
TEXAS REGISTER

Volume 43 Number 39

September 28, 2018

Pages 6419 – 6502



Caroline Kirsch
11th Grade

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

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

***Texas Register*, (ISSN 0362-4781, USPS 12-0090)**, is published weekly (52 times per year) for \$297.00 (\$438.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P O Box 1710, Latham, NY 12110.

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

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

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 12887
Austin, TX 78711
(512) 463-5561
FAX (512) 463-5569

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THE GOVERNOR

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

Appointments

Appointments for September 11, 2018

Appointed to the Texas Racing Commission, for a term to expire February 1, 2021, Constance C. "Connie" McNabb, D.V.M. of Montgomery, Texas (replacing Gary P. Aber, D.V.M. of Simonton who was not confirmed).

Appointments for September 12, 2018

Appointed to the Jobs and Education for Texans Grant Program Advisory Board, for a term to expire June 19, 2019, Gerardo A. Interiano of Austin, Texas (replacing Guy A. "Tony" Fidelie, Jr. of Wichita Falls whose term expired).

Appointments for September 13, 2018

Appointed to the Commission on State Emergency Communications, for a term to expire September 1, 2021, Von C. Washington of El Paso, Texas (replacing Ernestine M. Robles of Garden Ridge who resigned).

Greg Abbott, Governor

TRD-201804002



Proclamation 41-3600

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that the tropical disturbance in the Gulf of Mexico that began on September 7, 2018, and that continues toward the Texas coast, poses a threat of imminent disaster, including severe flooding, widespread and severe property damage, and loss of life in Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bexar, Blanco, Brazoria, Brazos, Brooks, Burleson, Burnet, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, DeWitt, Dimmitt, Duval, Edwards, Fayette, Fort Bend, Frio,

Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Harris, Hays, Hidalgo, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, La Salle, Lavaca, Lee, Liberty, Live Oak, Llano, Madison, Matagorda, Maverick, McMullen, Medina, Montgomery, Nueces, Polk, Real, Refugio, San Jacinto, San Patricio, Starr, Travis, Trinity, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala counties.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties based on the existence of such threat.

Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

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

Greg Abbott, Governor

TRD-201804064



Allison Scott
8th Grade



PROPOSED RULES

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

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

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 79. WEATHER MODIFICATION

16 TAC §79.33

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 79, §79.33, regarding the Weather Modification program.

JUSTIFICATION AND EXPLANATION OF THE RULES

The proposed amendments are necessary to clarify reporting requirements to implement a recommendation from the Department's internal auditor. The amendments are also necessary to implement staff recommendations to allow greater flexibility in reporting by allowing required information to be posted on a publicly-available website. The amendments were reviewed and recommended by the Weather Modification Advisory Committee at its meeting on June 7, 2018.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §79.33 ensure that only weather modification operations that use aircraft are subject to the Department's monthly reporting requirements. For ground-based weather modification operations, the proposed amendments memorialize prior Department practice requiring quarterly reporting, tailoring the required information for this specific type of operation. These changes are necessary to implement the recommendation of the Department's internal auditor. The proposed amendments also add the option of reporting the required information on a publicly-accessible website, in lieu of reporting in writing to the Department.

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.

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.

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 pre-

pare 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 to allow those individuals and organizations conducting weather modification operations to submit paper reports less frequently or use electronic media to disseminate information about their operations. The new procedures afford the public an opportunity to access information about weather modification activities in a more timely and efficient manner.

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 rule.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments.

Since the agency has determined that the proposed amendments 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, is 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 rule. 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 create a new regulation. The proposed amendments specify that current reporting requirements apply to weather modification operations that use aircraft. For ground-based weather modification operations, the proposed amendments memorialize prior Department practice allowing quarterly reporting, and the required information is more narrowly tailored to this specific type of operation.
- (6) The proposed amendments do expand, limit, or repeal an existing regulation. The proposed rules afford licensees the opportunity to utilize electronic media with which to disseminate information and data about day-to-day weather modification activities, making the information and data more readily available and accessible to regulators and the public in lieu of submitting paper reports via the postal system to the regulatory agency.
- (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.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by this proposal and this proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

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. 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 Agriculture Code, Chapter 301, 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 Agriculture Code, Chapter 301. No other statutes, articles, or codes are affected by the proposal.

§79.33 Reporting Requirements.

(a) Any person conducting a weather modification operation with an aircraft operating within an operational or target area that includes any part of a Texas county must report in writing to the department, or on a publicly-accessible website, the following information [~~to the Department~~] according to the schedule given:

(1) any changes or additions to the list filed with the permit application in accordance with §79.18(3)(B) must be filed by the fifteenth day of the following month;

(2) for each month in which operations are conducted, one copy of the record of operations for that month required by §79.31 and, if applicable, one copy of the record of operations for that month required by §79.32 must be filed by the fifteenth day of the following month;

(3) one copy of all other reports required by 15 Code of Federal Regulations, §§908.5 - 908.7, must be filed no later than the deadlines set by the federal regulation.

