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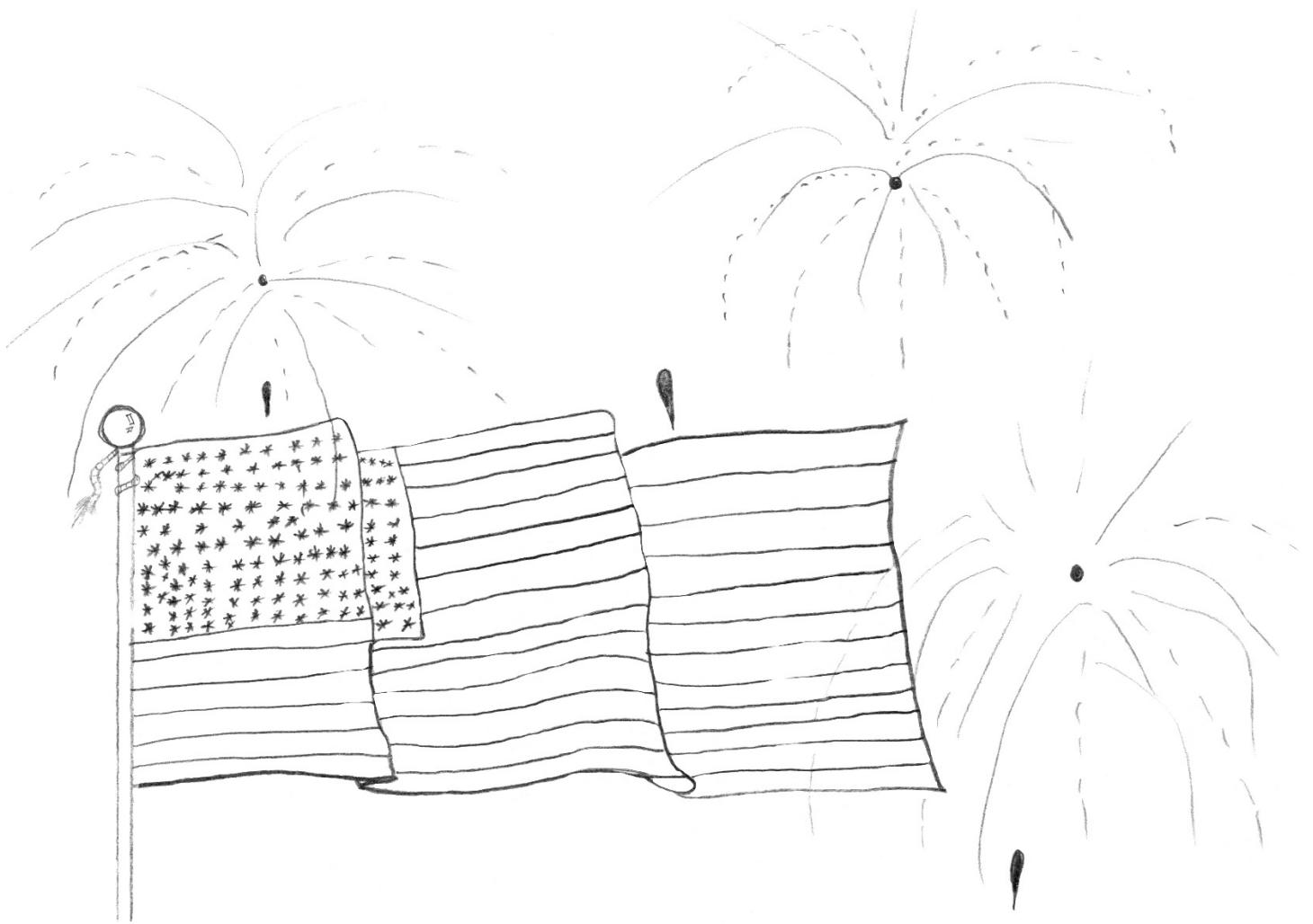
# TEXAS REGISTER

*Volume 43 Number 29*

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*Pages 4809 - 4894*

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# TEXAS ETHICS COMMISSION

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

## Ethics Advisory Opinion

**EAO-547-** Whether a candidate may use political contributions to pay childcare expenses incurred during a campaign (AOR-627).

### SUMMARY

Under the facts presented, a candidate may use political contributions to pay childcare expenses to facilitate the candidate's participation in campaign activities.

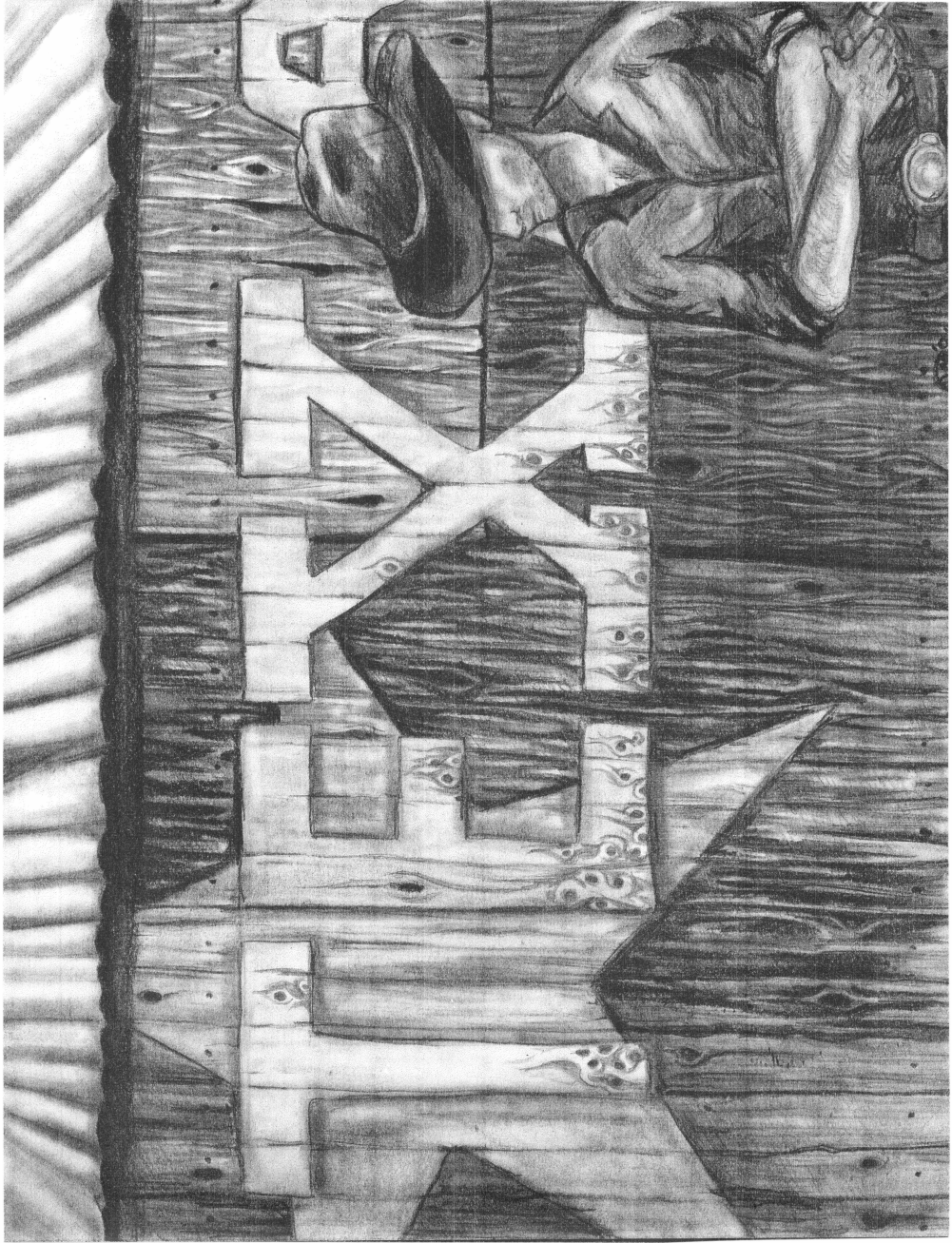
The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15,

Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

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

TRD-201803020  
Seana Willing  
Executive Director  
Texas Ethics Commission  
Filed: July 10, 2018





# 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 16. ECONOMIC REGULATION

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

#### CHAPTER 74. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

##### 16 TAC §74.100

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code, Chapter 74, §74.100, regarding the Elevators, Escalators, and Related Equipment program.

##### JUSTIFICATION AND EXPLANATION OF THE RULES

The proposed amendments update the standards that elevators, escalators, and related equipment must comply with to the American Society of Mechanical Engineers (ASME) A17.1-2016. The proposed amendments also update the deletions to the ASME A17.1 and renumber the section accordingly. The update to the ASME A17.1-2016 is necessary to keep pace with changes in the 2015 version of the International Building Code (IBC). The proposed amendments are necessary to comply with ASME.

##### SECTION-BY-SECTION SUMMARY

The proposed amendments to §74.100 update the American Society of Mechanical Engineers (ASME) A17.1 code to the 2016 version, update the amendments to the ASME A17.1, add an effective date of November 1, 2018, and renumber the section accordingly.

##### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Brian E. Francis, Executive Director, has determined that for each year of the first five years the proposed amendments are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed amendments. The only local government that will enforce or administer the proposed amendments is the City of Houston, and no additional costs or reductions in costs are anticipated as a result of the proposed amendments.

Brian E. Francis, Executive Director, has determined that for each year of the first five years the proposed amendments are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed amendments. The only local government that will enforce or administer the proposed amendments is the City of Houston, and no increases or losses in revenue are anticipated as a result of the proposed amendments.

##### LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Francis has determined that the proposed amendments will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

##### PUBLIC BENEFITS

Mr. Francis also has determined that for each year of the first five-year period the proposed amendments are in effect, the public benefit will be increased equipment safety for the public. The update to the ASME A17.1-2016 will ensure that elevators installed in high-rise buildings will undergo code compliance inspections that are more thorough than under the 2007 version of the ASME A17.1. This is because the 2015 IBC, which has been adopted in some municipalities, allows owners of high-rise buildings to install elevators with certain features that were not contemplated in the ASME A17.1-2007. Because these features are not listed in the ASME A17.1-2007, the current §74.100 does not require these features to be inspected. The proposed amendments will ensure that these elevator features are inspected to determine that they are in working order.

In subsection (b), the deletion of ASME A17.1-2016 section 2.12.7.2.1(c) will ensure the safety of inspectors who could be injured during inspections due to the placement of hoistway access switches on sight guards. Additionally, the deletion of section 7.4.2.2 and all references to type B material lifts will protect the public by disallowing type B material lifts, which do not have the safeguards necessary to ensure the safety of riders.

##### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Francis has determined that for each year of the first five-year period the proposed amendments are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules. The update to the ASME A17.1-2016 does not require the owners of high-rise buildings to install elevators with the features that will now be inspected under the ASME A17.1-2016. Rather, the ASME A17.1-2016 merely provides standards to which these features must conform, if the features are installed. The deletions in subsection (b) are also not anticipated to create economic costs as type B material lifts are not currently being installed in settings that are regulated under Chapter 754 of the Health and Safety Code, and prohibiting hoistway access switches on sight guards will not increase costs for building owners or inspectors. Finally, the proposed amendments are not anticipated to create economic costs related to education and training for registered inspectors or contractors as the ASME A17.1-2016 is already being taught in continuing education classes.

##### 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 amendments.

Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, are not required.

#### ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule. There are exceptions for certain types of rules under §2001.0045(c).

The proposed amendments do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

#### GOVERNMENT GROWTH IMPACT STATEMENT

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 rule will be in effect, the agency has determined the following:

- (1) The proposed amendments do not create or eliminate a government program.
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the agency.
- (4) The proposed amendments do not require an increase or decrease in fees paid to the agency.
- (5) The proposed amendments do not create a new regulation.
- (6) The proposed amendments do expand, limit, or repeal an existing regulation. Specifically, the proposed amendments expand subsection (b) of §74.100. The proposed amendments do not limit or repeal an existing regulation.
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed amendments do not positively or adversely affect this state's economy.

#### PUBLIC COMMENTS

Comments on the proposal may be submitted to Ana Villarreal, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The

deadline for comments is 30 days after publication in the *Texas Register*.

#### STATUTORY AUTHORITY

The amendments are proposed 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 proposal 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.

#### §74.100. *Technical Requirements--ASME and ASCE Codes.*

(a) The commission adopts the standards for the installation, maintenance, repair, replacement, alteration, testing, operation, and inspection of equipment that are contained in the following codes:

(1) ASME Code A17.1-2016/CSA B44-16 [A17.1-2007/CSA B44-07] as amended in subsection (b);

(2) - (4) (No change.)

(b) The following amendments shall be made to ASME Code A17.1-2016/CSA B44-16 [A17.1-2007/CSA B44-07]:

(1) Delete requirement 1.2.1(c) and all references to ASME Code A17.7 within the adopted standard, preface and appendices.

(2) Delete 2.12.7.2.1(c) hoistway access switch on sight guard.

(3) Delete 7.4.2.2 and all references to type B material lifts within the adopted standard, preface, and appendices.

(4) Delete requirement 8.6.4.19.7 standby or emergency power operation.

(5) Delete requirement 8.6.5.14.3(f) standby or emergency power operation.

(6) [(2)] Delete requirement 8.10.2.2.1(q) emergency or standby power operation.

(7) [(3)] Delete requirement 8.10.2.3.2(l) emergency or standby power alterations.

(8) [(4)] Delete requirement 8.10.3.3.2(l) emergency or standby power alterations.

[(5)] Delete 8.11.2.2.7 standby or emergency power operation.

[(6)] Delete requirement 8.11.2.3.5 emergency and standby power operation.

[(7)] Delete requirement 8.11.3.2.3(f) standby power operation.

(9) [(8)] Delete the reference to ASME Code A17.3 contained within 9.1.

(10) [(9)] Delete Appendix E in its entirety.

(c) The effective dates of:

(1) ASME Code A17.1-2016/CSA B44-16 [A17.1-2007/CSA B44-07] and the amendments in subsection (b) shall be effective on November 1, 2018 [September 1, 2008].

(2) - (3) (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 July 9, 2018.

TRD-201802990

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: August 19, 2018

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



## TITLE 22. EXAMINING BOARDS

### PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

#### CHAPTER 78. RULES OF PRACTICE

##### 22 TAC §78.14

The Texas Board of Chiropractic Examiners (Board) proposes this new rule to replace Chapter 78, §78.14, to promote a clear understanding of the use of acupuncture as a modality by chiropractors. Accordingly, this rule is proposed to replace the current Acupuncture rule.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed new rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Mr. Fortner has determined that for the first five-year period the proposed rule is in effect, the expected public benefit will be clarity and guidance for the public and stakeholders regarding the Board's Expert Review process.

Mr. Fortner has also determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or individuals because it does not impose any duties or obligations upon small businesses, rural communities or individuals.

**GOVERNMENT GROWTH IMPACT:** Mr. Fortner has determined that the proposed amendment does not have a government growth impact pursuant to Texas Government Code, §2001.0221.

Comments on the proposed new rule and/or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 333 Guadalupe Street, Tower III, Suite 825, Austin, Texas 78701, via email [rules@tbce.state.tx.us](mailto:rules@tbce.state.tx.us); or fax: 512-305-6705, no later than 30 days from the date that this proposed amended rule is published in the *Texas Register*.

The new rule is proposed under Texas Occupations Code §201.152, which authorizes the Board to adopt rules necessary to regulate the practice of chiropractic to protect the public health and safety. The Board is further authorized to adopt rules based upon the relevant portions of the Administrative Procedure Act, Government Code §2001.

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

##### §78.14. Acupuncture.

(a) Acupuncture, and the related practices of acupressure and meridian therapy, include methods for diagnosing and treating a patient by stimulating specific points on or within the musculoskeletal system by various means, including, but not limited to, manipulation, heat, cold, pressure, vibration, laser, ultrasound, light electrocurrent, and the insertion of acupuncture needles or solid filiform needles for the purpose of obtaining a bio-positive reflex response by nerve stimulation. All therapeutic modalities provided by licensees, including the performance of acupuncture services, must comply with the chiropractic scope of practice as defined by the Texas Occupations Code §201.002.

(b) A licensee shall use acupuncture as an adjunctive modality only after obtaining certification to do so from the Texas Board of Chiropractic Examiners (Board).

(c) A licensee with an acupuncture certification may not delegate the performance of acupuncture services to a chiropractic assistant or technician.

##### Requirements for acupuncture certification.

(1) A person who becomes a licensee on or after the effective date of this rule may receive an acupuncture certification from the Board by successfully completing and passing an examination in at least two-hundred (200) hours of training in the use and administration of acupuncture. The classes must be provided by an accredited chiropractic college or post-secondary university approved by the Board. Such training shall include didactic, clinical, and practical training in the use and administration of acupuncture, as well as clean needle techniques, examination, and protocols that will satisfy the blood-borne pathogen standard established by the federal Occupational Safety and Health Administration.

(2) A person who became a licensee after January 1, 2010, and before the effective date of this rule shall have until September 1, 2019, to obtain an acupuncture certification from the Board by passing the National Board of Chiropractic Examiners' standardized certification examination in acupuncture and completing 100 hours of acupuncture training.

(3) A person who became a licensee before 2010 shall have until September 1, 2019, to obtain an acupuncture certification from the Board by having either:

(A) Successfully completed and passed an examination in a 100-hour training course in the use and administration of acupuncture;

(B) Successfully completed and passed either the National Board of Chiropractic Examiners' standardized certification examination in acupuncture or the examination offered by the National Certification Commission of Acupuncture before the effective date of this rule; or

(C) Satisfied what would otherwise be the training requirement by counting each year of the licensee's practice in which the licensee performed acupuncture as an adjunct modality as ten (10) hours of training in the use and administration of acupuncture, so long as the licensee has been trained in and practicing acupuncture for ten (10) years and is in good standing with the Board and the regulatory entities of the other jurisdictions in which the licensee is licensed.

(4) All licensees seeking certification in acupuncture may verify training in acupuncture by submitting signed certificates of attendance or completion, or diplomas from course sponsors or instructors. All licensees seeking certification in acupuncture may document experience by submitting a sample of patient records spanning the years claimed for review by the board.

(e) As part of his or her required continuing education, a licensee certified to perform acupuncture must complete a minimum of eight (8) hours in acupuncture for each two (2) years of licensure. The continuing education must be a course or seminar approved by the Board.

(f) A licensee may not perform acupuncture services until the licensee has submitted proof of compliance with subsection (d) of this section to the Board and has received a numbered acupuncture certificate from the Board, verifying that the licensee has met the criteria and requisite training to use acupuncture as an adjunctive modality.

(g) A licensee performing acupuncture services under this section shall not advertise in a manner that would suggest the licensee possesses a license to practice acupuncture issued by the Texas State Board of Acupuncture Examiners, including by using any of the terms "acupuncturist," "licensed acupuncturist," "L.Ac.," "Traditional Chinese Medicine," or "degreed in acupuncture" unless the licensee has satisfied the criteria for licensure found in Texas Occupations Code chapter 205.

(h) A licensee's advertising may include either or both of the terms "Board Certified" or "Board Certified in Chiropractic Acupuncture" if it also clearly identifies the nationally recognized certifying board and credentials. A licensee to whom the Board has issued a certificate under this Rule may state that the licensee is "Board Certified in Acupuncture as an adjunctive modality by the Texas Board of Chiropractic Examiners."

(i) Traditional Chinese Medicine (TCM): Approved programs in clinical acupuncture or meridian therapy offered by accredited chiropractic colleges or universities are specifically designed for Doctors of Chiropractic and other disciplines. These courses are not intended as substitute for a full curriculum teaching TCM, but rather focus on the principle, theory, scientific findings, and practical modern application of the modality of acupuncture as a Doctor of Chiropractic might use it in an existing professional practice.

(j) Notwithstanding anything else in this section, a licensed chiropractor may provide for patients' use of herbal supplements or remedies, homeopathic remedies and compounds, and nutritional supplements, including vitamins and minerals.

(k) The practice of acupuncture as an adjunct modality by a licensee who has not complied with the education and certification requirements of this section constitutes unprofessional conduct and subjects the licensee to appropriate disciplinary action by the Board. A licensee who advertises the practice of acupuncture as a modality without first obtaining an acupuncture certification from the Board also has engaged in unprofessional conduct or other sanctionable conduct, subjecting the licensee to appropriate disciplinary action by the Board.

(l) A licensee performing acupuncture services under this section shall comply with Texas Administrative Code §77.11(a).

(m) A licensee performing acupuncture services under this section shall comply with the provisions of Texas Administrative Code §78.2 - Proper diligence and Efficient Practice of Chiropractic.

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 July 9, 2018.

TRD-201802992

Christopher Burnett

General Counsel

Texas Board of Chiropractic Examiners

Earliest possible date of adoption: August 19, 2018

For further information, please call: (512) 305-6700



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 53. FINANCE

##### SUBCHAPTER A. FEES

##### DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

###### 31 TAC §53.12

The Texas Parks and Wildlife Department proposes an amendment to §53.12, concerning Commercial Fishing Licenses and Tags. The proposed amendment would establish a \$25 fee for the replacement of a commercial gulf shrimp unloading license.

The 85th Legislature (2017) enacted House Bill 1260, amending the Texas Parks and Wildlife Code by adding new §77.034, which created the commercial gulf shrimp unloading license and established a fee of \$1,485 (or a higher amount established by the commission) for that license.

Parks and Wildlife Code, §77.0361, provides the commission with the authority to prescribe fees for duplicate licenses issued under the authority of Chapter 77. The rules currently prescribe a \$25 replacement fee for a number of commercial shrimping licenses. Staff have determined that it is appropriate to provide for the issuance of a duplicate commercial shrimp unloading license and prescribe a fee of \$25 for that action.

Lance Robinson, Deputy Director of the Coastal Fisheries Division, has determined that there will be minimal fiscal implications to state government as a result of administering the amendment. Department records indicate that over the last five years 61 duplicate licenses issued under the authority of Parks and Wildlife Code, Chapter 77, have been issued, an average of 12 per year. If 12 commercial gulf shrimp unloading licenses are lost and replaced in a year, which is likely a high estimate, the department estimates that the rule will result in a decrease of no more than \$17,520 per year in revenue, assuming the five-year historical trend is indicative of future events. There will be no other fiscal implications to the department, as the issuance of duplicate licenses will be performed by existing staff as part of current job duties. There will be no fiscal implications to other units of state or local government.

Mr. Robinson also has determined that each of the first five years the amendment as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the amendment as proposed will be the ability of licensees to obtain duplicate commercial shrimp unloading licenses for a nominal fee instead of having to purchase a new license at \$1,485.

There will be no adverse economic effect on persons required to comply with the amendment as proposed, since persons who purchase a replacement license will pay \$25 rather than \$1,485.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule or amendment that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's or amendment's potential adverse economic impact on small businesses. These guidelines state that "generally, there is no need to examine the indirect effects of a proposed rule or amendment on entities outside of an agency's regulatory jurisdiction." The guidelines state that an agency need only consider a proposed rule's or amendment's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. The guidelines also list examples of the types of costs that may result in a "direct economic impact." Such costs may include costs associated with additional recordkeeping or reporting requirements; new taxes or fees; lost sales or profits; changes in market competition; or the need to purchase or modify equipment or services.

In the absence of a replacement fee, a license that is lost, stolen, or destroyed must be replaced at the \$1,485 value established by statute. Therefore, the proposed amendment, if adopted, would provide a cost-effective solution to the dilemma of lost, destroyed, or stolen licenses and save a commercial gulf shrimp unloading license holders \$1,460 in the event such a license must be replaced.

The proposed amendment will have no effect on rural communities.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the amendment as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed amendment.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed amendment.

The department has determined that because the amendment as proposed lessens the cost of compliance to commercial gulf shrimp unloading license holders who lose their licenses, it is not necessary to repeal or amend any existing rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The amendment as proposed, if adopted, will: not eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; create a new regulation (to provide for the replacement of the commercial gulf shrimp unloading license); neither increase nor decrease the number of individuals subject to regulation through time; expand, limit, or repeal an existing regulation; and not significantly affect the state's economy positively or adversely.

