attend this meeting and who may need auxiliary aids, services, or special accommodations should contact Conference and Media Services at (512) 463-6389 or conferenceplanning.media@twc.state.tx.us two (2) working days prior to the meeting, so that appropriate arrangements can be made. Hearing and speech-impaired individuals with text telephones (TTY) may also contact Purchasing from People with Disabilities at (512) 463-7903.

TRD-201802478
Les Trobman
General Counsel
Texas Workforce Commission
Filed: June 6, 2018



Workforce Solutions Deep East Texas

Request for Proposal #18-371 Simulators: Advanced Construction Excavator Simulator System Motor Grader Simulator System Track Type Tractor Simulator System

The Deep East Texas Local Workforce Development Board, Inc., dba Workforce Solutions Deep East Texas (Board), is seeking Simulators (Advanced Construction Excavator Simulator System, Motor Grader Simulator System and Track Type Tractor Simulator Systems). Deadline for submitting a Proposal is July 3, 2018, at 5:00 p.m. The Request for Proposal (RFP 18-371) is available at www.detwork.org or a request for a copy of the RFP can be made to: Kim Moulder, Staff Ser-

vices Specialist, DETLWB, 415 S. First St., Suite 110 B Lufkin, Texas
75901, phone (936) 639-8898, fax (936) 633-7491, or email *kmoulder@detwork.org*.

TRD-201802387

Kim Moulder

Staff Service Specialist

Workforce Solutions Deep East Texas

Filed: May 31, 2018



How to Use the Texas Register

Information Available: The 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.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

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 43 (2018) is cited as follows: 43 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 "43 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 43 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, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The 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
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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