Comments on the proposed rule may be submitted to Dr. Tiffany Hopper, Texas Parks and Wildlife Department, 4200 Smith

School Road, Austin, Texas 78744; (512) 389-4650 (e-mail: tiffany.hopper@tpwd.texas.gov).

The amendment is proposed under authority of Parks and Wildlife Code, 77.0361 which authorizes the commission to set fees to be charged for replacement licenses.

The proposed amendment affects Parks and Wildlife Code, Chapter 77.

§53.12. *Commercial Fishing Licenses and Tags.*

(a) Shrimping licenses. The fee amounts prescribed in paragraph (1) of this subsection reflect the total fee paid by the purchaser and include the surcharges established in paragraph (2) of this subsection, if applicable.

(1) - (3) (No change.)

(4) Replacement display licenses.

(A) - (D) (No change.)

(E) nonresident commercial bay shrimp boat--\$25;

[and]

(F) nonresident commercial bait-shrimp boat--\$25; and

(G) commercial gulf shrimp unloading license--\$25.

(b) - (e) (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 July 6, 2018.

TRD-201802982

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 19, 2018

For further information, please call: (512) 389-4775



CHAPTER 59. PARKS  
SUBCHAPTER F. STATE PARK  
OPERATIONAL RULES

31 TAC §59.134

The Texas Parks and Wildlife Department (the department) proposes an amendment to §59.134, concerning Rules of Conduct in State Parks. The proposed amendment would allow the sale of alcohol by concessionaires and the public display and consumption of alcoholic beverages purchased from concessionaires within state parks when authorized by the executive director of the department in limited situations as part of a concession agreement or special event.

Under current rules, it is an offense for any person to sell or publicly display or consume an alcoholic beverage within a state park; however, the department operates several facilities, such as Indian Lodge at Fort Davis State Park, and Lone Star Lodge at Ray Roberts State Park that offer lodging and meals to park visitors and the general public. These facilities provide a unique visitor experience and must generate revenue to sustain operations. Parks and Wildlife Code, §13.015, authorizes the department to promote visits and enhance revenue at parks and to operate or grant contracts to operate concessions in state parks,

as well as to make regulations governing the granting or operating of concessions. The department has determined having authority to allow concessionaires to sell alcoholic beverages at such facilities would enable the department to address situations in which it is appropriate to promote visitation and resulting increased revenue by eliminating a competitive disadvantage compared to other dining establishments.

Additionally, the department is from time to time approached by entities wishing to utilize state parks for the staging of fundraisers, benefits, and similar special events to benefit the department. The department believes that such special events requests can be leveraged to directly benefit state parks individually or collectively. The department has determined that in some situations, it would be beneficial to allow staging of special events at state parks, as specifically approved by the executive director on a case-by-case basis, during which it would be lawful for concessionaires to sell alcoholic beverages and for participants in the special events to display and consume alcoholic beverages.

The department would like to make it abundantly clear that the proposed amendment would not authorize the sale, display, and consumption of alcoholic beverages generally in the state park system, but only at specific events that the executive director had determined will promote and/or benefit state parks.

The proposed amendment would establish the conditions under which alcoholic beverages could be lawfully sold, displayed, or consumed in a state park, which would take the form of exceptions to the current absolute ban on the sale of alcoholic beverages and the public consumption or display on state parks.

Proposed new paragraph (2) would stipulate that alcoholic beverages could be sold and publicly consumed or displayed if done in accordance with the terms and conditions of a special event authorized by the director or in an area of a state park where such consumption or display is either authorized by the director or pursuant to a concession agreement. The department does not intend for the sale or public consumption or display of alcoholic beverages to be permitted in any fashion other than by order of the director or under the terms of a contract with a concessionaire. Therefore, the rule stipulates such. Additionally, the proposed amendment would require any sales of alcoholic beverages to be conducted within the timeframes authorized in the concession agreement or authorization issued by the director and in accordance with all applicable state and local laws applicable to the sale of alcoholic beverages, which is necessary to clearly establish that such authorizations and agreements are to specifically delineate the scope and duration of any exception to park rules governing the public sale, consumption, or display of alcoholic beverages and to assure that all activities involving alcoholic beverages will be in accordance with laws regulating such activities.

Finally, the proposed amendment would stipulate that the department will not authorize any activity under this paragraph that is determined to conflict or be inconsistent with the mission of the department. As stated previously in this preamble, the department's intent is to allow the sale and public consumption or display of alcoholic beverages in conjunction with activities that benefit the department, individual parks, and the department's mission. If for any reason the department determines that a prospective event or concession is not in the best interests of these goals, the event or concession will not be approved.

Brent Leisure, State Parks Division Director, has determined that for each of the first five years that the amendment as proposed is in effect, there will be fiscal implications to state government as a result of administering or enforcing the rule. Those benefits will be positive, because the department's concession agreements stipulate payments to the department, typically a percentage of sales or a flat fee; however, because the sale of alcoholic beverages at state parks has never been allowed, the department has no historical data upon which to base an estimate of revenue increase. Therefore, the department considers, based on the assumption that dining and lodging facilities located at state parks, if authorized to sell and serve alcoholic beverages, will experience an increase in visitation as a result of offering alcoholic beverages, and that benefits and special events on state parks will result in alcohol sales by concessionaires that do not currently occur, the increase in revenue to the department could range from thousands of dollars to tens of thousands of dollars and perhaps more. Additionally, there is the possibility of financial contributions to the department by the sponsors of special events and activities, which also cannot be quantified at this time because they are not known.

There will be no fiscal implications for other units of state or local government.

Mr. Leisure also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rules as proposed will be additional revenue enhancement for the mission of the state park system.

There will be no adverse economic effect on persons required to comply with the rule as proposed.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the rule will not result in adverse economic impacts to small businesses, micro-businesses, or rural communities, and if anything will result in positive economic impacts. Therefore, the department has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that because the rule as proposed does not impose a cost on regulated persons, it is not necessary to repeal or amend any existing rule.



In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will: neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; will create a new regulation (to allow the sale, consumption, and display of alcoholic beverages in state parks); not expand or repeal an existing regulation, but will limit the current absolute prohibition on the sale, consumption, and display of alcoholic beverages in state parks; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Mike Crevier at (512) 389-8560, e-mail: [mike.crevier@tpwd.texas.gov](mailto:mike.crevier@tpwd.texas.gov). Comments also may be submitted via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

The amendment is proposed under Parks and Wildlife Code, §13.015, which authorizes the department to promote visits and enhance revenue at parks, to operate or grant contracts to operate concessions in state parks and make regulations governing the granting or operating of concessions, and recruit and select private service providers to enter into leased concession contracts with the department to provide necessary and appropriate visitor services; §13.101, which authorizes the commission to promulgate regulations governing the health, safety, and protection of persons and property in state parks, historic sites, scientific areas, or forts under the control of the department; and §13.102, which authorizes rules of the commission concerning the conservation, preservation, and use of state property whether natural features or constructed facilities, the abusive, disruptive, or destructive conduct of persons, and conduct which endangers the health or safety of park users or their property.

§59.134. *Rules of Conduct in State Parks.*

(a) (No change.)

(b) Alcoholic beverages. [~~It is an offense for any person to:~~]

(1) Prohibition. Except as provided in paragraph (2) of this subsection, it is an offense for any person to:

(A) consume or display an alcoholic beverage in a public place; or

(B) [(2)] sell alcoholic beverages within a state park.

(2) Exceptions. The provisions delineated in paragraph (1) of this subsection do not apply to an alcoholic beverage:

(A) consumed or displayed by an individual in accordance with the terms and conditions of a special event authorization issued by the director;

(B) consumed or displayed by an individual within an area for which such consumption or display is authorized pursuant to a concession agreement or authorization issued by the director; or

(C) sold by a concessionaire under the terms and conditions of a concession agreement or special event authorization issued by the director, provided:

(i) the alcoholic beverage is consumed or displayed within the areas and time frames authorized by the concession agreement or special event authorization; and

(ii) the concessionaire is in compliance with all applicable state and local laws and requirements regarding the sale of alcoholic beverages, including, but not limited to possession of all necessary permits and licenses required for the sale of alcoholic beverages.

(D) The department will not authorize any activity under this paragraph that is determined to conflict or be inconsistent with the department mission.

(c) - (q) (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.

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Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 19, 2018

For further information, please call: (512) 389-4775



## CHAPTER 65. WILDLIFE

### SUBCHAPTER A. STATEWIDE HUNTING PROCLAMATION

#### DIVISION 1. GENERAL PROVISIONS

#### 31 TAC §65.3, §65.11

The Texas Parks and Wildlife Department proposes amendments to §65.3 and §65.11, concerning the Statewide Hunting Proclamation.

In response to a petition for rulemaking, and after witnessing field demonstrations, the department published a proposal in the February 16, 2018, issue of the *Texas Register* (43 TexReg 827) to make air guns of .30 caliber or larger and arrow guns (pneumatic weapons that fire an arrow or bolt) lawful means of take for alligators, big game species (deer, pronghorn, desert bighorn sheep, javelina, and turkey). The proposed amendment also would have made lawful the use of air guns of .177 caliber and larger to take non-migratory game birds other than turkey (chachalaca, pheasant, and quail, hereafter referred to collectively as "upland game birds other than turkey"). Following the publication of that proposed rulemaking, the department became aware of concerns that the proposal did not contain technical delimitations sufficient to provide reasonable assurance that making such weapons lawful would not result in avoidable wounding loss. Therefore, that proposal is being withdrawn and replaced with this proposal. The department notes that the February 16, 2018, proposed rulemaking also contained changes unrelated to pneumatic weapons; those changes are also contained in this rulemaking.

As noted previously, the department received a petition for rulemaking requesting that air guns and arrow guns be designated as lawful means. After conducting a review of ballistic data for a variety of pneumatic (gas-powered) weapons, the department has determined that such means, subject to certain requirements, can be used to take wildlife resources without causing depletion or waste. Parks and Wildlife Code, §61.005, defines depletion as "the reduction of a species below its immediate recuperative potential by any cause" and waste as "the failure

to provide for the regulated harvest of surplus wildlife resources when that harvest would allow, promote, or optimize a healthy and self-sustaining population of a species."

The amendment to §65.3, concerning Definitions, would add new definitions for "air gun" and "arrow gun." Because the proposed amendment to §65.11, concerning Lawful Means, would allow the take of alligators, big game species, and turkey by means of air guns and arrow guns that are pre-charged pneumatics, the proposed amendment would define "pre-charged pneumatic" as "an air gun or arrow gun for which the propellant is supplied or introduced by means of a source that is physically separate from the air gun or arrow gun." The proposed amendment would also define "air gun" as "a device that fires a bullet solely by the use of unignited compressed gas as the propellant" and "arrow gun" as "a device that propels an arrow or bolt solely by the use of unignited compressed gas as the propellant." The definitions are necessary to provide meanings for specialized terms in order to prevent ambiguity and enhance compliance and enforcement.

As noted previously, the proposed amendment to §65.11, concerning Lawful Means, would alter current language to make air guns, with certain restrictions, lawful means for the take of alligators, big game species (deer, pronghorn, desert bighorn sheep, javelina), and upland game birds. With respect to air guns used to take alligators, big game species, and turkey, the proposed amendment would require all air guns and arrow guns to be pre-charged pneumatics (i.e., "break-action," "pump action," and "canister" charging systems would be unlawful) and, for air guns, fire a minimum projectile size of .30-caliber with a minimum bullet weight of 150 grains fired at a minimum muzzle velocity of 800 feet per second, or any combination of bullet weight and muzzle velocity producing a minimum muzzle energy of 215 foot-pounds. It is necessary to require that air guns and arrow guns used to take alligators, big game species, and turkey be pre-charged pneumatics because department investigations revealed that other methods of charging are insufficient to produce the minimum ballistic performance necessary to reliably kill larger animals, especially at longer distances. Similarly, an analysis of ballistic performance data indicates that the .30-caliber minimum bullet size, 150-grain minimum bullet weight fired at a minimum muzzle velocity of 800 feet per second (or any combination of bullet weight and muzzle velocity producing a minimum muzzle energy of 215 foot-pounds) are the minimum specifications necessary to achieve lethality in most circumstances, and probably in all circumstances in which the distance to the target and placement of the shot are optimal. With respect to the take of alligators, air guns and arrow guns would not be lawful for the take of alligators in the 22 "core" counties (those counties constituting the prime historical habitat for the American alligator in Texas, where commercial hunting is viable and the department engages in significant biological monitoring of the resource and manages harvest through tag issuance to landowners), but would be lawful for the take of alligators in all other counties. Under current alligator harvest regulations, all taking devices for alligators in "core" counties must be equipped with at least 300-lb test line to prevent alligators from being lost; therefore, air guns and arrow guns would be prohibited in "core" counties because they are not so equipped. The proposed amendment would also allow air guns to be used to hunt non-migratory game birds other than turkey, stipulating a minimum bullet size of .177 caliber and a minimum muzzle velocity of 600 feet per second. Air guns used to take squirrels and upland game birds other than turkey would not be required to be charged externally.

The proposed amendment also would eliminate language regarding the legal dimensions and characteristics of broadhead hunting points and crossbow minimum requirements. Under current rule, crossbows are required to have a minimum of 125 pounds of pull, a mechanical safety, a stock of not less than 25 inches in length, and use broadheads that are at least 7/8-inch in width upon impact, with a minimum of two cutting edges (mechanical broadheads are required to open upon impact and when open be a minimum of 7/8-inch in width). The current legal requirements for bolts also apply to broadhead hunting points used with lawful archery equipment. The department has determined that with the exception of the requirement for a mechanical safety, such requirements are archaic, difficult to enforce, and unnecessary, reasoning that because hunters are unlikely to use taking devices that are inefficient or incapable of achieving desired outcomes, there is not a need to prescribe the particulars of crossbows or broadhead points by rule. The department also reasons that simplifying the rules might remove barriers to participation.

The proposed amendment also would remove the requirement that air guns used to take squirrel be designed to be fired from the shoulder. The department has determined that the requirement is not necessary.

The proposed amendment to §65.11 also would nonsubstantively reword paragraph (1)(A), which provides for the use of silencers, and remove a reference to "wildlife resources of this state" and replace it with a reference to "alligators, game animals, and game birds" because those are the wildlife resources regulated under the subchapter.

Finally, the proposed amendment also would require persons born after September 1, 1971, who hunt by means of air guns or arrow guns to have completed a department-approved hunter education course. Under the provisions of Parks and Wildlife Code, §42.014, the department is authorized to require persons who were born after September 1, 1971, to complete a hunter education course in order to hunt by means of firearm, lawful archery equipment, or crossbow. The hunter education program has been an unqualified success in Texas, and has resulted in a drastic reduction in hunting accidents, injuries, and fatalities. The department believes it is prudent to require persons who hunt by means of air guns and arrow guns to receive the same hunter education training as persons who hunt with firearms, lawful archery equipment, or crossbows.

Clayton Wolf, Wildlife Division Director, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the rules.

Mr. Wolf also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be the dispensation of the agency's statutory duty to protect and conserve the resources of this state, the duty to equitably distribute opportunity for the enjoyment of those resources among the citizens, and the execution of the commission's policy to maximize recreational opportunity within the precepts of sound biological management practices.

There will be no adverse economic effect on persons required to comply with the rules as proposed.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse

economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's direct adverse economic impacts to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules regulate various aspects of recreational license privileges that allow individual persons to pursue and harvest wildlife resources in this state and therefore do not directly affect small businesses, micro-businesses, or rural communities. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

The department has determined that because the rules as proposed do not impose a cost on regulated persons, it is not necessary to repeal or amend any existing rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will: neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; not create a new regulation; relax an existing regulation (by making arrow guns and air guns lawful means of take); neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Mitch Lockwood at (830) 792-9677, e-mail: [mitch.lockwood@tpwd.texas.gov](mailto:mitch.lockwood@tpwd.texas.gov) or via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county

where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The proposed amendments affect Parks and Wildlife Code, Chapter 61.

*§65.3. Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms in this chapter shall have the meanings assigned in the Texas Parks and Wildlife Code.

(1) Arrow gun--A device that fires an arrow or bolt solely by the use of unignited compressed gas as the propellant.

(2) Air gun--A device that fires a bullet solely by the use of unignited compressed gas as the propellant.

(3) ~~[(4)]~~ Alligator gig--A pole or staff equipped with at least one of the following:

- (A) immovable prongs;
- (B) two or more spring-loaded grasping arms; or
- (C) a detachable head.

(4) ~~[(2)]~~ Alligator hide tag (hide tag)--A department-issued tag required by federal law pursuant to the Convention on International Trade in Endangered Species (CITES) to be affixed to all alligators taken in the state. All alligator hide tags issued by the department are CITES tags.

(5) ~~[(3)]~~ Annual bag limit--The quantity of a species of a wildlife resource that may be taken from September 1 of one year to August 31 of the following year.

(6) ~~[(4)]~~ Antlerless deer--A deer having no hardened antler protruding through the skin.

(7) ~~[(5)]~~ Antler point--A projection that extends at least one inch from the edge of a main beam or another tine. The tip of a main beam is also a point.

(8) ~~[(6)]~~ Bait--Something used to lure any wildlife resource.

(9) ~~[(7)]~~ Baited area--Any area where minerals, vegetative material or any other food substances are placed so as to lure a wildlife resource to, on, or over that area.

(10) ~~[(8)]~~ Bearded hen--A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

(11) Pre-charged pneumatic--An air gun or arrow gun for which the propellant is supplied or introduced by means of a source that is physically separate from the air gun or arrow gun.

(12) ~~[(9)]~~ Buck deer--A deer having a hardened antler protruding through the skin.

(13) ~~[(10)]~~ Daily bag limit--The quantity of a species of a wildlife resource that may be lawfully taken in one day.

(14) ~~[(11)]~~ Day--A 24-hour period of time that begins at midnight and ends at midnight.

(15) ~~[(12)]~~ Deer population data--Results derived from deer population surveys and/or from systematic data analysis of density or herd health indicators, such as browse surveys or other scientifically acceptable data, that function as direct or indirect indicators of population density.

(16) ~~[(13)]~~ Final processing--The cleaning of a dead wildlife resource for cooking or storage purposes. For a deer or

antelope carcass, the term includes the processing of the animal more than by quartering.

(17) [(14)] Fully automatic firearm--Any firearm that is capable of firing more than one cartridge in succession by a single function of the trigger.

(18) [(15)] Gig--Any hand-held shaft with single or multiple points.

(19) [(16)] Landowner--Any person who has an ownership interest in a tract of land, and includes a person authorized by the landowner to act on behalf of the landowner as the landowner's agent.

(20) [(17)] Lawful archery equipment--Longbow, recurved bow, and compound bow.

(21) [(18)] License year--The period of time for which an annual hunting license is valid.

(22) [(19)] Muzzleloader--Any firearm that is loaded only through the muzzle.

(23) [(20)] Permanent residence--One's domicile. This does not include a temporary abode or dwelling such as a hunting/fishing club, or any club house, cabin, tent, or trailer house used as a hunting/fishing club, or any hotel, motel, or rooming house used during a hunting, fishing, pleasure, or business trip.

(24) [(21)] Possession limit--The maximum number of a wildlife resource that may be lawfully possessed at one time.

(25) [(22)] Silencer or sound-suppressing device--Any device that reduces the normal noise level created when the firearm is discharged or fired.

(26) [(23)] Spike-buck deer--A buck deer with no antler having more than one point.

(27) [(24)] Unbranched antler--An antler having no more than one antler point.

(28) [(25)] Unbranched antlered deer--A buck deer having at least one unbranched antler.

(29) [(26)] Upper-limb disability--A permanent loss of the use of fingers, hand or arm in a manner that renders a person incapable of using a longbow, compound bow or recurved bow.

(30) [(27)] Wildlife resources--Alligators, all game animals, and all game birds.

(31) [(28)] Wounded deer--A deer leaving a blood trail.

#### §65.11. Lawful Means.

It is unlawful to hunt alligators, game animals or game birds [~~any of the wildlife resources of this state~~] except by the means authorized by this section, and as provided in §65.19 of this title (relating to Hunting Deer with Dogs).

##### (1) Firearms.

(A) Except as may be specifically restricted elsewhere in this chapter, it [H] is lawful to hunt alligators, game animals, and game birds with any legal firearm (including a muzzleloader); including muzzleloading firearms, and including a firearm equipped with a silencer, except as specifically restricted in this section.

(B) It is lawful to hunt by means of a legal firearm equipped with a silencer; however, nothing [Nothing] in this paragraph shall be construed to relieve any person of compliance with any other federal, state, or local laws governing the possession or use of firearm silencers.

(C) - (G) (No change.)

##### (2) Archery.

(A) - (B) (No change.)

(C) While hunting turkey and all game animals other than squirrels by means of longbow, compound bow, or recurved bow the arrow must be equipped with a broadhead hunting point [at least 7/8-inch in width upon impact, with a minimum of two cutting edges. A mechanical broadhead must begin to open upon impact and when open must be a minimum of 7/8-inch in width].

(D) (No change.)

##### (3) Crossbow--Special Provisions.

(A) (No change.)

(B) When hunting turkey and all game animals other than squirrels by means of crossbow[;]

[(i) the crossbow must have a minimum of 125 pounds of pull;]

[(i) [(ii)] the crossbow must have a mechanical safety; and

[(iii) the crossbow stock must be not less than 25 inches in length; and]

[(ii) [(iv)] the bolt must conform with paragraph (2)(B) and (C) of this section.

(4) Air guns. Except as otherwise specifically provided elsewhere in this chapter, it [H] is lawful to hunt alligators, game animals, and non-migratory game birds with an air gun, provided: [squirrels with an air gun, provided:]

(A) when used to hunt alligator, deer, pronghorn antelope, bighorn sheep, javelina, or turkey, the air gun:

(i) is a pre-charged pneumatic; and

(ii) fires a projectile of at least .30 caliber in diameter; and

(iii) fires a bullet of least 150 grains in weight at a minimum muzzle velocity of 800 feet per second or any combination of bullet weight and muzzle velocity that produces a muzzle energy of at least 215 foot-pounds.

(B) when used to hunt squirrel, pheasant, quail, or chachalaca, the air gun fires a projectile of at least .177 caliber (4.5 mm) in diameter producing a muzzle velocity of at least 600 feet per second.

(C) In Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties, alligators may not be hunted by means of air guns. In all other counties, alligators may be hunted by means of air guns on private property, including private waters, but may not be hunted by means of air guns from, on, in, across, or over public water.

(D) Alligators lawfully caught on a taking device may be dispatched by means of air guns in all counties.

(E) No person whose date of birth is after September 1, 1971 may hunt a wildlife resource by means of an air gun unless that person has successfully completed a department-approved hunter education course or is otherwise in compliance with the applicable re-

quirements of §51.80 of this title (relating to Hunter Education Course and Instructors).

~~[(A) the gun is designed to be fired from the shoulder;]~~

~~[(B) the gun operates by using the force of a spring, air, or non-ignited compressed gas to expel a projectile;]~~

~~[(C) the muzzle velocity of the gun is at least 600 feet per second; and]~~

~~[(D) the projectile is at least .177 caliber (4.5 mm) in diameter.]~~

(5) Arrow guns. It is lawful to use an arrow gun to take:

(A) alligators in the counties not listed in subparagraph (D) of this paragraph; however, the provisions of paragraph (7) of this section apply; and

(B) game animals and upland game birds; however, the arrow must conform with paragraph (2)(B) and (C) of this section.

(C) An arrow gun that is not a pre-charged pneumatic is unlawful.

(D) In Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties, alligators may not be hunted by means of arrow guns. In all other counties, alligators may be hunted by means of arrow guns on private property, including private waters, but may not be hunted by means of arrow guns from, on, in, across, or over public water.

(E) Alligators lawfully caught on a taking device may be dispatched by means of arrow guns in all counties.

(F) No person whose date of birth is after September 1, 1971 may hunt a wildlife resource by means of an arrow gun unless that person has successfully completed a department-approved hunter education course or is otherwise in compliance with the applicable requirements of §51.80 of this title (relating to Hunter Education Course and Instructors).

(6) ~~[(5)]~~ Falconry. It is lawful to hunt any game bird or game animal by means of falconry under the provisions of Subchapter K of this chapter (relating to Raptor Proclamation).

(7) ~~[(6)]~~ Alligator.

(A) Legal devices for taking alligators in the wild are as follows:

*(i) - (iv)* (No change.)

*(v)* lawful firearms, air guns, and arrow guns in counties where take by firearm, air gun, or arrow gun is allowed.

(B) A line of at least 300-pound test shall be securely attached to all taking devices other than firearms, air guns or arrow guns used to hunt alligators. Except as provided in this subsection, hook-bearing lines must be attached to a stationary object capable of maintaining a portion of the line above water when an alligator is caught on the line. A line attached to an arrow, snare, or gig must have a float attached when used to take alligators. The float shall be no less than six inches by six inches by eight inches, or, if the float is spherical, no less than eight inches in diameter.

(C) (No change.)

(8) ~~[(7)]~~ Use of laser sighting devices. All provisions concerning hunter education requirements apply to persons hunting with laser sighting devices under this paragraph.

(A) (No change.)

(B) Use of laser sighting devices by persons who are physically disabled.

*(i)* A person with a physical disability may use a laser sighting device during lawful hunting hours in open seasons when assisted by a person who:

*(I)* is not legally blind or a person with a physical disability that renders the person incapable of using a traditional ~~[firearm]~~ sighting device;

*(II)* has a hunting license; and

*(III)* is at least 13 years of age.

*(ii)* A person who uses a laser sighting device under the provisions of this subparagraph must have in possession a signed statement from a physician or optometrist certifying that the person is incapable of using a traditional ~~[firearm]~~ sighting device.

(9) ~~[(8)]~~ Special Provisions.

(A) - (B) (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 July 6, 2018.

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Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife

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For further information, please call: (512) 389-4775



## SUBCHAPTER Q. STATEWIDE FUR-BEARING ANIMAL PROCLAMATION

### 31 TAC §65.375

The Texas Parks and Wildlife Department proposes an amendment to §65.375, concerning Open Seasons; Means and Methods. The proposed amendment would add air guns and arrow guns as lawful means for taking fur-bearing animals. In another proposed rulemaking published elsewhere in the issue, the department proposes to allow the take of alligators, big game species, and non-migratory game birds by means of pneumatic (air-powered) weapons. The proposed amendment to §65.375 is necessary to provide consistency and prevent confusion by allowing the use of air guns and arrow guns to take fur-bearing animals.

In response to a petition for rulemaking, subsequent field demonstrations, and additional review of ballistic performance characteristics, the department has determined that air guns of .30 caliber and arrow guns, provided they are pre-charged from an external propellant source, are capable of reliably killing fur-bearing animals and therefore should be lawful means of take for those species. It is necessary to require that air guns and arrow guns used to take fur-bearing animals be charged from an external source ("pre-charged pneumatics") because department investigations revealed that other methods of charging (i.e., "break-action," "pump action," and "canister" charging systems) are insufficient to produce the minimum ballistic performance necessary

to reliably kill furbearers, especially at longer distances. Similarly, an analysis of ballistic performance data indicates that the .30-caliber minimum bullet size is the minimum specification necessary to achieve lethality in most circumstances, and probably in all circumstances in which the distance to the target and placement of the shot are optimal.

Finally, the proposed amendment would require persons born after September 1, 1971, who hunt by means of air guns or arrow guns to have completed a department-approved hunter education course. Under the provisions of Parks and Wildlife Code, §42.014, the department is authorized to require persons who were born after September 1, 1971, to complete a hunter education course in order to hunt by means of firearm, lawful archery equipment, or crossbow. The hunter education program has been an unqualified success in Texas, and has resulted in a drastic reduction in hunting accidents, injuries, and fatalities. The department believes it is prudent to require persons who hunt by means of air guns and arrow guns to receive the same hunter education training as persons who hunt with firearms, lawful archery equipment, or crossbows.

Clayton Wolf, Wildlife Division Director, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the rule.

Mr. Wolf also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be the dispensation of the agency's statutory duty to protect and conserve the fur-bearing animal resources of this state, the duty to equitably distribute opportunity for the enjoyment of those resources among the citizens, and the execution of the commission's policy to maximize recreational opportunity within the precepts of sound biological management practices.

There will be no adverse economic effect on persons required to comply with the rule as proposed.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, or rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small and microbusinesses and rural communities. Those guidelines state that an agency need only consider a proposed rule's direct adverse economic impacts to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rule regulates various aspects of recreational license privileges that allow individual persons to pursue and harvest wildlife resources in this state and therefore does not directly affect small businesses, micro-businesses, or rural communities. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022,

as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

The department has determined that because the rule as proposed does not impose a cost on regulated persons, it is not necessary to repeal or amend any existing rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will: neither create nor eliminate a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; will not create a new regulation; relax an existing regulation (by additional lawful means for taking fur-bearing animals); neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Shaun Oldenburger (small game and upland birds) at (512) 389-4778, e-mail: [shaun.oldenburger@tpwd.texas.gov](mailto:shaun.oldenburger@tpwd.texas.gov). Comments also may be submitted via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

The amendment is proposed under the authority of Parks and Wildlife Code, §71.002, which authorizes the commission to regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals and the means, methods, and manner that are, and places in which it is, lawful to take or possess fur-bearing animals, pelts, or carcasses.

The proposed amendment affects Parks and Wildlife Code, Chapter 71.

§65.375. *Open Seasons; Means and Methods.*

(a) - (b) (No change.)

(c) Means and methods.

(1) Only the following means and methods are legal for taking fur-bearing animals:

(A) - (G) (No change.)

(H) electronic or hand-held calls; ~~and~~

(I) artificial light; [-]

(J) pre-charged pneumatic arrow guns (as defined by Subchapter A of this chapter); and

(K) pre-charged pneumatic air guns (as defined by Subchapter A of this chapter) of .30 caliber or larger.

(2) (No change.)

(3) No person whose date of birth is after September 1, 1971, may hunt a fur-bearing animal by means of an air gun or arrow gun unless that person has successfully completed a department-approved hunter education course or is otherwise in compliance with the

applicable requirements of §51.80 of this title (relating to Hunter Education Course and Instructors).

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

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Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 20. TEXAS WORKFORCE COMMISSION**

#### **CHAPTER 811. CHOICES**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

###### **40 TAC §§811.1 - 811.4**

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 811, relating to the Choices program:

Subchapter A. General Provisions, §§811.1 - 811.4

Subchapter B. Choices Services Responsibilities, §811.11 and §811.14

Subchapter C. Choices Services, §811.21 and §811.22

Subchapter D. Choices Activities, §811.51

Subchapter E. Support Services and Other Initiatives, §811.61 and §811.65

##### **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of the proposed Chapter 811 rule changes is to reflect the changes made to TWC Chapter 809 Child Care Services rules and other administrative changes as they relate to the Choices program, TWC's work-first employment and training program for Texans receiving Temporary Assistance for Needy Families (TANF).

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was reauthorized for the first time since 1996. The US Department of Health and Human Services Administration for Children and Families initiated its rulemaking process December 24, 2015, to amend Child Care and Development Fund (CCDF) regulations based on the changes to the CCDBG Act. The reauthorization and subsequent rules made significant changes to the CCDF program.

Amendments to TWC's Chapter 809 rules implementing the CCDBG Act changes became effective October 1, 2016. However, the amendments to the rules also affect other programs in which child care services are offered, including Choices. The changes made to Chapter 809 require child care to be continued for:

--at least three months for Choices participants who fail to meet program requirements; or

--the remainder of the initial 12-month eligibility period if the individual resumes cooperation with Choices or begins participation in work, job training, or an education program during the three-month continuation period.

##### **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

###### **SUBCHAPTER A. GENERAL PROVISIONS**

TWC proposes the following amendments to Subchapter A:

###### **§811.1. Purpose and Goal**

Section 811.1(b) is amended to replace the outdated term "Choices eligible" with the term "Choices-eligible individual."

###### **§811.2. Definitions**

Section 811.2(2), §811.2(3)(A), §811.2(3)(B), and §811.2(25) are amended to replace the outdated term "Choices eligible" with the term "Choices-eligible individual."

###### **§811.3. Choices Service Strategy**

Section 811.3(a)(3), §811.3(b)(2)(D), §811.3(b)(2)(D)(i), §811.3(b)(2)(D)(ii), and §811.3(B)(6) are amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible individuals."

###### **§811.4. Policies, Memoranda of Understanding, and Procedures**

Section 811.4(c)(1), and §811.4(d)(5) are amended to replace the outdated term "Choices eligible" with the term "Choices-eligible individual."

Section 811.4(c)(2) is removed. This section requires Local Workforce Development Boards (Boards) to establish a local-level memorandum of understanding (MOU) in cooperation with the Texas Health and Human Services Commission (HHSC) for coordinated case management that is consistent with the MOU between HHSC and TWC. However, subsequent reviews of state and federal rules and regulations determined that this MOU is no longer necessary to support program operations.

Section 811.4(c)(3) is renumbered as §811.4(c)(2) and amended to replace the Texas Department of State Health Services (DSHS) with HHSC as the agency with which an MOU must be in place for providing mental health and substance abuse services to Choices participants. DSHS consolidated with its parent organization, HHSC, in 2016. This update reflects the current structure of the program in which HHSC is the agency responsible for mental health and substance abuse services.

Section 811.4(c)(4) is renumbered as §811.4(c)(3).

###### **SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES**

TWC proposes the following amendments to Subchapter B:

###### **§811.11. Board Responsibilities**

Section 811.11(a)(2)(E), §811.11(e), §811.11(g)(1)(A), §811.11(g)(2), and §811.11(i) are amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible individuals."

###### **§811.14. Noncooperation**

Section 811.14(b)(2) adds language stating that TWC-funded child care is not a service that must be terminated for noncooperation by exempt Choices participants. Section 811.14(b)(3) adds that child care must be provided in accordance with §809.45 of this title.

#### SUBCHAPTER C. CHOICES SERVICES

TWC proposes the following amendments to Subchapter C:

##### §811.21. General Provisions

Section 811.21(a) is amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible individuals."

##### §811.22. Assessment

Section 811.22(c) is amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible individuals."

#### SUBCHAPTER D. CHOICES ACTIVITIES

TWC proposes the following amendments to Subchapter D:

##### §811.51. Post Employment Services

Section 811.51(c) and §811.51(e)(6) are amended to replace the outdated term "Choices eligible" with the term "Choices-eligible individual."

#### SUBCHAPTER E. SUPPORT SERVICES AND OTHER INITIATIVES

TWC proposes the following amendments to Subchapter E:

##### §811.61. Support Services

Section 811.61(b) adds language that stipulates that child care is an exception to this rule, which requires Boards to ensure that support services are *only* provided to Choices participants who are meeting Choices program requirements. This limitation does not apply to child care. The references to Choices program requirements are also updated from §811.16 to §811.13, which is the correct location of the program requirements, and outdated references to §809.45 of this title are removed.

Section 811.61(c)(1) adds language excepting TWC-funded child care from the support services that Boards must terminate immediately upon a determination of a Choices participant's failure to meet program requirements. The current language in §811.61(c)(2) is removed and replaced with language stating that child care must be provided in accordance with §809.45, as amended in accordance with the CCDBG Act. Section 811.61(c)(3) is no longer applicable and is removed.

##### §811.65. Wheels to Work

Section 811.65(a) and §811.65(b) are amended to replace the outdated term "Choices eligibles" with the term "Choices-eligible individuals."

#### PART III. IMPACT STATEMENTS

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by House Bill 1290, 85th Texas Legislature, Regular Session (2017), (to be codified at Texas Government Code §2001.0045), does not apply to this rulemaking.

#### Government Growth Impact Statement

TWC has determined that during the first five years the proposed amendments will be in effect:

--the proposed amendments will not create or eliminate a government program;

--implementation of the proposed amendments will not require the creation or elimination of employee positions;

--implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to TWC;

--the proposed amendments will not require an increase or decrease in fees paid to TWC;

--the proposed amendments will not create a new regulation;

--the proposed amendments will not expand, limit, or eliminate an existing regulation;

--the proposed amendments will not change the number of individuals subject to the rules; and

--the proposed amendments will not positively or adversely affect the state's economy.

#### Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as these proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Interim Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Courtney Arbour, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to align TWC with federal requirements related to publicly subsidized child care.

#### PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, TWC sought the involvement of Texas' 28 Boards. TWC provided the concept paper regarding these rule amendments to the Boards for consideration and review on April 17, 2018. TWC



also conducted a conference call with Board executive directors and Board staff on April 27, 2018, to discuss the concept paper. During the rulemaking process, TWC considered all information gathered in order to develop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Program Policy, Attn: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to [TWCPolicyComments@twc.state.tx.us](mailto:TWCPolicyComments@twc.state.tx.us). Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules affect Texas Labor Code, Title 4, and Texas Human Resources Code, Chapters 31 and 34.

#### §811.1. Purpose and Goal.

(a) The purposes of Temporary Assistance for Needy Families (TANF), as set forth in Title IV, Social Security Act, §401 (42 USCA §601) are:

- (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) prevent and reduce the incidence of out-of-wedlock pregnancies; and
- (4) encourage the formation and maintenance of two-parent families.

(b) The goal of Choices services is to end the dependence of needy parents on public assistance by promoting job preparation, work, and marriage. A Local Workforce Development Board (Board) may exercise flexibility in providing services to Choices-eligible individuals [Choices eligibles] to meet this Choices goal. A Board is also provided the flexibility and may engage in strategies that promote the prevention and reduction of out-of-wedlock pregnancies and encourage the formation and maintenance of two-parent families if those strategies support the primary goal of Choices services, which is employment and job retention.

(c) The goal of the Texas Workforce Commission (Commission) is to ensure delivery of the employment and training activities as described in the TANF State Plan and the TANF Work Verification Plan.

(d) Boards shall identify the workforce needs of local employers and design Choices services to ensure that local employer needs are met and that the services are consistent with the goals and purposes of Choices services as referenced in this section, and as authorized by PRWORA, the applicable federal regulations at 45 CFR Parts 260 - 265, the TANF State Plan, the TANF Work Verification Plan, this chapter, and consistent with a Board's approved integrated workforce training and services plan as referenced in §801.17 of this title.

#### §811.2. Definitions.

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

(1) Applicant--An adult, or teen head of household, in a family who applies for TANF cash assistance, who previously did not leave TANF in a sanctioned status.

(2) Choices-eligible individual [Choices Eligible]--An individual eligible to receive Choices services including an adult or teen head of household who is an applicant, conditional applicant, recipient, nonrecipient parent, former recipient, or sanctioned family as defined in this chapter.

(3) Choices participant--A Choices-eligible individual [A Choices eligible] participating in or outreached for Choices services, including:

(A) Exempt Choices participant--A Choices-eligible individual [A Choices eligible] who is not required under Texas Human Resources Code, Chapter 31 or Texas Health and Human Services Commission (HHSC) rules (1 TAC, Chapter 372, Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Programs) to participate in Choices services, but who may voluntarily participate in Choices services.

(B) Mandatory Choices participant--A Choices-eligible individual [A Choices eligible] who is required under Texas Human Resources Code, Chapter 31 or HHSC rules (1 TAC, Chapter 372) to participate in Choices services.

(4) Community service--A program that provides employment and training activities to Choices participants through unsalaried, work-based positions in the public or private nonprofit sectors. Community service programs contain structured, supervised activities that are a direct benefit to the community and are designed to improve the employability of Choices participants who have been unable to find employment.

(5) Conditional applicant--An adult or teen head of household who left TANF in a sanctioned status, but who is reapplying for TANF cash assistance and must demonstrate cooperation with Choices program requirements for four consecutive weeks.

(6) Earned Income Deduction (EID)--A standard work-related and income deduction, available for four months through HHSC.

(7) Employment Planning Session (EPS)--A meeting with a TANF recipient to introduce Choices services.

(8) Extended TANF recipient--A recipient who receives TANF cash assistance past the 60-month federal time limit because of a hardship exemption as defined in Texas Human Resources Code, Chapter 31 and HHSC rules (1 TAC, Chapter 372).

(9) Former recipient--An adult or teen head of household who no longer receives TANF cash assistance because of employment.

(10) HHSC--Texas Health and Human Services Commission.

(11) Job readiness--Short-term structured activities or a series of activities lasting less than six months designed to prepare a job seeker for unsubsidized employment and increase the job seeker's employability. Activities may include, but are not limited to: interviewing skills, job retention skills, personal maintenance skills, professional conduct skills, and introductory computer skills.

(12) Job search--Acts of seeking or obtaining employment, or preparing to seek or obtain employment, including life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities. Activities may include: information on and referral to available jobs; occupational exploration, including information on local emerging and demand occupations; job fairs; applying or interviewing for job vacancies; and contacting potential employers.

(13) Job skills training--Training or education for job skills required by an employer to provide a Choices participant with the abil-

ity to obtain employment or to advance or adapt to the changing demands of the workplace.

(14) Nonrecipient parent--Adults or minor heads of household not receiving TANF cash assistance, but living with their own children who are receiving TANF cash assistance. Nonrecipient parents include parents who are not eligible for TANF cash assistance:

(A) due to a disqualification by the Texas Health and Human Services Commission. These disqualifications include parents who:

(i) refuse to comply with Medicaid third-party resource requirements;

(ii) do not comply with Social Security number requirements;

(iii) are found guilty of an intentional program violation;

(iv) fail to report the temporary absence of a certified child;

(v) are fugitives fleeing to avoid prosecution of, or confinement for, a felony criminal conviction, or are found by a court to be violating federal or state probation or parole;

(vi) are convicted of a felony drug offense (not deferred adjudication) committed on or after April 1, 2002; or

(vii) refuse to cooperate with the program integrity assessment process;

(B) because they are receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI); or

(C) because they have exhausted their TANF state time limit.

(15) PRWORA--The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, as amended.

(16) Recipient--An adult or teen head of household who receives TANF cash assistance.

(17) Sanctioned family--An adult or teen head of household who must demonstrate cooperation for one month in order to reinstate TANF cash assistance.

(18) Secondary school--Educational activities including middle school, high school leading to a high school diploma, or classes leading to the completion of a GED credential.

(19) TANF cash assistance--The cash grant provided through HHSC to individuals who meet certain residency, income, and resource criteria as provided under federal and state statutes and regulations, including the PRWORA, the TANF block grant statutes, the TANF State Plan, TANF cash assistance provided under Texas Human Resources Code, Chapters 31 and 34, and other related regulations.

(20) The Workforce Information System of Texas (TWIST)--the Agency's automated data processing and case management system for the Texas workforce system.

(21) Vocational educational training--Organized educational programs directly related to preparing Choices participants for employment in current or emerging occupations.

(22) Work-based services--Includes those employment programs defined in Texas Human Resources Code §31.0126.

(23) Work eligible individual--Work eligible individuals are adults or minor heads of household receiving TANF cash assistance, and nonrecipient parents--with the following exceptions:

(A) Noncitizens who are ineligible to receive cash assistance because of their immigration status;

(B) Parents caring for a disabled family member who lives in the home (provided the need for such care is supported by medical documentation), on a case-by-case basis; and

(C) Recipients of SSI or SSDI, on a case-by-case basis.

(24) Work experience--Unpaid training in the public or private sector designed to improve the employability of Choices participants who have been unable to find employment.

(25) Work ready--A Choices-eligible individual [A Choices eligible] is considered work ready if he or she has the skills that are required by employers in the local workforce development area. A Board must ensure immediate access to the labor market to determine whether the Choices-eligible individual [Choices eligible] has those necessary skills to obtain employment.

(26) Work requirement--For the purposes of 42 USC §607 and 45 CFR §261.10, a Choices participant is deemed to be engaged in work by participating in:

(A) unsubsidized employment;

(B) subsidized employment;

(C) on-the-job training (OJT); or

(D) educational services for Choices participants who have not completed secondary school or received a GED credential as provided in §811.30.

### §811.3. *Choices Service Strategy.*

(a) A Board shall ensure that its strategic planning process includes an analysis of the local labor market to:

(1) determine employers' needs;

(2) determine emerging and demand occupations; and

(3) identify employment opportunities, which include those with a potential for career advancement that may assist a Choices-eligible individual's [Choices eligible's] progression toward self-sufficiency.

(b) The Choices service strategy shall include:

(1) Workforce Orientation for Applicants (WOA). As a condition of eligibility, applicants and conditional applicants are required to attend a workforce orientation that includes information on options available to allow them to enter the Texas workforce.

(2) Work First Design.

(A) The work first design:

(i) allows Choices participants to take immediate advantage of the labor market and secure employment, which is critical due to individual time-limited benefits; and

(ii) meets the needs of employers by linking Choices participants with skills that match those job requirements identified by the employer.

(B) Boards shall provide Choices participants access to other services and activities available through the One-Stop Service Delivery Network, which includes the WOA, to assist with employment in the labor market before certification for TANF cash assistance.

(C) Post-employment services shall be provided in order to assist a Choices participant's progress toward self-sufficiency as described in §811.4(a)(1) and §811.51.

(D) In order to assist a Choices-eligible individual's [~~Choices eligible's~~] progress toward self-sufficiency:

(i) Boards shall provide Choices-eligible individuals [~~Choices eligibles~~] who are employed, including mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID, with information on available post-employment services; or

(ii) Boards may provide Choices-eligible individuals [~~Choices eligibles~~] with post-employment services as determined by Board policy. The length of time these services may be provided is subject to §811.51.

(E) In order to assist employers, Boards shall coordinate with local employers to address needs related to:

(i) employee post-employment education or training;

(ii) employee child care, transportation or other support services available to obtain and retain employment; and

(iii) employer tax credits.

(F) Boards shall ensure that a family employment plan is based on employer needs, individual skills and abilities, and individual time limits for TANF cash assistance.

(3) **Post-Employment Services.** A Board shall ensure that post-employment services are designed to assist Choices participants with job retention, career advancement, and reemployment, as defined in §811.51. Post-employment services are a continuum in the Choices service strategy to support a Choices participant's job retention, wage gains, career progression, and progression to self-sufficiency.

(4) **Adult Services.** A Board shall ensure that services for adults shall include activities individually designed to lead to employment and self-sufficiency as quickly as possible.

(5) **Teen Services.** A Board shall ensure that services for teen heads of household shall include secondary school, as defined in §811.2(13), and making the transition from school to employment, as described in §811.30 and §811.50.

(6) **Choices-Eligible Individuals** [~~Choices Eligibles~~] with Disabilities. A Board shall ensure that services for Choices-eligible individuals [~~Choices eligibles~~] with disabilities include reasonable accommodations to allow the Choices-eligible individuals [~~Choices eligibles~~] to access and participate in services, where applicable by law.

(7) **Target Populations.** A Board shall ensure that services are concentrated, as further defined in §811.4(d)(5) and §811.11(d), on the needs of the following:

(A) recipients who have six months or less remaining of their state TANF time limit, irrespective of any extension of time due to a hardship exemption;

(B) recipients who have 12 months or less remaining of their 60-month federal TANF time limit, irrespective of any extension of time due to a hardship exemption; and

(C) recipients who are extended TANF recipients.

(8) **Local Flexibility.** A Board may develop additional service strategies that are consistent with the goal and purpose of this chapter and the One-Stop Service Delivery Network.

§811.4. *Policies, Memoranda of Understanding, and Procedures.*

(a) A Board shall establish policies regarding the following:

(1) A Choices service strategy, as defined in §811.3, that coordinates various service delivery approaches to:

(A) assist applicants and conditional applicants in gaining employment as an alternative to public assistance;

(B) use a work first design as referenced in §811.3(b)(2) to provide Choices participants access to the labor market; and

(C) assist former recipients with job retention and career advancement in order to remain independent of TANF cash assistance;

(2) Limits on the amount of funds per Choices participant and the maximum duration for subsidized employment and OJT placements; and

(3) The methods and limitations for provision of work-related expenses.

(b) A Board may establish optional policies that:

(1) require the use of the Eligible Training Provider Certification System (ETPS) and Individual Training Account (ITA) systems as described in Chapter 841 of this title to provide for Choices services for Choices participants and paid for with TANF funds; and

(2) make post-employment services available to:

(A) former recipients who are denied TANF cash assistance because of earnings; and

(B) sanctioned families and conditional applicants who obtain employment during their demonstrated cooperation period.

(c) A Board shall ensure that the following memoranda of understanding [~~Memoranda of Understanding~~] (MOUs) and collaborative partnerships are developed:

(1) Local-level MOUs with the appropriate agencies to serve Choices-eligible individuals [~~Choices eligibles~~] with disabilities to maximize their potential for success in employment;

~~{(2) A local-level MOU in cooperation with HHSC for coordinated case management that is consistent with the MOU between HHSC and the Commission;}~~

(2) ~~[(3)]~~ A local-level MOU with HHSC [~~the Texas Department of State Health Services~~] for providing mental health and substance abuse services to Choices participants; and

(3) ~~[(4)]~~ A collaborative partnership with housing authorities and sponsors of local housing programs and services to address the unmet housing needs of recipients.

(d) A Board shall ensure that procedures are developed:

(1) to ensure that job development services are available to Choices participants. These services include:

(A) contacting local employers or industry associations to request that job openings be listed with Workforce Solutions Offices, and other entities in the One-Stop Service Delivery Network selected by the Board;

(B) identifying the hiring needs of employers;

(C) assisting an employer in creating new positions for Choices participants based on the job developer's and employer's analysis of the employer's business needs; or

(D) finding opportunities with an employer for a specific Choices participant or a group of Choices participants;

(2) to ensure that job placement services are available to Choices participants. Job placement services shall include:

(A) identifying employers' workforce needs;

(B) identifying Choices participants who have sufficient skills and abilities to be successfully linked with employment; and

(C) matching the skills of the Choices participant pool to the hiring needs of local employers;

(3) to notify applicants and conditional applicants--in conjunction with HHSC--on the availability of regularly scheduled Workforce Orientations for Applicants (WOAs) and alternative WOAs;

(4) to notify HHSC of applicants and conditional applicants who contacted a Workforce Solutions Office to request alternative WOAs;

(5) to ensure that services are concentrated on Choices-eligible individuals [~~Choices eligibles~~] approaching their state or federal time limit, as identified in §811.3(b)(7)(A) and (B). Concentrated services may include targeted outreach, enhanced analysis of circumstances that may limit a Choices-eligible individual's [~~Choices eligible's~~] ability to participate, and targeted job development; and

(6) to determine a family's inability to obtain child care.

(e) If a Board elects to establish one or more of the optional policies described in subsection (b) of this section, the Board must ensure that corresponding procedures are developed for those policies.

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

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Texas Workforce Commission

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## SUBCHAPTER B. CHOICES SERVICES RESPONSIBILITIES

### 40 TAC §811.11, §811.14

The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules affect Texas Labor Code, Title 4, and Texas Human Resources Code, Chapters 31 and 34.

§811.11. *Board Responsibilities.*

(a) A Board shall ensure that:

(1) the WOA is offered frequently enough to allow applicants and conditional applicants to comply with the HHSC requirement that gives applicants and conditional applicants 10 calendar days from the date of their eligibility interview to attend a WOA;

(2) during a regularly scheduled WOA or alternative WOA, applicants and conditional applicants are informed of:

(A) employment services available through the One-Stop Service Delivery Network to assist applicants and conditional applicants in achieving self-sufficiency without the need for TANF cash assistance;

(B) benefits of becoming employed;

(C) impact of time-limited benefits;

(D) individual and parental responsibilities; and

(E) other services and activities, including education and training, available through the One-Stop Service Delivery Network, including services and referrals for services available to Choices-eligible individuals [~~Choices eligibles~~] with disabilities;

(3) alternative WOAs are developed that allow applicants and conditional applicants with extraordinary circumstances to receive the information listed in paragraph (2) of this subsection;

(4) verification that applicants and conditional applicants attend a scheduled or alternative WOA is completed and HHSC is notified in accordance with HHSC rules (1 TAC, Chapter 372, Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Programs); and

(5) applicants and conditional applicants are provided with an appointment to develop a family employment plan (FEP).

(b) A Board shall ensure that:

(1) Choices services are offered to applicants who attend a WOA; and

(2) conditional applicants who attend a WOA are immediately scheduled to begin Choices services.

(c) A Board shall ensure that a Choices participant's eligibility is verified monthly.

(d) A Board shall ensure that all extended TANF recipients are outreached and offered the opportunity to participate in Choices activities.

(e) A Board shall ensure that post-employment services, including job retention and career advancement services, are available to Choices-eligible individuals, [~~Choices eligibles~~] including mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving EID.

(f) A Board shall ensure that monitoring of Choices program requirements is ongoing and frequent, as determined by the Board, unless otherwise specified in this chapter, and consists of the following:

(1) ensuring receipt of support services;

(2) tracking and reporting all support services and entering them into TWIST at least monthly;

(3) tracking and reporting actual hours of participation in Choices work activities, at least monthly, unless otherwise specified in this chapter;

(4) determining and arranging for any intervention needed to assist the Choices participant in complying with Choices program requirements; and

(5) ensuring that the Choices participant is progressing toward achieving the goals and objectives in the FEP.

(g) A Board shall ensure that:

(1) no fewer [less] than four hours of training regarding family violence is provided to staff who:

(A) provide information to Choices-eligible individuals [Choices eligibles];

(B) request penalties or grant good cause; or

(C) provide employment planning or employment retention services; and

(2) Choices-eligible individuals [Choices eligibles] who are identified as being victims of family violence are referred to an individual or an agency that specializes in issues involving family violence.

(h) A Board shall ensure that documentation is obtained and maintained regarding all contact with Choices participants, including verification of participation hours, and data is entered into TWIST.

(i) A Board shall ensure that a referral program is developed to provide Choices-eligible individuals [Choices eligibles] facing higher than average barriers to employment, as described in this chapter, with referrals to pre-employment and post-employment services offered by community-based and other organizations.

#### §811.14. *Noncooperation.*

(a) A Board shall ensure that cooperation by Choices participants is verified each month to ensure that the Choices participants:

(1) comply with Choices program requirements as set forth in the FEP, as specified in §811.23; or

(2) have good cause as described in this chapter.

(b) If Choices participants have not cooperated with Choices program requirements and do not have good cause, a Board shall ensure that:

(1) a penalty is requested for mandatory Choices participants; or

(2) Choices services and[; including] support services, except Commission-funded child care, are terminated for exempt Choices participants; and[;]

(3) Choices child care is provided as needed, as specified in §809.45 of this title.

(c) A Board shall ensure that timely and reasonable attempts, as defined by the Agency, are made to contact a mandatory Choices participant prior to requesting a penalty to:

(1) determine the reason for noncooperation and whether good cause is applicable, as described in §811.16(c);

(2) inform the mandatory Choices participant of:

(A) the violation, if good cause has not been determined;

(B) the right to appeal; and

(C) the necessary procedures to demonstrate cooperation.

(d) A Board shall ensure that timely and reasonable attempts, as defined by the Agency, are made to contact a sanctioned family and conditional applicants upon discovery of noncooperation during their demonstrated cooperation period to determine if good cause exists.

(e) A Board shall ensure that the reasonable attempts to contact a mandatory Choices participant are documented in TWIST.

(f) A Board shall ensure that:

(1) HHSC is notified of a mandatory Choices participant's failure to comply with Choices program requirements; and

(2) the notification of noncooperation is submitted as early as possible in the same month in which the noncooperation occurs.

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

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## SUBCHAPTER C. CHOICES SERVICES

### 40 TAC §811.21, §811.22

The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules affect Texas Labor Code, Title 4, and Texas Human Resources Code, Chapters 31 and 34.

#### §811.21. *General Provisions.*

(a) A Board shall ensure that services are available to assist Choices-eligible individuals [Choices eligibles] with obtaining employment as quickly as possible and, if employed, with retaining employment. These services may include:

(1) job readiness and job search-related services;

(2) work-based services;

(3) post-employment services;

(4) education and training services as described in this chapter; and

(5) support services.

(b) A Board shall ensure that employment and training activities are conducted in compliance with the Fair Labor Standards Act (FLSA) as specified in §811.29.

(c) A Board shall ensure that placement in work-based services does not result in the displacement of currently employed workers or impair existing contracts for services or collective bargaining agreements.

(d) A Board shall ensure that job development services identify, at a minimum, job openings for current mandatory Choices participants.

#### §811.22. *Assessment.*

(a) A Board shall ensure that initial and ongoing assessments are performed to determine the employability and retention needs, including wage advancement and career development needs, of Choices participants as follows:

(1) An assessment is required for Choices participants who are:

(A) at least age 18; or

(B) heads of household, as determined by HHSC, who are not yet age 18, have not completed secondary school or received a GED credential, and are not attending secondary school.

(2) An assessment shall be provided to applicants who choose to participate in Choices services.

(3) Ongoing assessments shall be provided to former recipients who choose to participate in Choices services.

(b) Assessments shall include evaluations of strengths and potential barriers to obtaining and retaining employment, such as:

(1) skills and abilities, employment, and educational history in relation to employers' workforce needs in the local labor market;

(2) pre- and post-employment skills development needs to determine the necessity for job-specific training;

(3) unmet housing needs and whether those needs are a barrier to full participation in the workforce and progression to self-sufficiency;

(4) support services needs; and

(5) individual and family circumstances that may affect participation, including the existence of family violence, substance abuse, mental health, or disability-related issues, as one of the factors considered in evaluating employability.

(c) A Board shall ensure that the assessment identifies Choices-eligible individuals [~~Choices eligibles~~] with higher-than-average [~~higher than average~~] barriers to employment, as defined by the Board.

(d) A Board shall ensure that if the skills assessment indicates that a Choices participant requires job-specific training for placement in a job paying wages that equal or exceed the Board's identified self-sufficiency wage, the Board shall, to the extent funds are available and to the extent allowed under this chapter, place the Choices participant in vocational educational training activities or job skills training activities that are designed to improve employment and wage outcomes and job retention; and

(e) For mandatory Choices participants who are at least age 18, or who are heads of household but are not yet age 18 and have not completed secondary school or received a GED credential and are not attending secondary school:

(1) The assessments shall also include evaluations of the mandatory Choices participants':

(A) vocational and educational skills, experience, and needs; and

(B) literacy level by using a statewide standard literacy assessment instrument unless the Choices participants are mandatory Choices participants coded by HHSC as working at least 30 hours per week, earning at least \$700 per month, and receiving the EID.

(2) A Board shall ensure that the grade-level results or other literacy information are provided to HHSC for use in determining the appropriateness of the initial state time-limit designation for TANF cash assistance as described in the Texas Human Resources Code §31.0065, relating to state time-limited benefits.

(f) Assessment Outcome. Assessments shall result in the development of a family employment plan, as described in §811.23.

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

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## SUBCHAPTER D. CHOICES ACTIVITIES

### 40 TAC §811.51

The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules affect Texas Labor Code, Title 4, and Texas Human Resources Code, Chapters 31 and 34.

§811.51. *Post-Employment Services.*

(a) A Board shall ensure that post-employment services, which include job retention, career advancement, and reemployment services, are offered to Choices participants who are employed, and to applicants, conditional applicants, and former recipients who have obtained employment but require additional assistance in retaining employment and achieving self-sufficiency.

(b) A Board shall ensure that post-employment services are monitored, and ensure that hours of employment are required and reported by Choices participants for at least the length of time the Choices participants receive TANF cash assistance.

(c) A Board shall ensure that ongoing contact is established with Choices-eligible individuals [~~Choices eligibles~~] receiving post-employment services at least monthly.

(d) A Board may include mentoring techniques as part of a post-employment strategy.

(e) The post-employment services may include the following:

(1) assistance and support for the transition into employment through direct services or referrals to resources available in the workforce area;

(2) child care, if needed, as specified in rules at Chapter 809 of this title;

(3) work-related expenses, including those identified in §811.64;

(4) transportation, if needed;

(5) job search, job placement, and job development services to help a former recipient who loses a job to obtain employment;

(6) referrals to available education or training resources to increase an employed Choices-eligible individual's [~~Choices eligible's~~] skills or to help the individual qualify for advancement and long-term employment goals;

(7) additional career planning and counseling; or

(8) referral to support services available in the community.

(f) The maximum length of time a former recipient, conditional applicant, and sanctioned family may receive services under this section is dependent upon:

(1) family circumstances;

(2) the risk of returning to public assistance. A person is considered at risk of returning to TANF cash assistance if he or she is a SNAP recipient, or receives Commission-funded child care;

(3) the ongoing need for these services; and

(4) the availability of funds for these services.

(g) Post-employment service providers may include employers, community colleges, technical colleges, career schools and colleges, faith-based and community-based organizations.

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

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## SUBCHAPTER E. SUPPORT SERVICES AND OTHER INITIATIVES

### 40 TAC §811.61, §811.65

The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules affect Texas Labor Code, Title 4, and Texas Human Resources Code, Chapters 31 and 34.

#### §811.61. *Support Services.*

(a) A Board shall ensure that support services as specified in this subchapter are provided, if needed, to Choices participants to address barriers to employment or participation in Choices services, subject to availability of resources and funding. A Board shall ensure that support services provided to Choices participants are coordinated with the employer, when appropriate.

(b) A Board shall ensure that support services, except [including] Commission-funded child care, are not provided [only] to Choices participants who fail to meet [are meeting] Choices program requirements set forth in §811.13[§811.16], Subchapter B of this chapter. Commission-funded child care must be provided[, and] as set forth in §809.45 of this title. In applying this provision, a Board shall ensure that support services are provided to Choices participants if it is determined that support services are needed to comply with Choices program requirements set forth in §811.13[§811.16], Subchapter B of this chapter[, and as set forth in §809.45 of this title].

(c) A Board shall ensure that:

(1) support services, except Commission-funded child care, are terminated immediately upon a determination of failure to meet Choices program requirements by Choices participants unless otherwise determined by the Board's service provider as referenced in subsection (b) of this section; and

(2) Choices child care is provided as needed, as specified in §809.45 of this title. [the Board's child care contractor is notified immediately of the failure to meet Choices program requirements; and]

~~[(3) upon notification, the Board's child care contractor immediately notifies the child care provider that services are terminating due to failure to meet Choices program requirements.]~~

(d) A Board shall ensure that support services, classified as cash assistance, for:

(1) applicants and former recipients do not extend beyond four months for those who are unemployed and not receiving TANF cash assistance; and

(2) unemployed conditional applicants and sanctioned families do not extend beyond their demonstrated cooperation period.

#### §811.65. *Wheels to Work.*

(a) The Commission may develop a Wheels to Work initiative in which local nonprofit organizations provide automobiles for Choices-eligible individuals [Choices eligibles] who have obtained employment but are unable to accept or retain the employment solely because of a lack of transportation.

(b) A Board may, through local policies and procedures, establish services to assist Choices-eligible individuals [Choices eligibles] who verify the need for an automobile to accept or retain employment by referring them to available providers.

(c) Persons or organizations donating automobiles under a Wheels to Work initiative shall receive a charitable donation receipt for federal income tax purposes.

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

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## CHAPTER 847. PROJECT RIO EMPLOYMENT ACTIVITIES AND SUPPORT SERVICES

The Texas Workforce Commission (TWC) proposes the repeal of Chapter 847 in its entirety, relating to Project RIO Employment Activities and Support Services:

Subchapter A. General Provisions, §§847.1 - 847.3

Subchapter B. Project RIO Job Seeker Responsibilities, §847.11 and §847.12

Subchapter C. Project RIO Services, §847.21 and §847.22

Subchapter D. Project RIO Employment Activities, §847.31

Subchapter E. Project RIO Support Services, §847.41

Subchapter F. Expenditure of Funds, §847.51

### PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed chapter repeal is to remove Chapter 847, Project RIO Employment Activities and Support Services, from the Texas Administrative Code.

The General Appropriations Act, 82nd Legislature, Regular Session (2011), eliminated funding for Project RIO, effective

September 1, 2011, and has not funded the program since that date. Although specific funding for the Project RIO program was eliminated, the goal of serving ex-offenders continues to be an ongoing responsibility for Local Workforce Development Boards (Boards) providing services to customers under the Workforce Innovation and Opportunity Act (WIOA).

On January 30, 2018, the TWC three-member Commission approved the four-year rule review of Chapter 847, indicating that the Project RIO Employment Activities and Support Services rules are no longer needed. However, Boards will continue their ongoing efforts to serve ex-offenders through other program activities and services, as appropriate.

## PART II. IMPACT STATEMENTS

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the repeal will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of the repeal.

There are no estimated cost reductions to the state and to local governments as a result of the repeal.

There are no estimated losses or increases in revenue to the state or to local governments as a result of the repeal.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of the repeal.

There are no anticipated economic costs to persons required to comply with the repeal.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of the repeal.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by House Bill 1290, 85th Texas Legislature, Regular Session, 2017 (to be codified at Texas Government Code §2001.0045), does not apply to this rulemaking. Additionally, Texas Labor Code §352.101 requires the Commission to adopt rules necessary to integrate the vocational rehabilitation programs, including recommending adopting rules to implement the integration. Therefore, the exception identified in §2001.0045(c)(9) also applies.

### Government Growth Impact Statement

TWC has determined that during the first five years the repeal will be in effect:

- the repeal will not create or eliminate a government program;
- implementation of the repeal will not require the creation or elimination of employee positions;
- implementation of the repeal will not require an increase or decrease in future legislative appropriations to the agency;
- the repeal will not require an increase or decrease in fees paid to the agency;
- the repeal will not create a new regulation;
- the repeal will not expand, limit, or eliminate an existing regulation;
- the repeal will not change the number of individuals subject to the rule; and

--the repeal will not positively or adversely affect the state's economy.

## Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the repeal will not have an adverse economic impact on small businesses or rural communities, as the repeal places no requirements on small businesses or rural communities.

Mariana Vega, Interim Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the repeal.

Courtney Arbour, Director, Workforce Development Division, has determined that for each year of the first five years that the repeal is in effect, there will be no impact on the public.

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

## PART III. COORDINATION ACTIVITIES

In the development of the repeal for publication and public comment, TWC sought the involvement of Texas' 28 Boards. TWC provided the concept paper regarding the repeal to the Boards for consideration and review on April 17, 2018. TWC also conducted a conference call with Board executive directors and Board staff on April 27, 2018, to discuss the concept paper. During the rulemaking process, TWC considered all information gathered to repeal this rule chapter.

Comments on the repeal may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or e-mailed to [TWCPolicy-Comments@twc.state.tx.us](mailto:TWCPolicy-Comments@twc.state.tx.us). Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

## SUBCHAPTER A. GENERAL PROVISIONS

### 40 TAC §§847.1 - 847.3

The repeal of this subchapter is proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The repeal affects Texas Labor Code, particularly Chapters 301, 302, and 306; Texas Education Code, Chapter 19; and Texas Government Code, Chapter 552.

§847.1 *Purpose.*

§847.2 *Definitions.*

§847.3 *General Board Responsibilities.*

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

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## SUBCHAPTER B. PROJECT RIO JOB SEEKER RESPONSIBILITIES

### 40 TAC §847.11, §847.12

The repeal of this subchapter is proposed under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

§847.11. *Job Seeker Responsibilities.*

§847.12. *Job Seeker Failure to Comply.*

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

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## SUBCHAPTER C. PROJECT RIO SERVICES

### 40 TAC §847.21, §847.22

The repeal of this subchapter is proposed under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

§847.21. *Job Seeker Assessment.*

§847.22. *Job Seeker Individual Employment Plan.*

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 July 6, 2018.

TRD-201802977

Jason Vaden

Director, Workforce Program Policy

Texas Workforce Commission

Earliest possible date of adoption: August 19, 2018

For further information, please call: (512) 680-1655

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## SUBCHAPTER D. PROJECT RIO EMPLOYMENT ACTIVITIES

### 40 TAC §847.31

The repeal of this subchapter is proposed under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

§847.31. *Employment Activities for Project RIO Job Seekers.*

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 July 6, 2018.

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Jason Vaden

Director, Workforce Program Policy

Texas Workforce Commission

Earliest possible date of adoption: August 19, 2018

For further information, please call: (512) 680-1655

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## SUBCHAPTER E. PROJECT RIO SUPPORT SERVICES

### 40 TAC §847.41

The repeal of this subchapter is proposed under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

§847.41. *Provision of Project RIO Support Services.*

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 July 6, 2018.

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Jason Vaden

Director, Workforce Program Policy

Texas Workforce Commission

Earliest possible date of adoption: August 19, 2018

For further information, please call: (512) 680-1655

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## SUBCHAPTER F. EXPENDITURE OF FUNDS

### 40 TAC §847.51

The repeal of this subchapter is proposed under Texas Labor Code §301.0015 and §302.002(d), which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repeal affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

§847.51. *Use of Funds.*

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 July 6, 2018.

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# 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 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 65. WILDLIFE

##### SUBCHAPTER A. STATEWIDE HUNTING PROCLAMATION

###### DIVISION 1. GENERAL PROVISIONS

###### 31 TAC §65.3, §65.11

The Texas Parks and Wildlife Department withdraws the proposed amended §65.3 and §65.11, which appeared in the February 16, 2018, issue of the *Texas Register* (43 TexReg 827).

Filed with the Office of the Secretary of State on July 6, 2018.

TRD-201802986

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Effective date: July 6, 2018

For further information, please call: (512) 389-4775

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SUBCHAPTER Q. STATEWIDE FUR-  
BEARING ANIMAL PROCLAMATION

###### 31 TAC §65.375

The Texas Parks and Wildlife Department withdraws the proposed amended §65.375 which appeared in the February 16, 2018, issue of the *Texas Register* (43 TexReg 840).

Filed with the Office of the Secretary of State on July 6, 2018.

TRD-201802987

Robert D. Sweeney, Jr.

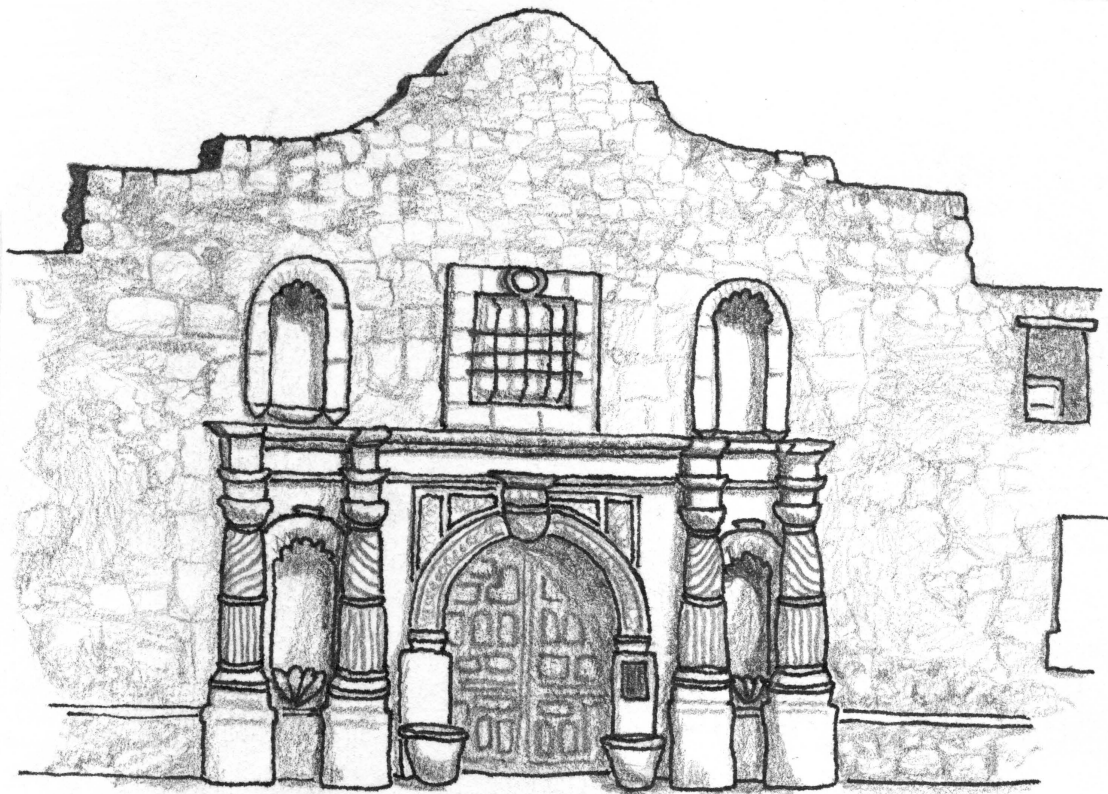
General Counsel

Texas Parks and Wildlife Department

Effective date: July 6, 2018

For further information, please call: (512) 475-3889

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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 25. HEALTH SERVICES

### PART 1. DEPARTMENT OF STATE HEALTH SERVICES

#### CHAPTER 37. MATERNAL AND INFANT HEALTH SERVICES

##### SUBCHAPTER U. EPINEPHRINE AUTO-INJECTOR POLICIES IN SCHOOLS

###### 25 TAC §§37.601 - 37.611

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (DSHS), adopts new §§37.601 - 37.611, concerning Epinephrine Auto-Injector Policies in Schools.

New §37.603, concerning Definitions; §37.605, concerning Maintenance, Administration, and Disposal of Unassigned Epinephrine Auto-Injectors; §37.606, concerning Assignment and Recruitment of School Personnel and School Volunteers to be Trained to Administer Epinephrine Auto-Injectors; and §37.608, concerning Report on Administering Epinephrine Auto-Injectors are adopted with changes to the proposed text as published in the March 16, 2018, issue of the *Texas Register* (43 TexReg 1567).

New §37.601, concerning Purpose; §37.602, concerning Voluntary Unassigned Epinephrine Auto-Injector Policies for School Districts, Open-enrollment Charter Schools and Private Schools; §37.604, concerning Applicability; §37.607, concerning Training; §37.609, concerning Notice to Parents Regarding Unassigned Epinephrine Auto-Injector Policies in Schools; §37.610, concerning Gifts, Grants, and Donations; and §37.611, concerning Immunity from Liability are adopted without changes to the proposed text as published in the March 16, 2018, issue of the *Texas Register* (43 TexReg 1567), and, therefore, will not be republished.

#### BACKGROUND AND JUSTIFICATION

The new sections are necessary to comply with Texas Education Code, Chapter 38, Subchapter E, which requires DSHS to adopt rules for the maintenance, administration, and disposal of epinephrine auto-injectors in school districts, open-enrollment charter schools, and private schools who voluntarily adopt epinephrine auto-injector policies.

The Stock Epinephrine Advisory Committee was also established under Texas Education Code, Chapter 38 to advise DSHS on the storage and maintenance of epinephrine auto-injectors on school campuses; the training of school personnel and school volunteers in the administration of an epinephrine auto-injector; and a plan for one or more school personnel

members or school volunteers trained in the administration of an epinephrine auto-injector to be on each school campus.

#### COMMENTS

The 30-day comment period ended April 16, 2018.

During this period, DSHS received comments from fourteen commenters regarding the proposed rules, including the Texas Allergy, Asthma, and Immunology Society; Texas Association of School Boards; Texas Medical Association; Texas Radiological Society; and ten individuals. A summary of comments relating to the rules and DSHS responses follow.

Comment: Regarding §37.603(1), one commenter suggested clarifying the definition for "all hours the campus is open" to include the language "locally in board policy," "first hour of instruction," or "during school office hours."

Response: DSHS respectfully disagrees because the intent of Senate Bill 66, 84th Legislature, 2015, known as the Cameron Espinosa Act, is to include times outside of normal instructional hours, including times for school-sponsored activities. Allowing schools to define "all hours the campus is open" goes outside of the intent of the legislation. Furthermore, the Stock Epinephrine Advisory Committee recommends that unassigned epinephrine auto-injector policies include all hours when school-sponsored activities occur on a campus where school personnel are present, including outside of normal instructional times. DSHS amended the definition to include "for school-sponsored activities" to clarify that only school-sponsored activities are included in the time outside of normal instructional hours.

Comment: Regarding §37.603(1), three commenters requested clarification regarding whether the definition for "all hours the campus is open" includes before and after school activities or times when employees are present but students are not present. The commenters suggested changing the definition to "at a minimum, the campus shall be considered open beginning with the first hour of instruction through the last hour of instruction."

Response: DSHS respectfully disagrees because the intent of Senate Bill 66 is to include times outside of normal instructional hours, including school-sponsored activities, even when students are not present. The Stock Epinephrine Advisory Committee recommends that unassigned epinephrine auto-injector policies include all hours when school-sponsored activities occur on a campus where school personnel are present, including outside of normal instructional times. DSHS amended the definition to include "for school-sponsored activities" to clarify that only school-sponsored activities are included.

Comment: Three commenters requested that DSHS add the definition for "Physician," as defined in Texas Education Code, §38.201.

Response: DSHS agrees with the recommendation and added "Physician" to §37.603(5), Definitions, and renumbered the section accordingly.

Comment: Regarding §37.603(9), three commenters requested that the definition for "unassigned epinephrine auto-injector" be clarified to specify who is authorized to prescribe the auto-injector and that the standing delegation order be provided as described in Texas Education Code, §38.211.

Response: DSHS partially agrees with the suggestion and clarified that the epinephrine auto-injector is prescribed by an authorized healthcare provider in the renumbered §37.603(10). However, Texas Occupations Code, Chapter 157, is the statute which authorizes prescriptive authority to authorized healthcare providers. Texas Education Code, §38.211 references Texas Occupations Code, Chapter 157, concerning the prescriptive authority of epinephrine auto-injectors.

Comment: Regarding §37.605(a), two commenters requested both adult and pediatric epinephrine auto-injectors be required for all participating school campuses or all participating elementary schools.

Response: DSHS respectfully disagrees and declined to make the change. To ensure that as many schools participate as possible, and to be as cost effective as possible, the Stock Epinephrine Advisory Committee recommends that schools, at a minimum, maintain at least one unassigned adult epinephrine auto-injector pack per campus. DSHS is not aware of any long-term side effects of adult dose usage on individuals under 66 pounds. Schools may choose to stock pediatric epinephrine auto-injector doses if they so choose.

Comment: Regarding §37.605(b), one commenter requested changing the "monthly" epinephrine auto-injector check requirement to "periodically," as checking the supply monthly is excessive and the date of expiration is already known, based on previous monthly checks. The commenter also stated that checking for discoloration may not be necessary.

Response: DSHS disagrees and declined to make the requested change. The epinephrine auto-injector supply should be checked monthly to ensure that the medication has not expired and to ensure that the epinephrine auto-injector is in its designated location. The Stock Epinephrine Advisory Committee wants to ensure that the epinephrine auto-injector supply is in its designated location. This will also help ensure that used and expired epinephrine auto-injectors have been properly replaced. By verifying that the epinephrine auto-injector is in the designated location, this will help during an anaphylaxis emergency.

Comment: Regarding §37.605(c), one commenter requested including "school hours" to clarify that "all hours the campus is open" does not include times when non-school related events occur, like religious activities or community club events.

Response: DSHS amended the definition to include "for school-sponsored activities" to clarify that only school-sponsored activities are included in the definition in §37.603(1) for "all hours the campus is open." The intent of Senate Bill 66, known as the Cameron Espinosa Act, is to include times outside of normal instructional hours, including times for school-sponsored activities. The Stock Epinephrine Advisory Committee recommends that unassigned epinephrine auto-injector policies include all hours when school-sponsored activities occur on a

campus where school personnel are present, including outside of normal instructional times.

If a school allows a non-school-sponsored event to occur on its campus, the school and the sponsoring organization may establish a written agreement regarding the availability of the school's epinephrine auto-injector supply. This option is at the discretion of the individual school, school district, governing body if it is a private school, or charter holder if it is an open-enrollment charter school.

Comment: Regarding §37.605(d), one commenter requested adding the language "or at off campus school events, or in transit to or from school events" for consistency.

Response: DSHS amended the language by including "or as indicated in the school's unassigned epinephrine auto-injector policy" to clarify that trained individuals may administer epinephrine auto-injectors in other locations, if allowed by the school's policy.

Comment: Regarding §37.605(e), three commenters requested adding clarifying language that states that the school district, open-enrollment charter school, or private school must promptly notify emergency medical services when an individual is experiencing anaphylaxis and when an epinephrine auto-injector is administered.

Response: DSHS agrees and added clarifying language to specify that the school must notify emergency medical services.

Comment: Regarding §37.605(e) and (f), and §37.606(b)(1) and (c), three commenters requested using the term "anaphylaxis" rather than "an anaphylactic reaction" to be consistent with the defined term.

Response: DSHS agrees and made the requested changes.

Comment: Regarding §37.605(f), three commenters requested adding clarifying language that the school district, open-enrollment charter school, or private school must notify the parent, legal guardian, or emergency contact when an unassigned epinephrine-auto injector is utilized on their child.

Response: DSHS agrees and added clarifying language to specify that the school must notify the parent, legal guardian, or emergency contact of the child.

Comment: One commenter requested including language to address record retention schedules for when an epinephrine auto-injector is administered on a student, a school employee or volunteer, or a visitor.

Response: DSHS agrees and added §37.605(g) to include retaining records per the record retention schedule in Title 13, Texas Administrative Code, §7.125. The subsequent subsections were renumbered accordingly.

Comment: Regarding §37.605(j), one commenter stated that the disposal of the epinephrine auto-injector according to "the manufacturer's guidelines" prevents schools from donating expired epinephrine auto-injectors to charitable organizations. The commenter requested including language to allow schools to donate expired and unused epinephrine auto-injectors.

Response: DSHS amended the language in §37.605(k) to state that the school must follow the school's medication disposal policy.

Comment: Regarding §37.605(j), two commenters stated that the disposal of the epinephrine auto-injector according to "the manufacturer's guidelines" is not feasible because the guidelines

state to take expired epinephrine auto-injectors to the local doctors or hospitals. The commenters stated that local hospitals will not want to accept numerous expired epinephrine auto-injectors. The commenters requested adding language to address how to properly dispose of unused, full epinephrine auto-injectors.

Response: DSHS amended §37.605(k) to state that the school must follow the "school's medication disposal policy" instead of the "manufacturer's guidelines."

Comment: Regarding §37.606(c), one commenter stated that the language "they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing an anaphylactic reaction" requires the trained personnel to take action rather than authorizing action. The commenter also stated that the standard for action in the signed statement does not match the standard in which a person under the law is authorized to take action.

Response: DSHS respectfully disagrees and declined to amend the language. The Stock Epinephrine Advisory Committee recommends that trained individuals sign statements ensuring that they understand the responsibilities involved in implementing an unassigned epinephrine auto-injector policy.

Comment: Regarding §37.608(a), three commenters requested adding clarifying language to specify that the school submits the report to the required entities. The commenters also requested changing "section" to "subchapter."

Response: DSHS agrees and made the suggested changes.

Comment: Regarding §37.608(a), two commenters requested adding language regarding how a school reports the administration of epinephrine auto-injectors to the Texas Education Agency (TEA).

Response: DSHS declined to amend the language based on the comments. Each individual and entity identified in Texas Education Code, §38.209 is responsible for receiving epinephrine auto-injector administration reports from schools. Therefore, each individual and entity is responsible for creating a reporting mechanism and maintaining the submitted reports. As such, DSHS has developed a reporting mechanism to receive reports from school districts, charter schools, and private schools. Furthermore, the Commissioner of Education has not stated how a school submits a report to TEA. Thus, the rule only addresses how to submit a report to DSHS.

Comment: One commenter requested including an "opt out" option for parents to utilize if they do not want the epinephrine auto-injector used on their child.

Response: DSHS agrees that parents may want an "opt out" option but declined to include this in a rule. A school may incorporate an "opt out" option in the school's unassigned epinephrine auto-injector policy, if it so chooses. No change was made as a result of the comment.

Comment: Two commenters stated that they supported the rule language.

Response: DSHS appreciates the comments.

Comment: One commenter supported the rules but requested an "open door" allowing schools to provide feedback to DSHS to address any needed rule changes.

Response: DSHS acknowledges the comment. The public is allowed to provide comments during the 30-day public comment

period during the rulemaking process. DSHS also routinely reaches out to key stakeholders and seeks informal public input during the early stages of rule development. The public may also contact their local state representatives to address concerns with the statute. No change was made as a result of this comment.

Comment: One commenter stated that the fiscal impact section of the proposed preamble is "daunting." The commenter stated that various companies and organizations currently offer free epinephrine auto-injectors and trainings for schools.

Response: DSHS acknowledges the comment. DSHS does not endorse or appear to endorse a particular product or brand. DSHS also cannot assume that epinephrine auto-injectors and epinephrine auto-injector trainings will always be free and available. Therefore, DSHS calculates the fiscal impact based on the assumption that the participating schools pay for the trainings and epinephrine auto-injectors. Schools may utilize free epinephrine auto-injector programs if they so choose. If a school utilizes a free program, the school may want to consider what steps to take if the free program is no longer available. No change was made as a result of this comment.

#### STATUTORY AUTHORITY

The new sections are adopted and authorized by Texas Education Code, Chapter 38; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

#### *§37.603. Definitions.*

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

(1) All hours the campus is open--At a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.

(2) Anaphylaxis--As defined in Texas Education Code, §38.201.

(3) Authorized healthcare provider--A physician or person who has been delegated prescriptive authority under Texas Occupations Code, Chapter 157.

(4) Campus--A unit of a school district, open-enrollment charter school, or private school that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

(5) Physician--As defined in Texas Education Code, §38.201.

(6) Private School--As defined in Texas Education Code, §38.201.

(7) School Nurse--As defined in Title 19, Texas Administrative Code, §153.1022.

(8) School Personnel--As defined in Texas Education Code, §38.201.

(9) School Volunteer--As defined in Texas Education Code, §22.053.

(10) Unassigned epinephrine auto-injector--An epinephrine auto-injector prescribed by an authorized healthcare provider in the name of the school issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, issued by a physician or person who has been delegated prescriptive authority under Texas Occupations Code, Chapter 157.

*§37.605. Maintenance, Administration, and Disposal of Unassigned Epinephrine Auto-Injectors.*

(a) A school district, open-enrollment charter school, or private school shall obtain a prescription from an authorized healthcare provider each year, to stock, possess, and maintain at least one unassigned adult epinephrine auto-injector pack (two doses) on each school campus as described in Texas Education Code, §38.211.

(1) A school may choose to stock unassigned pediatric epinephrine auto-injector packs, based on the need of the school's population.

(2) A school district or the governing body of an open-enrollment charter school or private school may develop, as part of the policy, provisions for additional doses to be stocked and utilized at off campus school events, or in transit to or from school events.

(b) Each school district superintendent, open-enrollment charter school administrator, or private school administrator will designate appropriate school personnel to coordinate and manage policy implementation, including training of school personnel, and the acquisition or purchase, usage, expiration, and disposal of unassigned epinephrine auto-injectors. Throughout the school calendar year, the designated school personnel shall coordinate with each campus to ensure that the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented.

(c) At least one school personnel or one school volunteer who is authorized and trained to administer an unassigned epinephrine auto-injector must be present on campus during all hours the campus is open for school-sponsored activities.

(d) School personnel or school volunteers who are trained and authorized may administer an unassigned epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus, or as indicated in the school's unassigned epinephrine auto-injector policy.

(e) Local emergency medical services must be promptly notified by the school when an individual is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered. If the trained school personnel or school volunteer is the only individual available to notify emergency medical services, the trained individual should administer the unassigned epinephrine auto-injector before notifying emergency medical services.

(f) The parent, legal guardian, or emergency contact must be promptly notified by the school when an unassigned epinephrine auto-injector is utilized on their child as soon as is feasible during the emergency response to suspected anaphylaxis. School records of the administration of the unassigned epinephrine auto-injector and suspected anaphylaxis must be provided to the parent or guardian of the recipient upon request.

(g) Records relating to implementation and administration of the school's unassigned epinephrine auto-injector policy shall be retained per the record retention schedule for records of public school districts found in Title 13, Texas Administrative Code, §7.125.

(h) Unassigned epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency, in accordance with the manufacturer's guidelines. It is recommended that the school administrator develop a map to be placed in high traffic areas that indicates the location of the unassigned epinephrine auto-injectors on each school campus. It is recommended that the map also indicate the locations of the automated external defibrillator (AED).

(i) The school district, open-enrollment charter school, or private school shall develop a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration.

(j) Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy.

(k) Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy.

*§37.606. Assignment and Recruitment of School Personnel and School Volunteers to be Trained to Administer Epinephrine Auto-Injectors.*

(a) At each school campus in which a school adopts an unassigned epinephrine auto-injector policy, the school principal may:

(1) assign school personnel or school volunteers to be trained to administer unassigned epinephrine auto-injectors; or

(2) seek school personnel or school volunteers who volunteer to be trained to administer unassigned epinephrine auto-injectors.

(b) In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools may distribute to school personnel and school volunteers in the school district, open-enrollment charter school, or private school, at least once per school year, a notice that includes:

(1) a description of the request seeking volunteers to be trained to administer an epinephrine auto-injector to a person believed to be experiencing anaphylaxis; and

(2) a description of the training that the school personnel or school volunteers will receive in the administration of epinephrine with an auto-injector.

(c) Trained school personnel or school volunteers who administer the unassigned epinephrine auto-injector must submit a signed statement indicating that they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis.

*§37.608. Report on Administering Epinephrine Auto-Injectors.*

(a) A report shall be submitted by the school no later than the 10th business day after the date school personnel or a school volunteer administers an epinephrine auto-injector in accordance with the unassigned epinephrine auto-injector policy adopted under this subchapter. The report shall be submitted to the individuals and entities identified in Texas Education Code, §38.209, including the commissioner of the Texas Education Agency and the commissioner of the Department of State Health Services (DSHS).

(b) Notifications to the commissioner of DSHS shall be submitted on the designated electronic form available on the DSHS School Health Program website.

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 July 9, 2018.



TRD-201802991  
Barbara L. Klein  
General Counsel  
Department of State Health Services  
Effective date: August 1, 2018  
Proposal publication date: March 16, 2018  
For further information, please call: (512) 776-7279



## **TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

### **PART 2. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES**

#### **CHAPTER 106. DIVISION FOR BLIND SERVICES**

The Texas Health and Human Services Commission (HHSC) adopts the repeal of Texas Administrative Code Title 40, Part 2, Chapter 106, Subchapter A, concerning Criss Cole Rehabilitation Center; Subchapter D, concerning Independent Living Services for Older Individuals Who Are Blind; and Subchapter N, concerning Business Enterprises of Texas.

#### **BACKGROUND AND JUSTIFICATION**

As required by Senate Bills 200 and 208, 84th Legislature, Regular Session, 2015, the Department of Assistive and Rehabilitative Services (DARS) was abolished after all of its functions were transferred to HHSC or the Texas Workforce Commission (TWC). TWC has already adopted rules to replace these repealed rules, found in Texas Administrative Code Title 40, Part 20, Chapter 854, concerning Division for Blind Services. Therefore, the repealed rules are no longer necessary.

#### **COMMENTS**

The 30-day comment period ended May 21, 2018. During this period, HHSC did not receive any comments regarding the repealed rules.

#### **SUBCHAPTER A. CRISS COLE REHABILITATION CENTER**

**40 TAC §§106.101, 106.103, 106.105, 106.107, 106.109, 106.111, 106.113**

#### **STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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 July 9, 2018.

TRD-201802994

Karen Ray  
Chief Counsel  
Department of Assistive and Rehabilitative Services  
Effective date: July 29, 2018  
Proposal publication date: April 20, 2018  
For further information, please call: (512) 487-3419



### **SUBCHAPTER D. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

#### **DIVISION 1. GENERAL RULES**

**40 TAC §§106.901, 106.903, 106.905**

#### **STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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 July 9, 2018.

TRD-201802995

Karen Ray  
Chief Counsel  
Department of Assistive and Rehabilitative Services  
Effective date: July 29, 2018  
Proposal publication date: April 20, 2018  
For further information, please call: (512) 487-3419



#### **DIVISION 2. ALLOCATION OF FUNDS**

**40 TAC §106.1001**

#### **STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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 July 9, 2018.

TRD-201802996

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Proposal publication date: April 20, 2018  
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DIVISION 3. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

**40 TAC §§106.1101, 106.1105, 106.1107, 106.1109, 106.1111**  
STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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TRD-201802997

Karen Ray  
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Department of Assistive and Rehabilitative Services

Effective date: July 29, 2018

Proposal publication date: April 20, 2018

For further information, please call: (512) 487-3419



DIVISION 4. CONSUMER PARTICIPATION

**40 TAC §§106.1201, 106.1203, 106.1205**

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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 July 9, 2018.

TRD-201802998

Karen Ray  
Chief Counsel

Department of Assistive and Rehabilitative Services

Effective date: July 29, 2018

Proposal publication date: April 20, 2018

For further information, please call: (512) 487-3419



DIVISION 5. CONSUMER RIGHTS

**40 TAC §106.1301, §106.1303**

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray  
Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



DIVISION 6. TECHNICAL ASSISTANCE AND TRAINING

**40 TAC §106.1351**

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray  
Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



DIVISION 7. REFERRALS

**40 TAC §106.1371**

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Chief Counsel

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SUBCHAPTER N. BUSINESS ENTERPRISES OF TEXAS

**40 TAC §§106.1901, 106.1903, 106.1905, 106.1907, 106.1909, 106.1911, 106.1913, 106.1915, 106.1917, 106.1919,**

**106.1921, 106.1923, 106.1925, 106.1927, 106.1929, 106.1931, 106.1933, 106.1935**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



**CHAPTER 107. DIVISION FOR REHABILITATION SERVICES**

The Texas Health and Human Services Commission (HHSC) adopts the repeal of Texas Administrative Code Title 40, Part 2, Chapter 107, Subchapter A, concerning Vocational Rehabilitation Services Program.

**BACKGROUND AND JUSTIFICATION**

As required by Senate Bills 200 and 208, 84th Legislature, Regular Session, 2015, the Department of Assistive and Rehabilitative Services (DARS) was abolished after all of its functions were transferred to HHSC or the Texas Workforce Commission (TWC). TWC has already adopted rules to replace these repealed rules, found in Texas Administrative Code Title 40, Part 20, Chapter 856, concerning Vocational Rehabilitation Services. Therefore, the repealed rules are no longer necessary.

**COMMENTS**

The 30-day comment period ended May 21, 2018. During this period, HHSC did not receive any comments regarding the repealed rules.

**SUBCHAPTER A. VOCATIONAL REHABILITATION SERVICES PROGRAM**

**DIVISION 1. PROGRAM AND SUBCHAPTER PURPOSE**

**40 TAC §§107.101, 107.103, 107.105, 107.107, 107.109**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



**DIVISION 2. ELIGIBILITY**

**40 TAC §§107.207, 107.209, 107.211, 107.213, 107.215**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



**DIVISION 3. PROVISION OF VOCATIONAL REHABILITATION SERVICES**

**40 TAC §§107.307, 107.309, 107.311, 107.313, 107.315, 107.317, 107.319, 107.321, 107.323, 107.325, 107.327, 107.329, 107.331, 107.333**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



**DIVISION 4. CONSUMER PARTICIPATION**

**40 TAC §107.407**

**STATUTORY AUTHORITY**

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

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## DIVISION 5. COMPARABLE BENEFITS

### 40 TAC §107.507, §107.509

#### STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

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For further information, please call: (512) 487-3419



## DIVISION 6. METHODS OF ADMINISTRATION OF VOCATIONAL REHABILITATION

### 40 TAC §§107.607, 107.609, 107.611

#### STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §§531.0055, 531.02014, and 531.0202, and Human Resources Code §111.018 and §117.073.

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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TRD-201803008

Karen Ray

Chief Counsel

Department of Assistive and Rehabilitative Services

Effective date: July 29, 2018

Proposal publication date: April 20, 2018

For further information, please call: (512) 487-3419



# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Office of the Attorney General

Texas Water Code and Texas Health and Safety Code Settlement Notice

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

Case Title and Court: *Harris County, Texas and the State of Texas v. Quality Container and Environmental Services, L.L.C. and Jose J. Pulido*; Cause No. 2013-17769; in the 125th Judicial District, Harris County, Texas.

Nature of suit and Defendants' operations: Defendant Quality Container and Environmental Services, L.L.C. ("Quality") operated an industrial container cleaning facility at 14308 Beaumont Highway, Houston, until 2014. Defendant Jose Pulido was the manager of Quality. Quality's operations involved washing out large containers used to store various chemicals including phenol and isoprene. Beginning in 2009, investigators with Harris County Department of the Environment and Public Health Services documented nuisance conditions at the Quality facility. In addition, in 2012, investigators found that Quality had constructed and began using two wash bays without prior authorization. Harris County filed suit seeking civil penalties and an injunction to stop unauthorized air contaminant emissions, odor emissions, and unpermitted operation of the new wash bays.

Proposed Agreed Final Judgment: The proposed Agreed Final Judgment ("Judgment") requires Jose Pulido to pay a civil penalty of \$14,000 to be equally divided between Harris County and the State and \$1,000 in attorneys' fees to the State. The Judgment includes an injunction preventing the defendants from conducting any tank cleaning operations at the Quality facility until 2027.

For a complete description of the proposed settlement, the complete Judgment should be reviewed. Requests for copies of the Judgment, and written comments on the proposed settlement, should be directed to Mark A. Steinbach, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, MC 066, Austin, Texas 78711-2548; phone (512) 463-2012; facsimile (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-201803029  
Amanda Crawford  
General Counsel  
Office of the Attorney General  
Filed: July 10, 2018

## Office of Consumer Credit Commissioner

## Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/16/18 - 07/22/18 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/16/18 - 07/22/18 is 18% for Commercial over \$250,000.

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

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

TRD-201803012

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 9, 2018

## Texas Education Agency

Request for Applications Concerning Generation Twenty-Three Juvenile Detention Charter Application (RFA #701-18-14)

Filing Date. July 11, 2018

Filing Authority. Texas Human Resources Code, Chapter 221, and Texas Family Code, Chapter 51.

Eligible Applicants. Notwithstanding any other law and in addition to the number of charters allowed under Texas Education Code (TEC), Chapter 12, Subchapter D, the commissioner of education may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Texas Family Code, §§51.12, 51.125, or 51.126. A juvenile detention charter school shall be operated in accordance with and subject to TEC, Chapter 12, Subchapter D.

The Texas Education Agency (TEA) is requesting applications under RFA #701-18-14 from eligible entities to operate juvenile detention charter schools. Eligible entities include a governmental entity or a public institution of higher education, a private or independent institution of higher education, or an organization exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)) in contract with a Juvenile Justice Board or governmental entity.

At least one member of the governing board of the group requesting the charter must attend one required applicant information session. Failure to attend one of the sessions will disqualify an applicant. Dates and times of the applicant information sessions will be posted on the TEA website at [https://tea.texas.gov/Texas\\_Schools/Charter\\_Schools/](https://tea.texas.gov/Texas_Schools/Charter_Schools/).

Description. In accordance with TEC, §12.001, the purposes of charter schools in the state of Texas are to improve student learning; increase the choice of learning opportunities within the public school system; create professional opportunities that will attract new teachers to the

public school system; establish a new form of accountability for public schools; and encourage different and innovative learning methods.

A juvenile detention charter school will provide instruction to students at any grade level provided by the charter in a middle and high school setting as described in the accountability manual adopted under 19 TAC §97.1001.

A juvenile detention charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution.

**Eligible Entity.** Eligible entities include public or private detention, correctional, or residential facilities established only for juvenile offenders operated under the authority of a juvenile board of a governmental unit under contract with a governmental unit by the state of Texas as defined in Civil Practice and Remedies Code, §100.001. The commissioner will consider only those entities that have an active contract with Texas Juvenile Justice Boards. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

A juvenile detention charter school is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability rating system. It does not have the authority to impose taxes.

A juvenile detention charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, extracurricular activities, health and safety provisions, and public school accountability. As stated in the TEC, §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of a juvenile justice charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. The TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

**Dates of Project.** The completed application must be received by the TEA by 5:00 p.m. (Central Time), Friday, August 17, 2018, to be eligible for review.

**Project Amount.** The TEC, §12.106, specifies the following:

(a) Effective September 1, 2017, a charter holder is entitled to receive for the open-enrollment charter school funding under the TEC, Chapter 42, equal to the amount of funding per student in weighted average daily attendance, excluding enrichment funding under the TEC, §42.302(a), to which the charter holder would be entitled for the school under the TEC, Chapter 42, if the school were a school district without a tier one local share for purposes of the TEC, §42.253.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), adjustments under the TEC, §§42.102, 42.103, 42.104, and 42.105, are based on the average adjustment for the state.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under the TEC, §42.302, based on the state average tax effort.

The TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from the TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, the TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a juvenile detention charter school that serves pre-adjudicated and post-adjudicated youth is subject to the assignment by a Juvenile Justice Board.

**Selection Criteria.** A complete description of selection criteria is included in the RFA.

The commissioner may approve juvenile detention charter schools as provided in the Texas Human Resources Code, Chapter 221, and Texas Family Code, Chapter 51.

There are currently 172 charters approved under TEC, §12.101 (Subchapter D); 6 charters approved under TEC, §12.152 (Subchapter E); and 1 charter approved under TEC, §29.259. There is a cap of 255 charters approved under TEC, §12.101, and no cap on the number of charters approved under TEC, §12.152, or Texas Human Resources Code, Chapter 221. The commissioner is scheduled to consider awards under RFA #701-18-14 upon submission.

**Requesting the Application.** An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Twenty-Three Juvenile Detention Charter Application (RFA #701-18-14), which includes an application and procedures, may be obtained on the TEA website at [http://tea.texas.gov/Texas\\_Schools/Charter\\_Schools/](http://tea.texas.gov/Texas_Schools/Charter_Schools/).

**Further Information.** For clarifying information about the open-enrollment charter school application, contact the Division of Charter Schools, Texas Education Agency, at (512) 463-9575 or [charter-schools@tea.texas.gov](mailto:charter-schools@tea.texas.gov).

Issued in Austin, Texas, on July 11, 2018.

TRD-201803033

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: July 11, 2018



Request for Applications Concerning the 2018-2019 Online Bilingual Education Certification Preparation Course

Filing Date. July 11, 2018

Filing Authority. The availability of grant funds under Request for Application (RFA) #701-18-115 is authorized by Public Law 115-141, Every Student Succeeds Act, Title III, Part A, §3111(b)(2)(B)(i).

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under RFA #701-18-115 from eligible applicants, which include institutions of higher education in Texas that offer bilingual education certification programs in both Spanish and Vietnamese that are organized around the domains and competencies that are needed to meet the requirements for bilingual education certification.

Description. The goal of this grant program is to increase the number of personnel who meet state and local certification and licensing requirements for teaching English learners. Eligible applicants must have the ability to implement and maintain online bilingual education certification courses to assist educators from various local educational agencies to prepare for the bilingual education certification examination.

Dates of Project. Eligible applicants should plan for a starting date of no earlier than November 1, 2018, and an ending date of no later than August 31, 2019. Contingent on the availability of federal funding, continuation grants may be offered.

Project Amount. It is anticipated that one grant will be awarded for up to \$300,000. This project is funded 100% with federal funds.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

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

Requesting the Application. The complete RFA will be posted on the TEA Grant Opportunities web page at <http://tea4avoswald.tea.state.tx.us/GrantOpportunities/forms/Grant-ProgramSearch.aspx> for viewing and downloading. In the "Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view and download all documents that pertain to this RFA.

Further Information. In order to make sure that no prospective applicant obtains a competitive advantage because of acquisition of information unknown to other prospective applicants, any and all questions must be submitted in writing to [susie.coultriss@tea.texas.gov](mailto:susie.coultriss@tea.texas.gov) no later than Monday, August 20, 2018. All questions and the written answers thereto will be posted on the TEA Grant Opportunities web page in the format of Frequently Asked Questions (FAQs) by Tuesday, September 4, 2018. In the "Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be received in the TEA Document Control Center by 5:00 p.m. (Central Time), Tuesday, September 18, 2018, to be eligible to be considered for funding. TEA will not accept applications by email. Applications may be delivered to the TEA visitors' reception area on the second floor of the William B. Travis Building, 1701 North Congress Avenue (at 17th Street and North Congress, two blocks north of the Capitol), Austin, Texas 78701 or mailed to Document Control Center, Grants Administration Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494.

TRD-201803030

Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: July 11, 2018

## Texas Commission on Environmental Quality

### Agreed Orders

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 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 August 20, 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 applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on August 20, 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: ABRAXAS CORPORATION; DOCKET NUMBER: 2018-0119-PWS-E; IDENTIFIER: RN102678885; LOCATION: Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data, as defined in 30 TAC §290.41(c)(3)(A), for as long as the well remains in service; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; and 30 TAC §21.4 and §290.51(a)(6) and TWC, §5.702, by failing to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account Number 91840034 for Fiscal Year 2018, and outstanding consolidated water quality fees and/or any associated late fees for TCEQ Financial Administration Account Number 23007036 for Fiscal Year 2018; PENALTY: \$130; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Amanson Enterprises LLC dba Bar-G-Store; DOCKET NUMBER: 2018-0259-PST-E; IDENTIFIER: RN101698355; LOCATION: La Grange, Fayette 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 tanks (USTs) 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 §334.74, by failing to investigate suspected releases of regulated substances within 30 days of discovery; and 30 TAC §334.72, by failing to report suspected releases to the TCEQ within 24 hours of discovery; PENALTY: \$28,169; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(3) COMPANY: Amigos Beef Cattle Company, LLC; DOCKET NUMBER: 2018-0264-MLM-E; IDENTIFIER: RN101527646; LOCATION: Edroy, San Patricio County; TYPE OF FACILITY: confined animal feeding operations site; RULES VIOLATED: 30 TAC §101.4 and §335.4(2) and Texas Health and Safety Code, §382.085(b), by failing to not cause, suffer, allow, or permit the collection, handling, storage, processing, or disposal of industrial solid waste in such manner as to cause the creation and maintenance of a nuisance; PENALTY: \$4,012; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(4) COMPANY: Antonio Saucedo; DOCKET NUMBER: 2017-1569-MSW-E; IDENTIFIER: RN105599674; LOCATION: Junction, Kimble County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized disposal of MSW; PENALTY: \$15,750; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(5) COMPANY: Arturo Briseno, Madeleine Briseno, DAIRY FARMERS OF AMERICA, INCORPORATED, and Western Dairy Transport, L.L.C.; DOCKET NUMBER: 2017-1406-IHW-E; IDENTIFIERS: RN102096468, RN110012945, and RN101261097; LOCATION: Stephenville, Erath County; TYPE OF FACILITY: dairy farm; RULE VIOLATED: 30 TAC §335.2(a) and (b), by failing to not cause, suffer, allow, or permit the disposal of industrial solid waste at an unauthorized facility; PENALTY: \$55,746; ENFORCEMENT COORDINATOR: Jonathan Nguyen, (512) 239-1661; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: BW Gas and Convenience Retail, LLC dba Yesway 1066, Yesway 1067, Yesway 1059, and Yesway 1051; DOCKET NUMBER: 2018-0231-PST-E; IDENTIFIERS: RN101765972, RN103788667, RN 101905578, and RN101898070; LOCATIONS: Ranger, Eastland County, Haskell, Haskell County, and Abilene, Taylor County; TYPE OF FACILITIES: convenience stores 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 tanks (USTs) 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 §334.72, 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 of a regulated substance within 30 days of discovery; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; PENALTY: \$36,778; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(7) COMPANY: Carlos Rodriguez; DOCKET NUMBER: 2018-0363-WQ-E; IDENTIFIER: RN109664862; LOCATION: Austin,

Travis County; TYPE OF FACILITY: construction site; RULES VIOLATED: TWC, §26.121(2), 30 TAC §281.25(a)(4), and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities under Texas Pollutant Discharge Elimination System General Permit Number TXR150000; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Caleb Olson, (512) 239-2541; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(8) COMPANY: City of Anna; DOCKET NUMBER: 2018-0160-PWS-E; IDENTIFIER: RN101398345; LOCATION: Anna, Collin County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system and in each finished water storage tank at all times; and 30 TAC §21.4 and TWC, §5.702, by failing to pay outstanding consolidated water quality fees and/or any associated late fees for TCEQ Financial Administration Account Number 23002705 for Fiscal Year 2018; PENALTY: \$600; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: City of Bangs; DOCKET NUMBER: 2018-0402-MWD-E; IDENTIFIER: RN101920460; LOCATION: Brown 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 WQ0010122001, Effluent Limitations and Monitoring Requirements Numbers 2 and 3, by failing to comply with permitted effluent limitations; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(10) COMPANY: Clay Trimble dba A.C.T. Tree Service; DOCKET NUMBER: 2018-0222-MSW-E; IDENTIFIER: RN109327817; LOCATION: San Augustine, San Augustine County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized disposal of MSW; PENALTY: \$1,312; ENFORCEMENT COORDINATOR: Berenice Munoz, (512) 239-2617; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(11) COMPANY: Dew Petroleum LLC dba Lucky JS Travel Center; DOCKET NUMBER: 2017-1124-PST-E; IDENTIFIER: RN106923220; LOCATION: Teague, Freestone 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 tanks (USTs) 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; and 30 TAC §334.10(b)(1)(B) and §334.51(c)(2), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$11,378; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(12) COMPANY: FLYING STAR TRANSPORT, L.L.C.; DOCKET NUMBER: 2018-0500-PST-E; IDENTIFIER: RN105156608; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY:



\$4,875; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(13) COMPANY: Hess Corporation; DOCKET NUMBER: 2017-1321-PWS-E; IDENTIFIER: RN103758470; LOCATION: Gaines County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average; and 30 TAC §290.122(c)(2)(A) and (f), by failing to issue public notification and submit a copy of the notification to the executive director regarding the failure to collect lead and copper tap samples for the January 1, 2015 - December 31, 2015, monitoring period; PENALTY: \$40,977; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(14) COMPANY: HIGHLAND BUSINESS VENTURE, LLC. dba Highland Mart; DOCKET NUMBER: 2018-0171-PST-E; IDENTIFIER: RN102159431; LOCATION: Dallas, Dallas 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 (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 of a regulated substance within 30 days of discovery; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; PENALTY: \$31,901; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: Joe M. Stewart; DOCKET NUMBER: 2018-0406-WR-E; IDENTIFIER: RN109653030; LOCATION: Comanche County; TYPE OF FACILITY: property with an irrigation pump; RULES VIOLATED: 30 TAC §297.11 and TWC, §§11.042(b), 11.081, and 11.121, by failing to obtain authorization prior to diverting, storing, impounding, or using state water; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Caleb Olson, (512) 239-2541; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(16) COMPANY: Kinsmen Homes LLC; DOCKET NUMBER: 2017-1622-WQ-E; IDENTIFIER: RN109239020; LOCATION: College Station, Brazos County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain authorization under Texas Pollutant Discharge Elimination System General Permit Number TXR150000 to discharge stormwater associated with construction activities; PENALTY: \$4,012; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(17) COMPANY: Longview Independent School District; DOCKET NUMBER: 2018-0530-PST-E; IDENTIFIER: RN101814242; LOCATION: Longview, Gregg County; TYPE OF FACILITY: fleet refueling facility; 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: \$3,750; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(18) COMPANY: Lower Rio Grande Valley Development Council; DOCKET NUMBER: 2018-0393-PST-E; IDENTIFIER: RN101686053; LOCATION: Weslaco, Hidalgo County; TYPE OF FACILITY: fleet refueling facility; 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: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(19) COMPANY: Mostafa F. Abaza dba Texas Sun Convenience Store; DOCKET NUMBER: 2018-0381-PST-E; IDENTIFIER: RN102270154; 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 (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) 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; and 30 TAC §334.605(a), by failing to ensure that the certified Class A and Class B operator is re-trained within three years of the last training date; PENALTY: \$4,262; ENFORCEMENT COORDINATOR: Berenice Munoz, (512) 239-2617; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(20) COMPANY: Our C Store LLC; DOCKET NUMBER: 2018-0412-PST-E; IDENTIFIER: RN106797848; LOCATION: Kemp, Kaufman County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,562; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: RED RIVER FARM CO-OP, INCORPORATED; DOCKET NUMBER: 2017-1485-PST-E; IDENTIFIER: RN100763770; LOCATION: Gainesville, Cooke County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide proper release detection for the pressurized piping associated with the underground storage tank (UST) system; 30 TAC §334.49(a)(4) and TWC, §26.3475(d), by failing to maintain corrosion protection on all metal components of a UST system; 30 TAC §334.51(a)(6) and TWC, §26.3475(c)(2), by failing to assure that all spill and overflow prevention devices are maintained in good operating condition; 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate a suspected release of a regulated substance within 30 days of discovery; PENALTY: \$39,563; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(22) COMPANY: RGI MATERIALS, INCORPORATED; DOCKET NUMBER: 2018-0373-WQ-E; IDENTIFIER: RN105195127; LOCATION: Porter, Montgomery County; TYPE OF FACILITY: sand and gravel operation; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of process water into or adjacent to any water in the state; PENALTY: \$1,225; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(23) COMPANY: Seadrift Coke L.P.; DOCKET NUMBER: 2018-0318-PWS-E; IDENTIFIER: RN102147055; LOCATION: Port

Lavaca, Calhoun County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.44(h)(1)(A), by failing to install backflow prevention assemblies at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TAC §290.47(f); PENALTY: \$196; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(24) COMPANY: SSM Enterprises, Incorporated dba Chevron Food Mart; DOCKET NUMBER: 2018-0247-PST-E; IDENTIFIER: RN102005543; LOCATION: Jourdanton, Atascosa 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; PENALTY: \$3,874; ENFORCEMENT COORDINATOR: Rahim Momin, (512) 239-2544; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(25) COMPANY: Tidmore Acquisition and Development, LP dba Canyon Xpress; DOCKET NUMBER: 2018-0144-PST-E; IDENTIFIER: RN101854719; LOCATION: Canyon, Randall County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), 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 failing to provide release detection for the pressurized piping associated with the UST system; 30 TAC §334.605(a), by failing to ensure that a certified Class A and Class B operator is re-trained within three years of their last training date; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; PENALTY: \$7,774; ENFORCEMENT COORDINATOR: Danielle Pomras, (713) 767-3682; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(26) COMPANY: TPC Group LLC; DOCKET NUMBER: 2017-0922-AIR-E; IDENTIFIER: RN100219526; LOCATION: Houston, Harris County; TYPE OF FACILITY: petrochemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), Texas Health and Safety Code (THSC), §382.085(b), New Source Review (NSR) Permit Numbers 46426 and PSDTX999, Special Conditions (SC) Number 3, and Federal Operating Permit (FOP) Number O2884, Special Terms and Conditions (STC) Numbers 1.A and 9, by failing to comply with the permitted emissions limit; 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), THSC, §382.085(b), NSR Permit Number 46307, SC Number 1, and FOP Number O1598, STC Number 26, by failing to comply with the maximum allowable emissions rate; 30 TAC §122.143(4) and §122.145(2)(A), THSC, §382.085(b), and FOP Number O1598, General Terms and Conditions, by failing to report all instances of deviations; 30 TAC §116.115(c) and §122.143(4), THSC, §382.085(b), NSR Permit Number 19806, SC Number 17, and FOP Number O1598, STC Number 26, by failing to control the off-gas routed from the Dehydro Number 2 Absorber by 99.5%; and 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), THSC, §382.085(b), NSR Permit Number 19806, SC Number 2, and FOP Number O1598, STC Number 26, by failing to comply with permitted emissions rates; PENALTY: \$214,388; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(27) COMPANY: Tri-County Special Utility District; DOCKET NUMBER: 2018-0148-MLM-E; IDENTIFIER: RN101399749; LOCATION: Falls County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(i) and §305.42(a) and TWC, §26.121(a), by failing to obtain authorization to discharge wastewater into or adjacent to any water in the state; 30 TAC §290.46(f)(2) and (3)(A)(i)(II), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.42(f)(1)(E)(ii), by failing to provide adequate containment facilities for all liquid chemical storage tanks; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearances of the system's facilities and equipment; and 30 TAC §290.45(b)(1)(C)(ii) and Texas Health and Safety Code, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection, and failing to provide two or more pumps having a total capacity of 2.0 gallons per minute per connection at each pump station or pressure plane; PENALTY: \$3,023; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(28) COMPANY: Varsila Trading LLC; DOCKET NUMBER: 2018-0211-PST-E; IDENTIFIER: RN102228202; LOCATION: Lone Star, Morris 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: \$5,812; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(29) COMPANY: Westport Boerne Self Storage, LLC; DOCKET NUMBER: 2018-0443-PWS-E; IDENTIFIER: RN102316254; LOCATION: Bexar County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(J), by failing to provide a concrete sealing block extending at least three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inch per foot around the wellhead; 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; and 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay public health service fees and any associated late fees for TCEQ Financial Administration Account Number 90150436 for Fiscal Years 2016 - 2018; PENALTY: \$350; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(30) COMPANY: Xuan Van Nguyen dba Super Gas Mart; DOCKET NUMBER: 2018-0466-PST-E; IDENTIFIER: RN102227014; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs); 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the UST system; 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), 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 failing to provide release detection for the pressurized piping

associated with the UST system; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; PENALTY: \$10,510; ENFORCEMENT COORDINATOR: Berenice Munoz, (512) 239-2617; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

TRD-201803013

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 10, 2018



### Enforcement Orders

An agreed order was adopted regarding City of Tahoka, Docket No. 2016-1571-MLM-E on July 10, 2018, assessing \$5,622 in administrative penalties with \$1,124 deferred. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, 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 KC 123 RECYCLE, LLC, Docket No. 2016-1729-WQ-E on July 10, 2018, assessing \$4,834 in administrative penalties with \$966 deferred. Information concerning any aspect of this order may be obtained by contacting Farhad 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 City of Kemp, Docket No. 2016-1927-WQ-E on July 10, 2018, assessing \$3,125 in administrative penalties with \$625 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 Hilmy Holdings, LLC, Docket No. 2017-0118-MLM-E on July 10, 2018, assessing \$4,100 in administrative penalties with \$820 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 Siddhibinayak Enterprises Inc dba Taylor Food Mart, Docket No. 2017-0244-PST-E on July 10, 2018, assessing \$6,855 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 TOMLY CORPORATION, Docket No. 2017-0857-AIR-E on July 10, 2018, assessing \$1,312 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 City of Ore City, Docket No. 2017-0958-MWD-E on July 10, 2018, assessing \$4,675 in administrative penalties with \$935 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Ledingham, 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 Braskem America, Inc., Docket No. 2017-1196-AIR-E on July 10, 2018, assessing \$7,500 in administrative penalties with \$1,500 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 Diesel Solutions LLC, Docket No. 2017-1253-AIR-E on July 10, 2018, assessing \$5,000 in administrative penalties with \$1,000 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 ONEOK Hydrocarbon Southwest, LLC, Docket No. 2017-1254-AIR-E on July 10, 2018, assessing \$4,687 in administrative penalties with \$937 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 Helen Herrera, Docket No. 2017-1258-MSW-E on July 10, 2018, assessing \$1,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Audrey Liter, 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 2251 TELLABS, LTD., Docket No. 2017-1280-EAQ-E on July 10, 2018, assessing \$2,885 in administrative penalties with \$577 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 W & W Fiberglass Tank Company, Docket No. 2017-1288-AIR-E on July 10, 2018, assessing \$5,625 in administrative penalties with \$1,125 deferred. Information concerning any aspect of this order may be obtained by contacting Trina Grieco, 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 DCP Operating Company, LP, Docket No. 2017-1315-AIR-E on July 10, 2018, assessing \$4,000 in administrative penalties with \$800 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 Owens-Brockway Glass Container Inc., Docket No. 2017-1329-AIR-E on July 10, 2018, assessing \$3,750 in administrative penalties with \$750 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 Industrial Asphalt, LLC, Docket No. 2017-1421-AIR-E on July 10, 2018, assessing \$2,625 in administrative penalties with \$525 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 New Boston, Concrete, Inc., Docket No. 2017-1423-AIR-E on July 10, 2018, assessing \$4,950 in administrative penalties with \$990 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 Paradigm Energy Partners, LLC, Docket No. 2017-1449-AIR-E on July 10, 2018, assessing \$3,937 in administrative penalties with \$787 deferred. Information concerning any aspect of this order may be obtained by contacting Robyn Babyak, 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 CC Aggregates LLC, Docket No. 2017-1477-EAQ-E on July 10, 2018, assessing \$5,776 in administrative penalties with \$1,155 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 Presiliano Quintana dba Quintana Auto Parts, Docket No. 2017-1490-MSW-E on July 10, 2018, assessing \$1,750 in administrative penalties. 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 Military Highway Water Supply Corporation, Docket No. 2017-1554-MWD-E on July 10, 2018, assessing \$4,000 in administrative penalties with \$800 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 TRI TRY WATER CORP., Docket No. 2017-1586-PWS-E on July 10, 2018, assessing \$1,223 in administrative penalties with \$244 deferred. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, 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 Morgan's Point Resort, Docket No. 2017-1592-WQ-E on July 10, 2018, assessing \$3,000 in administrative penalties with \$600 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 ST. PST WATER SUPPLY CORPORATION, Docket No. 2017-1610-PWS-E on July 10, 2018, assessing \$390 in administrative penalties with \$78 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 Everest International Group, LLC dba Charlies Grocery & Market, Docket No. 2017-1633-PST-E on July 10, 2018, assessing \$3,600 in administrative penalties with \$720 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, 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 Lyondell Chemical Company, Docket No. 2017-1634-AIR-E on July 10, 2018, assessing \$6,225 in administrative penalties with \$1,245 deferred. Information concerning any aspect of this order may be obtained by contacting Richard Garza, 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 United States National Park Service, Docket No. 2017-1663-PWS-E on July 10, 2018, assessing \$410 in administrative penalties with \$82 deferred. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, 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 HAYS CITY CORPORATION dba Highway General Store 2, Docket No. 2017-1702-PST-E on July 10, 2018, assessing \$6,750 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 ETC Field Services LLC, Docket No. 2017-1786-AIR-E on July 10, 2018, assessing \$3,000 in administrative penalties with \$600 deferred. Information concerning any aspect of this order may be obtained by contacting Richard Garza, 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 EAST LAMAR WATER SUPPLY CORPORATION, Docket No. 2018-0065-PWS-E on July 10, 2018, assessing \$225 in administrative penalties with \$45 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.

A field citation was adopted regarding Charles H. Michaelis, Docket No. 2018-0163-WOC-E on July 10, 2018, assessing \$175 in administrative penalties. Information concerning any aspect of this citation 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.

A field citation was adopted regarding CHRIS THOMAS CUSTOM HOMES, INC., Docket No. 2018-0202-WQ-E on July 10, 2018, assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Christopher Moreno, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Stallings Creighton Properties, LP, Docket No. 2018-0390-WR-E on July 10, 2018, assessing \$350 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Farhad Abbaszadeh, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding City of Orange, Docket No. 2018-0411-PST-E on July 10, 2018, assessing \$3,500 in administrative penalties. Information concerning any aspect of this citation 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.

A field citation was adopted regarding A.L. Helmcamp, Inc., Docket No. 2018-0455-WR-E on July 10, 2018, assessing \$350 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201803036

Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: July 11, 2018



## Notice of District Petition

Notice issued July 10, 2018

TCEQ Internal Control No. D-04132018-045; RVEST, LP (Petitioner) filed a petition for creation of Cool Water Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are four lienholders, Theron D. Vaughan, Ellie B. Vaughan, Sonterra Development, LLC, and First State Bank Central Texas on the property to be included in the proposed District and the aforementioned entities have consented to the petition; (3) the proposed District will contain approximately 312.94 acres located within Williamson County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) design, construct, acquire, maintain, and operate an adequate and efficient waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) construct, acquire, improve, maintain, and operate such other additional facilities, systems, plants and enterprises as may be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$39,300,000.

### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://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.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and

hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

TRD-201803039  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: July 11, 2018



## Notice of Public Meeting for an Air Quality Permit Proposed Permit Number: 138309

**APPLICATION AND PRELIMINARY DECISION.** CemTech Concrete Ready Mix Inc., 931 Bennington Street, Houston, Texas 77022-6306, has applied to the Texas Commission on Environmental Quality (TCEQ) for issuance of Proposed Air Quality Permit Number 138309, which would authorize construction of a Concrete Batch Plant located at 3116 Jensen Drive, Houston, Harris County, Texas 77026. 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=29.790555&lng=-95.341111&zoom=13&type=r>. This application was submitted to the TCEQ on January 22, 2016. The proposed facility will emit the following contaminants: particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations.

**PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below.** The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the Executive Director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the

Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Monday, July 16, 2018, at 7:00 p.m.**

**Sherman Elementary School**

**1909 McKee Street**

**Houston, Texas 77009**

**INFORMATION.** Citizens are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <http://www.tceq.texas.gov/about/comments.html>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). *Si desea información en español, puede llamar al (800) 687-4040.*

The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ Houston regional office, and at the Carnegie Regional Library, 1050 Quitman Street, Houston, Harris County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk St Ste H, Houston, Texas. Further information may also be obtained from CemTech Concrete Ready Mix Inc., 931 Bennington Street, Houston, Texas 77022-6306 or by calling Monique Wells, Environmental Consultant, CIC Environmental LLC, (512) 292-4314, [monique@cicenvironmental.com](mailto:monique@cicenvironmental.com).

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Notice Issuance Date: July 3, 2018

TRD-201803040

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 11, 2018



**Notice of Water Rights Application**

Notices issued July 3, 2018

APPLICATION NO. 13390; OHL USA, INC., Applicant, 4020 S. Industrial Drive, Suite 160, Austin, Texas 78744, seeks a temporary water use permit to divert and use not to exceed 10 acre-feet of water within a period of 26 months from a point on Waxahachie Creek, Trinity River Basin for industrial purposes in Ellis 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 May 10, 2017. Additional information and fees were received on August 14, 2017, and August 23, 2017. The application was declared administratively complete and filed with the Office of the Chief Clerk on September 15, 2017. The Executive Director completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, stream-flow restrictions and installing a measuring device for diversions. The application, technical memoranda, and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F., Austin, TX 78753. Written pub-

lic comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, by July 23, 2018.

APPLICATION NO. 12-4045A; David Nash and Barbara Nash, 701 Hiner Rd., Weatherford, Texas 76087-5523, Applicants, seek to amend a portion of Certificate of Adjudication No. 12-4045 to add a diversion point on the Brazos River, Brazos River Basin, in Parker County. More information on the application and how to participate in the permitting process is given below. The application was received on October 5, 2015. Additional information and fees were received on October 9, 2015, and February 18, 2016. The application was declared administratively complete and accepted for filing on April 12, 2016. The TCEQ 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, installing screens on the new diversion structure and a measuring device on the diversion point. The application and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building 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 July 20, 2018.

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://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](http://www.tceq.texas.gov). *Si desea información en español, puede llamar al (800) 687-4040.*

TRD-201803037

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 11, 2018



**Notice of Water Rights Application**

Notice issued June 25, 2018, and June 27, 2018

APPLICATION NO. 4283A; Midwestern State University, 3410 Taft Boulevard, Wichita Falls, Texas 76308, Applicant, seeks to amend Water Use Permit No. 4283 to increase the storage capacity of Sikes Lake on McGrath Creek, Red River Basin and to divert not to exceed 20 acre-feet of water per year from Sikes Lake for agricultural purposes to irrigate multiple tracts of land in Wichita County. More information on the application and how to participate in the permitting process is given below. The application and required fees were received on August 22, 2013. Additional information was received on March 13, March 17, October 10, December 8, 2014, and January 27, 2015. The application was declared administratively complete and filed with the Office of the Chief Clerk on January 29, 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, requiring Permittee to install a measuring device. 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, Texas, 78753. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

APPLICATION NO. 18-2020A; Curtis J Wheatcraft and Christina Wheatcraft, 196 Boardwalk, Center Point, Texas 78010, Applicant, seek to amend their portion of Certificate of Adjudication No. 18-2020 to add mining use, and add two diversion points on the Guadalupe River, Guadalupe River Basin in Kerr County. More information on the application and how to participate in the permitting process is given below. The application was received on April 29, 2016. Additional information and fees were received on November 30, 2016, February 3, April 26 and April 27, 2017. The application was declared administratively complete and filed with the Office of the Chief Clerk on July 20, 2017. The TCEQ 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, installing a measuring device at the diversion points. The application and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building 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 by July 16, 2018.

To view the complete issued notice, view the notice on our website at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://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 website, 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 website at [www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040.

TRD-201803038

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 11, 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 Lauren Staton at (512) 463-5800.

#### **Deadline: Personal Financial Statement due April 23, 2018**

Dodd Carmichael, 409 FM 1243, Bynum, Texas 76631

Khurshid A. Khan, 633 Olympic, Richardson, Texas 75081

James Paul Rosemergy, 320 Decker Drive, Irving, Texas 75062

#### **Deadline: Semiannual Report due April 23, 2018, for Candidates and Officeholders**

Dodd Carmichael, 409 FM 1243, Bynum, Texas 76631

TRD-201802966

Seana Willing

Executive Director

Texas Ethics Commission

Filed: July 5, 2018

## Texas Facilities Commission

### Request for Proposals #303-9-20636

The Texas Facilities Commission (TFC), on behalf of the Department of State Health Services (DSHS), announces the issuance of Request for Proposals (RFP) #303-9-20636. TFC seeks a five (5) or ten (10) year lease of approximately 25,963 square feet of office space in Austin, Texas.

The deadline for questions is July 30, 2018, and the deadline for proposals is August 13, 2018, at 3:00 p.m. The award date is September 20, 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 an 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/303-9-20636>.

TRD-201803028

Naomi Gonzalez

Acting General Counsel

Texas Facilities Commission

Filed: July 10, 2018

## Texas Department of Insurance

### Company Licensing

Application to do business in the state of Texas for CM REGENT INSURANCE COMPANY, a foreign fire and/or casualty company. The home office is in Mechanicsburg, Pennsylvania.

Application to do business in the state of Texas for LIBERTY MUTUAL PERSONAL INSURANCE COMPANY, a foreign fire and/or casualty company. The home office is in Boston, Massachusetts.

Application for SMART INSURANCE COMPANY, a foreign life, accident and/or health company, to change its name to GREENHOUSE LIFE INSURANCE COMPANY. The home office is in Phoenix, Arizona.

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-201803032

Norma Garcia

General Counsel

Texas Department of Insurance

Filed: July 11, 2018

## Texas Lottery Commission

Scratch Ticket Game Number 2035 "777"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2035 is "777." The play style is "key number match."

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2035 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2035.

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, 08, 09, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 77 SYMBOL, 777 SYMBOL, \$2.00, \$5.00, \$6.00, \$10.00, \$15.00, \$30.00, \$90.00, \$900 and \$30,000.

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. 2035 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
38	TRET
39	TRNI
40	FRTY
77 SYMBOL	DBL

777 SYMBOL	TRPL
\$2.00	TWO\$
\$5.00	FIV\$
\$6.00	SIX\$
\$10.00	TEN\$
\$15.00	FFN\$
\$30.00	TRTY\$
\$90.00	NITY\$
\$900	NIHN
\$30,000	30 <sup>TH</sup>

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 (2035), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2035-0000001-001.

H. Pack - A Pack of "777" Scratch Ticket Games contains 125 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 "777" Scratch Ticket Game No. 2035.

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 Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "777" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 22 (twenty-two) Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "77" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "777" Play Symbol, the player wins TRIPLE 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 22 (twenty-two) 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 22 (twenty-two) 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 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$2 and 02).

D. No matching WINNING NUMBERS Play Symbols on a Ticket.

E. A non-winning Prize Symbol will never match a winning Prize Symbol.

F. A Ticket may have up to two (2) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

G. The "77" (DBL) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

H. The "777" (TRPL) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

I. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "777" Scratch Ticket Game prize of \$2.00, \$5.00, \$6.00, \$10.00, \$15.00, \$30.00 or \$90.00, 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 or \$90.00 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 "777" Scratch Ticket Game prize of \$900 or \$30,000, 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 "777" 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 "777" 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 "777" 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 7,080,000 Scratch Tickets in the Scratch Ticket Game No. 2035. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2035 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	679,680	10.42
\$5	283,200	25.00
\$6	283,200	25.00
\$10	99,120	71.43
\$15	99,120	71.43
\$30	42,598	166.20
\$90	7,080	1,000.00
\$900	40	177,000.00
\$30,000	10	708,000.00

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

\*\*The overall odds of winning a prize are 1 in 4.74. 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. 2035 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 Game 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. 2035, 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-201803011  
Bob Biard  
General Counsel  
Texas Lottery Commission  
Filed: July 9, 2018



### Scratch Ticket Game Number 2042 "Bonus Ball Bingo"

#### 1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2042 is "BONUS BALL BINGO." The play style is "bingo."

#### 1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2042 shall be \$5.00 per Scratch Ticket.

#### 1.2 Definitions in Scratch Ticket Game No. 2042.

A. Display Printing - That area of the Scratch Ticket Game 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 Game.

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: B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, FREE, \$5.00, \$10.00, \$20.00, and \$50.00.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2042 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
B14	
B15	
I16	
I17	
I18	
I19	
I20	
I21	
I22	
I23	
I24	
I25	
I26	
I27	
I28	
I29	
I30	
N31	
N32	
N33	
N34	
N35	
N36	
N37	

N38	
N39	
N40	
N41	
N42	
N43	
N44	
N45	
G46	
G47	
G48	
G49	
G50	
G51	
G52	
G53	
G54	
G55	
G56	
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62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
FREE	
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is for validation purposes and cannot be used to play the game.

The format will be: 00000000000000.

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-Scratch Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2042), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2042-0000001-001.

H. Pack - A Pack of "BONUS BALL BINGO" Scratch Tickets contains 75 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the pack; the back of ticket 075 will be revealed on the back of the pack. All packs will be tightly shrink-wrapped. There will be no breaks between the tickets in a pack. Every other pack will reverse i.e., reverse order will be: the back of ticket 001 will be shown on the front of the pack and the front of ticket 075 will be shown on the back of the pack.

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 "BONUS BALL BINGO" Scratch Ticket Game No. 2042.

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 Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BONUS BALL BINGO" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 136 (one hundred thirty-six) Play Symbols. The player must scratch the "CALLER'S CARD" area to reveal thirty (30) Bingo Numbers and scratch the "BONUS BINGO BALLS" to reveal three (3) "BONUS BINGO BALLS" Bingo Numbers and three (3) prize amounts. The player must scratch only those Bingo Numbers on the four (4) "BINGO CARDS" that match the "CALLER'S CARD" Bingo Numbers and "BONUS BINGO BALLS" Bingo Numbers. The player must also scratch the "FREE" spaces on the four (4) "BINGO CARDS". Each "BINGO CARD" has a corresponding prize legend. On any one "BINGO CARD" LINE - If the player matches all Bingo Numbers in a complete vertical, horizontal or diagonal line (five (5) or four (4) numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD"; 4 Corners - If the player matches all Bingo Numbers in all four (4) corners, the player wins the prize in the corresponding prize legend for that "BINGO CARD"; "X" - If the player matches all Bingo Numbers to complete an "X" (eight (8) numbers + "FREE" space), the player wins the prize in the corresponding prize legend for that "BINGO CARD." BONUS BINGO BALLS PLAY: Each time one of the player's "BONUS BINGO BALLS" Bingo Numbers appears in CARD 1, CARD 2, CARD 3 or CARD 4, the player wins the PRIZE shown for that "BONUS BINGO BALL" Bingo Number. NOTE: Only the

highest prize per "BINGO CARD" will be paid. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket Game.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 136 (one hundred thirty-six) 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, and each Play Symbol must agree with its Play Symbol Caption; Crossword and Bingo style games do not typically have Play Symbol captions.
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 136 (one hundred thirty-six) 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 136 (one hundred thirty-six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 136 (one hundred thirty-six) 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 Game 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 Scratch Ticket Lottery game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of Play Symbols.

B. A Ticket will win as indicated by the prize structure.

C. A Ticket can win up to four (4) times and only once per "BINGO CARD."

D. In addition to winning once per "BINGO CARD," a Ticket can also win up to two (2) times in the "BONUS BINGO BALLS" play area.

E. The "BONUS BINGO BALLS" play area will contain three (3) "BONUS BINGO BALLS" Bingo Numbers and three (3) Prize Symbols.

F. The three (3) "BONUS BINGO BALLS" Bingo Numbers will all be different.

G. A "BONUS BINGO BALLS" Bingo Number that is the same as a number on a "BINGO CARD" is considered revealed.

H. Each winning "BONUS BINGO BALLS" Bingo Number will only match one (1) number across the four (4) "BINGO CARDS."

I. All non-winning Prize Symbols in the "BONUS BINGO BALLS" play area will be different.

J. The three (3) "BONUS BINGO BALLS" Bingo Numbers will all be different from the thirty (30) "CALLER'S CARD" Bingo Numbers.

K. No matching Bingo Numbers will appear on each individual "BINGO CARD."

L. Only the highest prize won per "BINGO CARD" will be paid.

M. Each "CALLER'S CARD" will have a minimum of four (4) and a maximum of six (6) numbers from each range per letter. The "BONUS BINGO BALL" Bingo Numbers will have a maximum of one (1) number from each range per letter.

N. The number range used for each letter will be as follows:

B: 01-15

I: 16-30

N: 31-45

G: 46-60

O: 61-75

O. Each "BINGO CARD" on the same Ticket must be different.

P. The thirty (30) "CALLER'S CARD" Bingo Numbers and three (3) "BONUS BINGO BALLS" Bingo Numbers will match thirty-five (35) to fifty-five (55) numbers per Ticket (not including the FREE spaces).

Q. The thirty (30) "CALLER'S CARD" Bingo Numbers will all be different.

R. Each "BINGO CARD" will contain twenty-four (24) numbers and one (1) "FREE" space.

S. Prizes for "BINGO CARDS" 1 to 4 are as follows:

BINGO CARD 1: Line \$5

4 Corners \$20

"X" \$100

BINGO CARD 2: Line \$10

4 Corners \$50

"X" \$500

BINGO CARD 3: Line \$20

4 Corners \$100

"X" \$1,000

BINGO CARD 4: Line \$50

4 Corners \$500

"X" \$100,000

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS BALL BINGO" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$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 \$25.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "BONUS BALL BINGO" Scratch Ticket Game prize of \$1,000 or \$100,000, 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 "BONUS BALL BINGO" Scratch Ticket Game prize, the claimant must sign the winning Scratch

Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office 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 Section 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 "BONUS BALL BINGO" 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 "BONUS BALL BINGO" 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 Game 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 Section 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 Game 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 Game.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 11,160,000 Scratch Tickets in the Scratch Ticket Game No. 2042. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2042 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	1,537,600	7.26
\$10	520,800	21.43
\$15	297,600	37.50
\$20	248,000	45.00
\$25	127,875	87.27
\$50	186,434	59.86
\$100	8,990	1,241.38
\$200	3,100	3,600.00
\$500	1,240	9,000.00
\$1,000	465	24,000.00
\$100,000	5	2,232,000.00

\*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 3.81. The individual odds of winning for a particular prize level may vary based on sales, distribution, 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.

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. 2042 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 Game 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. 2042, 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-201803014  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 10, 2018



Scratch Ticket Game Number 2062 "Wild Tripler"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2062 is "WILD TRIPLER." The play style is "key number match."

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2062 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2062.

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, 04, 05, 06, 07, 08, 09, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 3X, \$2.00, \$5.00, \$6.00, \$10.00, \$15.00, \$30.00, \$90.00, \$900 and \$30,000.

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. 2062 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
01	ONE
02	TWO
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
<b>3X SYMBOL</b>	<b>WINX3</b>
\$2.00	TWO\$
\$5.00	FIV\$
\$6.00	SIX\$
\$10.00	TEN\$
\$15.00	FFN\$
\$30.00	TRTY\$
\$90.00	NITY\$
\$900	NIHN
\$30,000	30TH

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 (2062), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2062-0000001-001.

H. Pack - A Pack of "WILD TRIPLER" Scratch Ticket Games contains 125 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 "WILD TRIPLER" Scratch Ticket Game No. 2062.

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 Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "WILD TRIPLER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 22 (twenty-two) Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "3X" Play Symbol, the player wins TRIPLE 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 22 (twenty-two) 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 22 (twenty-two) 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 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$2 and 02).

D. No matching WINNING NUMBERS Play Symbols on a Ticket.

E. A non-winning Prize Symbol will never match a winning Prize Symbol.

F. A Ticket may have up to two (2) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

G. The "3X" (WINX3) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

H. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "WILD TRIPLER" Scratch Ticket Game prize of \$2.00, \$5.00, \$6.00, \$10.00, \$15.00, \$30.00 or \$90.00, 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 or \$90.00 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 "WILD TRIPLER" Scratch Ticket Game prize of \$900 or \$30,000, 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 "WILD TRIPLER" 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 "WILD TRIPLER" 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 "WILD TRIPLER" 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 7,080,000 Scratch Tickets in the Scratch Ticket Game No.

2062. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2062 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	679,680	10.42
\$5	283,200	25.00
\$6	283,200	25.00
\$10	99,120	71.43
\$15	99,120	71.43
\$30	42,598	166.20
\$90	7,080	1,000.00
\$900	40	177,000.00
\$30,000	10	708,000.00

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

\*\*The overall odds of winning a prize are 1 in 4.74. 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. 2062 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 Game 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. 2062, 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-201802993  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 9, 2018



Scratch Ticket Game Number 2069 "Cowboys"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2069 is "COWBOYS". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2069 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2069.

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, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, FOOTBALL SYMBOL, TD SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$1,000, \$5,000 and \$100,000.

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. 2069 - 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
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
37	TRSV

38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
FOOTBALL SYMBOL	WIN
TD SYMBOL	WINALL
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$1,000	ONTH
\$5,000	FVTH
\$100,000	100 <sup>TH</sup>

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 (2069), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2069-0000001-001.

H. Pack - A Pack of "COWBOYS" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

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 "COWBOYS" Scratch Ticket Game No. 2069.

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 Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "COWBOYS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 45 (forty-five) Play Symbols. If a 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 "FOOTBALL" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "TD" Play Symbol, the player WINS ALL 20 PRIZES INSTANTLY! 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 45 (forty-five) 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 45 (forty-five) 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 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 45 (forty-five) Play Symbols on the 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket will win as indicated by the prize structure.

C. A Ticket can win up to twenty (20) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$5,000 and \$100,000 will each appear at least once, except on Tickets winning fifteen (15) times or more.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

G. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

H. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

I. The "TD" (WINALL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

J. The "TD" (WINALL) Play Symbol will instantly win all twenty (20) prize amounts and will win only as per the prize structure.

K. The "TD" (WINALL) Play Symbol will never appear more than once on a Ticket.

L. The "TD" (WINALL) Play Symbol will never appear on a Non-Winning Ticket.

M. On Tickets winning with the "TD" (WINALL) Play Symbol, the YOUR NUMBERS Play Symbols will not match any of the WINNING NUMBERS Play Symbols.

N. The "FOOTBALL" (WIN) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

O. The "FOOTBALL" (WIN) Play Symbol will instantly win the prize amount directly below the "FOOTBALL" (WIN) Play Symbol on a Ticket.

P. The "FOOTBALL" (WIN) Play Symbol will never appear more than once on a Ticket.

Q. The "FOOTBALL" (WIN) Play Symbol will never appear on a Non-Winning Ticket.

R. The "TD" (WINALL) Play Symbol and the "FOOTBALL" (WIN) Play Symbol will never appear on the same Ticket.

S. On Tickets winning with the "FOOTBALL" (WIN) Play Symbol, the YOUR NUMBERS Play Symbols will not match any of the WINNING NUMBERS Play Symbols.

T. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 5 and \$5, 10 and \$10, 15 and \$15, 20 and \$20, 50 and \$50).

U. On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

V. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "COWBOYS" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$50.00 or \$100, 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 \$50.00 or \$100 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 "COWBOYS" Scratch Ticket Game prize of \$1,000, \$5,000 or \$100,000, 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 "COWBOYS" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thor-

oughly 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 30 days of notification or the prize will be awarded to an Alternate.

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 "COWBOYS" 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 "COWBOYS" 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "COW-BOYS" Scratch Ticket may be entered into one of five promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 9,720,000 Scratch Tickets in the Scratch Ticket Game No. 2069. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2069 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	820,800	11.84
\$10	1,144,800	8.49
\$20	388,800	25.00
\$50	64,800	150.00
\$100	14,445	672.90
\$1,000	452	21,504.42
\$5,000	54	180,000.00
\$100,000	10	972,000.00

\*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 3.99. 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. 2069 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 Game 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. 2069, 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-201803015

Bob Biard  
General Counsel  
Texas Lottery Commission  
Filed: July 10, 2018



Scratch Ticket Game Number 2070 "Houston Texans"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2070 is "HOUSTON TEXANS." The play style is "key number match."

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2070 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2070.

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, 20, 21,

22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, FOOTBALL SYMBOL, GOALPOST SYMBOL, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$500, \$5,000 and \$100,000.

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. 2070 - 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
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV



38	TRET
39	TRNI
40	FRTY
FOOTBALL SYMBOL	WIN
GOALPOST SYMBOL	WINX5
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$5,000	FVTH
\$100,000	100TH

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-Scratch Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2070), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2070-0000001-001.

H. Pack - A Pack of "HOUSTON TEXANS" Scratch Ticket Games contains 75 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch 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 - Texas Lottery "HOUSTON TEXANS" Scratch Ticket Game No. 2070.

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 Game Rules,

these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HOUSTON TEXANS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If a player reveals a "FOOTBALL" Play Symbol, the player wins the prize for that symbol instantly. If a player reveals a "GOALPOST" Play Symbol, the player wins 5 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 45 (forty-five) 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 45 (forty-five) 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 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 45 (forty-five) Play Symbols on the 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 5 and \$5).

D. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

E. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

F. A non-winning Prize Symbol will never match a winning Prize Symbol.

G. A Ticket may have up to five (5) matching non-winning Prize Symbols unless restricted by other parameters, play action or prize structure.

H. The "FOOTBALL" (WIN) Play Symbol will never appear more than once on a winning Ticket.

I. The "GOALPOST" (WINX5) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "HOUSTON TEXANS" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100 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 \$25.00, \$50.00, \$100 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 "HOUSTON TEXANS" Scratch Ticket Game prize of \$5,000 or \$100,000, 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 "HOUSTON TEXANS" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 30 days of notification or the prize will be awarded to an Alternate.

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 "HOUSTON TEXANS" 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 "HOUSTON TEXANS" 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "HOUSTON TEXANS" Scratch Ticket may be entered into one of five promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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 5,520,000 Scratch Tickets in Scratch Ticket Game No. 2070. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2070 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	625,600	8.82
\$10	496,800	11.11
\$20	147,200	37.50
\$25	52,200	105.75
\$50	48,274	114.35
\$100	15,180	363.64
\$500	1,380	4,000.00
\$5,000	15	368,000.00
\$100,000	4	1,380,000.00

\*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 3.98. 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. 2070 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 closing procedures and the Scratch Ticket Game 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. 2070, 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-201803018  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 10, 2018



**North Texas Behavioral Health Authority**

Invitation for Bids - Construction and Facility Renovation Services ("IFB\_CON18-009")

The NORTH TEXAS BEHAVIORAL HEALTH AUTHORITY (NTBHA) is requesting bids from qualified organizations to provide rebuilding or remodeling Construction Services to the NTBHA facility located at the address listed below. NTBHA is contracted with the

Texas Health and Human Services Commission, via interlocal agreement, to function as the Local Behavioral Health Authority ("LBHA") for the following Texas counties: Dallas, Ellis, Hunt, Kaufman, Navarro and Rockwall.

Eligible respondents to this IFB must submit a detailed bid, including the completed Bidder Qualifications document, and all requested Attachments conforming to the requirements described in Exhibit C of the complete IFB document, "IFB\_#CON18-009", which can be found at <https://ntbha.org/> under Procurements or by the following link, at <https://ntbha.org/wp-content/uploads/2018/07/Invitation-for-Bids-Construction-Facility-Renovation.pdf>.

Applicants must demonstrate the ability to perform, in a timely manner, the work listed in Exhibit B of the complete IFB document, in accordance with Federal/State/Local statutes, guidelines, and licensing standards.

NTBHA reserves the right to withdraw this Solicitation at any time without award.

Submissions to this Invitation for Bids are due by:

**TUESDAY, JULY 24th, 2018, 12:00 p.m., CDT (noon)**

Responses and/or inquiries to this Solicitation should be emailed directly to Heath Frederick, Director of Contract Services at [HFrederick@NTBHA.org](mailto:HFrederick@NTBHA.org). Submit all responses and/or inquiries via email with the following subject line:

**RFA\_#OTS18-008**

Applicants will be notified, via email to the identified Representative, if any further information is needed to assist in the procurement process.

TRD-201803009

Heath Frederick  
Contracts Director  
North Texas Behavioral Health Authority  
Filed: July 9, 2018



## Request for Applications - Adult Opioid Treatment Services (FY2019)

July 6th, 2018 - NORTH TEXAS BEHAVIORAL HEALTH AUTHORITY

Request for Applications - Adult Substance Abuse/Opioid Treatment Services ("SA/TRA/-OTS")

The NORTH TEXAS BEHAVIORAL HEALTH AUTHORITY ("NTBHA") is requesting applications from qualified service provider organizations to provide evidence-based Opioid Treatment Services ("OTS") to adult NTBHA consumers authorized for integrated Medication Assisted Treatment ("MAT"). NTBHA is contracted with the Texas Health and Human Services Commission, via interlocal agreement, to function as the Local Behavioral Health Authority ("LBHA") for the following Texas counties: Dallas, Ellis, Hunt, Kaufman, Navarro and Rockwall.

Eligible respondents to this RFA must submit an open enrollment application conforming to the requirements described in the complete RFA document, "RFA\_#OTS18-008," which can be found at <https://ntbha.org/> under Procurements or by the following link, at [https://ntbha.org/wp-content/uploads/2018/07/RFA\\_OTS18-008.pdf](https://ntbha.org/wp-content/uploads/2018/07/RFA_OTS18-008.pdf).

Applicants must demonstrate the ability to perform, in a timely manner, Adult-Opioid Treatment Services effectively and efficiently, in accordance with Federal/State/Local statutes, guidelines, and licensing standards set forth in the complete RFA document. Additionally, applicants must also furnish satisfactory evidence of adequate credentials and certifications to provide substance use disorder services, as well as a current contract or eligible to integrate and perform Outpatient Substance Use Disorder Services, included at no cost to the consumer. Application submittal does not guarantee a contract will be awarded.

The contract term for the Adult-Opioid Treatment Services, based upon Board of Directors' approval and recommendation of the applicants, will be for the twelve (12) months of fiscal year 2019, effective September 1st, 2018, and expiring August 31st, 2019. NTBHA may request to extend the contract for an additional twelve (12) month term following satisfactory delivery of the services specified in the RFA and subsequent contract engagement letter. The engagement can be terminated without cause and is contingent upon availability of funds. An awarded contract does not guarantee utilization of services.

NTBHA reserves the right to withdraw this Request for Applications at any time without award.

Submissions to this Request for Applications are due by:

**TUESDAY, JULY 31st, 2018, 12:00 p.m., CDT (noon)**

Responses and/or inquiries to this Request for Applications should be emailed directly to Heath Frederick, Director of Contract Services at [HFrederick@NTBHA.org](mailto:HFrederick@NTBHA.org). Submit all responses and/or inquiries via email with the following subject line:

**RFA\_#OTS18-008**

Applicants will be notified, via email to the identified Representative, if any further information is needed to assist in the application process.

TRD-201803010

Heath Frederick  
Contracts Director  
North Texas Behavioral Health Authority  
Filed: July 9, 2018



## Texas Parks and Wildlife Department

Notice of Proposed Real Estate Transactions

### Disposition of Real Estate - Blanco County

#### Approximately 3.5 acres in Blanco County Texas

In a meeting on August 23, 2018, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the disposition of approximately 3.5 acres found to be disconnected from Blanco State Park. At this meeting the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Trey Vick, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email to [trey.vick@tpwd.texas.gov](mailto:trey.vick@tpwd.texas.gov) or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

### Transfer of Land - Walker County

#### Approximately .60 acre at Huntsville State Park

In a meeting on August 23, 2018, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the transfer of approximately .60 of an acre at Huntsville State Park in exchange for a permanent 25' no-clear buffer along the perimeter of the park. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Trey Vick, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email to [trey.vick@tpwd.texas.gov](mailto:trey.vick@tpwd.texas.gov) or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

### Exchange of Land - Washington County

#### Approximately 1 acre at Washington on the Brazos State Historic Site

In a meeting on August 23, 2018, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the transfer of approximately 1 acre at Washington on the Brazos State Historic Site in exchange for a 1 acre tract that sits along the boundary of the park. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Trey Vick, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email to [trey.vick@tpwd.texas.gov](mailto:trey.vick@tpwd.texas.gov) or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

### Acquisition of Land - Brewster County

#### Approximately 16,000 Acres at the Black Gap Wildlife Management Area

In a meeting on August 23, 2018, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 16,000 acres for addition to the Black Gap Wildlife Management Area in Brewster County. At this meeting the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email to [ted.hollingsworth@tpwd.texas.gov](mailto:ted.hollingsworth@tpwd.texas.gov) or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

#### **Acquisition of Land - Marion County**

##### **Approximately 2 Acres at the Caddo Lake Wildlife Management Area**

In a meeting on August 23, 2018, the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 2 acres for addition to the Caddo Lake Wildlife Management Area in Marion County. At this meeting the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email to [stan.david@tpwd.texas.gov](mailto:stan.david@tpwd.texas.gov) or via the department's website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

TRD-201803034

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Filed: July 11, 2018

## **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 July 2, 2018, to amend a state-issued certificate of franchise authority.

Project Title and Number: Application of Marcus Cable Associates, LLC dba Spectrum to Amend a State-Issued Certificate of Franchise Authority, Project Number 48504.

The applicant seeks to amend its state-issued certificate of franchise authority number 90017 to expand its service area footprint to include the incorporated areas, excluding any federal properties, in the City of Justin, Texas.

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 48504.

TRD-201802988

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: July 6, 2018

### **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 July 2, 2018, to amend a state-issued certificate of franchise authority.

Project Title and Number: Application of Charter Communications VI, LLC dba Spectrum to Amend a State-Issued Certificate of Franchise Authority, Project Number 48503.

The applicant seeks to amend its state-issued certificate of franchise authority number 90024 to change the names and contact information of its authorized company representative, regulatory contact, and emergency contact.

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 48503.

TRD-201802989

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: July 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 29, 2018, for a certificate of convenience and necessity service area exception within Hidalgo County.

Docket Style and Number: Application of AEP Texas, Inc. for a Certificate of Convenience and Necessity Service Area Exception in Hidalgo County. Docket Number 48501.

The Application: AEP Texas, Inc. (AEP) filed an application for a service area exception to allow AEP to serve a specific customer located within the certificated service area of Magic Valley Electric Cooperative, Inc. (Magic Valley). Magic Valley has provided AEP 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 July 27, 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 48501.

TRD-201802981

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: July 6, 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 July 3, 2018, a petition to amend a

water certificate of convenience and necessity (CCN) in Travis County by expedited release.

Docket Style and Number: Petition of Views at Onion Creek, L.P. to Amend Creedmoor Maha Water Supply Corporation's Certificate of Convenience and Necessity in Travis County by Expedited Release, Docket Number 48508.

The Petition: Views at Onion Creek, L.P., filed a petition for expedited release of approximately 158.2 acres of land within Creedmoor Maha Water Supply Corporation's water CCN No. 11029 in Travis 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 August 2, 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 48508.

TRD-201803031  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 11, 2018

## South East Texas Regional Planning Commission

### Request for Proposals

The South East Texas Regional Planning Commission (SETRPC) seeks a qualified vendor to provide a technological solution enabling the effective, efficient, and expedient match of civilian rescuer volunteers with residents in need of evacuation who have self-registered and provided a self-reported location. The tool will be administered regionally by the SETRPC, giving emergency management professionals and civilians in Hardin, Jefferson and Orange Counties free initial access.

The following qualifications are deemed most critical to the success of the project:

- Ease of use by emergency management, self-deploying volunteers and self-registering residents (including those with limited technology skills);
- Ease/Intuitiveness of self-registration process;
- Extent to which detail regarding specialized needs of residents (disabilities, family size, pets, etc) is included;
- System capacity - degree to which a large number of registrants, both volunteers and residents, may register simultaneously without taxing the system;
- Experience - past use of the tool during disasters, success, modifications made to meet needs, etc.;
- Technical support available (electronically and via phone);
- References who have used the product and can verify effectiveness and ease of use;
- Training provided on-site, electronically or via other means;
- Ability to perform criminal checks on potential volunteer rescuers, the system used to vet potential volunteers, reliability of the vetting process; and

- Expansion potential - infrastructure platform that can be expanded to address emergent public safety needs.

For a complete **Request for Proposals** package, please contact **Collin Sheldon** via email at [csheldon@setrpc.org](mailto:csheldon@setrpc.org) or request a package via mail to **Collin Sheldon, 2210 Eastex Freeway, Beaumont, Texas 77703**. Final sealed proposals will be due by **Friday, August 3, 2018, by 5:00 p.m. Central Daylight Savings Time**.

Proposals will be reviewed by a technical sub-committee with selection based on Consultant Selection Criteria included in the **Request for Proposals** package.

TRD-201803035  
Shaun Davis  
Executive Director  
South East Texas Regional Planning Commission  
Filed: July 11, 2018

## Texas Department of Transportation

### Aviation Division - Request for Qualifications for Professional Engineering Services

Marion County, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a qualified firm for professional services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

**Current Project:** Marion County; TxDOT CSJ No.: 1819JFRSN. The TxDOT Project Manager is Ryan Hindman, P.E.

Scope: Provide engineering and design services, including construction administration, to:

1. Install new electrical vault;
2. Replace runway lighting;
3. Install runway guidance signs; and
4. Install Precision Approach Path Indicator (PAPI) - 2 Light Emitting Diode (LED) Runway 5-23.

The estimated value of the solicitation or resulting contract is less than \$100,000. Therefore, respondents are not required to complete and submit a "*HUB Subcontracting Plan (HSP)*" with their qualifications at the time of submission. If subcontractors are used in the delivery of services, the Department requests that the awarded contractor(s) make a good faith effort to consider HUBs and submit monthly, a "*Prime Contractor Progress Assessment Report*" through the eGrants system.

If the estimated value increases over \$100,000, the contractor will be required to complete and submit an up-to-date "*HUB Subcontracting Plan (HSP)*" to verify their intent to subcontract, and show their good faith effort to contract with HUBs. In addition, the contractor will be required to submit monthly, a "Prime Contractor Progress Assessment Report" and "*HUB Subcontracting Plan (HSP) Progress Compliance Form - 2579*", through the eGrants system.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Cypress River Airport may include the following: rehabilitate apron pavement; rehabilitate Runway 5-23 pavement; rehabilitate stub taxiway pavement; and mark and stripe airfield pavements.

Marion County reserves the right to determine which of the services listed above may or may not be awarded to the successful firm and

to initiate additional procurement action for any of the services listed above.

To assist in your qualification statement preparation, the criteria, project diagram, and most recent Airport Layout Plan are available online at <http://www.txdot.gov/inside-txdot/division/aviation/projects.htm> by selecting "Cypress River Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects for both current and future scope.

#### AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, (800) 68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, or submits a cover page with the AVN-550, that provider will be disqualified. Responses to this solicitation WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

**ATTENTION:** To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

The completed Form AVN-550 must be received in the TxDOT Aviation eGrants system no later than August 10, 2018, 11:59 p.m. (CDST). Electronic facsimiles or forms sent by email or regular/overnight mail will not be accepted.

Firms that wish to submit a response to this solicitation must be a user in the TxDOT Aviation eGrants system no later than one business day before the solicitation due date. To request access to eGrants, please complete the Contact Us web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

Step-by-step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of TxDOT Aviation Division staff. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each.

The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at (800) 68-PILOT (74568). For procedural questions, please

contact Bobby Hidrogo, Grant Manager. For technical questions, please contact Ryan Hindman, P.E., Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at (800) 687-4568 or [avn-egrantshelp@txdot.gov](mailto:avn-egrantshelp@txdot.gov).

TRD-201802964

Leonard Reese

Associate General Counsel

Texas Department of Transportation

Filed: July 3, 2018



### Public Hearing Notice - Unified Transportation Program

The Texas Department of Transportation (department) will hold a public hearing on Tuesday, August 7, 2018, at 10:00 a.m. at 118 East Riverside Drive, First Floor ENV Conference Room, in Austin, Texas to receive public comments on the development of the 2019 Unified Transportation Program (UTP), including the highway project selection process related to the UTP.

Transportation Code, §201.991 provides that the department shall develop a UTP covering a period of 10 years to guide the development and authorize construction of transportation projects. Transportation Code, §201.602 requires the Texas Transportation Commission (commission) to annually conduct a hearing on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions. The commission has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects, which include guidance regarding public involvement related to the project selection process and the development of the UTP.

Information regarding the proposed 2019 UTP and highway project selection process will be available at each of the department's district offices, at the department's Transportation Planning and Programming Division offices located in Building 118, Second Floor, 118 East Riverside Drive, Austin, Texas, or (512) 486-5038, and on the department's website at: [http://www.txdot.gov/public\\_involvement/utp.htm](http://www.txdot.gov/public_involvement/utp.htm).

Persons wishing to speak at the hearing may register in advance by notifying the Transportation Planning and Programming Division, at (512) 486-5038 not later than Monday, August 6, 2018, or they may register at the hearing location beginning at 9:00 a.m. on the day of the hearing. Speakers will be taken in the order registered. Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony. Persons with disabilities who have special communication or accommodation needs or who plan to attend the hearing may contact the Transportation Planning and Programming Division, at 118 East Riverside Drive Austin, Texas 78704-1205, (512) 486-5038. Requests should be made no later than three days prior to the hearing. Every reasonable effort will be made to accommodate the needs.

Interested parties who are unable to attend the hearing may submit comments regarding the proposed 2019 UTP to Peter Smith, Director of the Transportation Planning and Programming Division, P.O. Box 149217, Austin, Texas 78714-9217. Interested parties may also submit com-



ments regarding the proposed 2019 UTP by phone at (800) 687-8108. In order to be considered, all comments must be received at the Transportation Planning and Programming office by 4:00 p.m. on Monday, August 20, 2018.

TRD-201802965

Leonard Reese

Associate General Counsel

Texas Department of Transportation

Filed: July 3, 2018



## Texas Water Development Board

### Applications for June 2018

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

Project ID #62801 a request from the Beechwood Water Supply Corporation, 5137 Fairdale Road, Hemphill, Texas 75948-6914, received June 6, 2018, for \$208,510 in principal forgiveness, from the Drinking Water State Revolving Fund for design, and construction water distribution line and residential meters.

Project ID #73802 a request from the Beechwood Water Supply Corporation, 5137 Fairdale Road, Hemphill, Texas 75948-6914, received June 6, 2018, for \$262,000 in principal forgiveness, from the Clean Water State Revolving Fund for design, and construction repairs to wastewater plant.

Project ID #73804 a request from the City of Bevil Oaks, 7525 Sweet Gum Road, Beaumont, Texas 77713-8422, received June 8, 2018, for \$500,000 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction for replacement at a second sanitary sewer lift state.

Project ID #62802 a request from City of White Oak, 906 South White Oak Road, White Oak, Texas 75693-1430, received June 13, 2018, for \$8,400,000, financing from the Drinking Water State Revolving Fund for planning, design and construction of raw water reservoir and prepare and implement an Asset Management Plan.

Project ID #62805 a request from Creedmoor Maha Water Supply Corporation, received June 27, 2018, for \$9,258,000 in financing from the Drinking Water State Revolving Fund for planning, design and construction of a water loss reduction project.

Project ID #73805 a request from Jasper County Water Control and Improvement District No. 1, P.O. Box 1207, Buna, Texas 77612-1207, received June 27, 2018, for \$1,480,000, financing from the Clean Water State Revolving Fund for planning, design, acquisition and construction of sewer collection system improvement project.

TRD-201802967

Todd Chenoweth

General Counsel

Texas Water Development Board

Filed: July 6, 2018



Notice of Public Hearing on the Draft State Fiscal Year 2019 Clean and Drinking Water State Revolving Fund Intended Use Plans

The Texas Water Development Board (TWDB) will conduct a public hearing on the draft State Fiscal Year (SFY) 2019 Clean Water State Revolving Fund (CWSRF) Intended Use Plan (IUP) and the draft SFY 2019 Drinking Water State Revolving Fund (DWSRF) IUP. The hearing will begin promptly at 10:00 a.m. on July 25, 2018, in Room 170 of the Stephen F. Austin Building at 1700 North Congress Avenue, Austin, Texas 78701.

The CWSRF IUP contains a list of wastewater projects in prioritized order which will be considered for funding in SFY 2019. The draft SFY 2019 CWSRF IUP has been prepared pursuant to rules adopted by the TWDB in 31 Texas Administrative Code Chapter 375.

The DWSRF IUP contains a list of drinking water projects in prioritized order which will be considered for funding in SFY 2019. The draft SFY 2019 DWSRF IUP has been prepared pursuant to the rules adopted by the TWDB in 31 Texas Administrative Code Chapter 371.

Interested persons are encouraged to attend the hearing and to present comments concerning the draft IUPs. Those who cannot attend the hearing may provide comments through the following three alternative methods:

(1) submit comments via the online comment page: <https://www2.twdb.texas.gov/apps/iup/>;

(2) email comments to the electronic mail address: [iupcomments@twdb.texas.gov](mailto:iupcomments@twdb.texas.gov); or

(3) submit written comments to the postal mail address:

Mr. Mark Wyatt

Director, Program Administration and Reporting

Texas Water Development Board

P.O. Box 13231

Austin, Texas 78711

The deadline for comments will be specified in the draft CWSRF and DWSRF IUPs, which will be available at the TWDB's website at <http://www.twdb.texas.gov/financial/programs/CWSRF/index.asp> and <http://www.twdb.texas.gov/financial/programs/DWSRF/index.asp> respectively.

Please note that time limits on public comments may be imposed to allow all attendees to be heard. Additionally, the TWDB discourages comments requesting a revised rating based on project information not previously submitted.

Persons with disabilities who plan to attend this meeting and need auxiliary aids or services are requested to contact Merry Klonower at (512) 463-8165 two (2) business days prior to the hearing so that appropriate arrangements can be made.

TRD-201802968

Todd Chenoweth

General Counsel

Texas Water Development Board

Filed: July 6, 2018



# 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](mailto: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>

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

## How to Use the Texas Register

**Information Available:** The 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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