(b) Any person conducting a weather modification operation using only ground-based equipment must report on a quarterly basis in writing to the department, or on a publicly-accessible website, the following information:

(1) date and time period of each operation;

(2) total amount of material used; and

(3) observations or data pertaining to the type of weather during and after the operation.

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 September 14, 2018.

TRD-201804001

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: October 28, 2018

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



CHAPTER 115. MIDWIVES

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 115, §§115.1, 115.70, 115.100, 115.112 - 115.115, 115.117 - 115.119; proposes new rule §115.111; and proposes the repeal of existing §115.90 and §115.111, regarding the Midwives program.

JUSTIFICATION AND EXPLANATION OF THE RULES

The proposed rules implement House Bill 2886 (H.B. 2886) and House Bill 4007 (H.B. 4007), 85th Legislature, Regular Session (2017). Collectively these bills remove criminal, civil, and administrative liability for licensed midwives who are unable to administer prophylaxis to a newborn's eyes because of an objection

from a parent, managing conservator, or guardian; mandate that midwives document objections from the parent, managing conservator, or guardian in the child's medical record; and require the Department to post a list of licensed midwives on its internet site but remove the requirement to provide the list to counties. The proposed rules are necessary to implement H.B. 2886 and H.B. 4007 and update standards of conduct and standards of care.

The proposed rules were discussed by the Midwives Advisory Board (Board) at its meeting on May 14, 2018. The Board recommended that the proposed rules be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed amendments to §115.1 add new definitions and renumber the section accordingly.

The proposed amendments to §115.70 update standard of conduct to reflect industry best practices.

The proposed repeal of §115.90 removes the requirement for the Department to provide a copy of the midwife roster to counties.

The proposed amendments to §115.100 update the standards for the practice of midwifery to reflect best practices.

The proposed repeal of existing §115.111 eliminates inter-professional care.

The proposed new §115.111 establishes the role of the midwife in coordinating care with other health care providers.

The proposed amendments to §115.112 determine when and how a midwife may terminate a client relationship.

The proposed amendments to §115.113 clarify when a midwife must call 911 and transfer care in an emergency situation.

The proposed amendments to §115.114 clarify prenatal care requirements.

The proposed amendments to §115.115 clarify labor and delivery standards.

The proposed amendments to §115.117 clarify newborn care during the first six weeks after birth.

The proposed amendments to §115.118 establish when a midwife must administer oxygen.

The proposed amendments to §115.119 remove criminal, civil, and administrative liability for licensed midwives who are unable to administer prophylaxis to a newborn's eyes because of an objection from a parent, conservator, or guardian.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Brian E. Francis, Executive Director, has determined that for the first five-year period the proposed rules are in effect, there will be no direct cost to the state or local government as a result of enforcing or administering the proposed rules.

Mr. Francis has determined that for each year of the first five years the proposed rules 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 rules.

Mr. Francis has determined that for each year of the first five years the proposed rules are in effect, there are no foreseeable implications relating to costs or revenues to local government as a result of enforcing or administering the proposed amendments.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Francis has determined that the proposed rules 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 has also determined that for each year of the first five-year period the proposed rules are in effect, the public will benefit by a more effective and efficient regulatory program for the Midwives program, which protects the health, safety, and welfare of the citizens of Texas.

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 rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

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 rules.

Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses or rural communities, preparation of an Economic Impact Statement and Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is 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 rule. There are exceptions for certain types of rules under §2001.0045(c).

The proposed rules 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(c).

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 proposed rules will be in effect, the agency has determined the following:

(1) The proposed rule does not create or eliminate a government program.

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

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

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

(5) The proposed rule does create a new regulation. Some new rules are being proposed for adoption as part of the updating and clarification of the existing rules. The clinical midwifery standards, including the terminology used, are being updated to reflect current standards of practice in the field of midwifery.

(6) The proposed rule does expand, limit, or repeal an existing regulation. Some existing rules are being proposed for repeal, and some new rules are being proposed for adoption as part of the updating and clarification of the existing rules. The clinical midwifery standards, including the terminology used, are being updated to reflect current standards of practice in the field of midwifery.

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

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

PUBLIC COMMENTS

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically to erule.comments@tdlr.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

16 TAC §§115.1, 115.70, 115.100, 115.111 - 115.115, 115.117 - 115.119

STATUTORY AUTHORITY

The amendments and new rule are proposed under Texas Occupations Code, Chapters 51 and 203, 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, Chapters 51 and 203. No other statutes, articles, or codes are affected by the proposal.

§115.1. Definitions.

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

(1) Act--The Texas Midwifery Act, Texas Occupations Code, Chapter 203.

(2) Appropriate health care facility--The Department of State Health Services, a local health department, a public health district, a local health unit or a physician's office where specified tests can be administered and read, and where other medical/clinical procedures normally take place.

(3) Approved midwifery education courses--The basic midwifery education courses approved by the department.

(4) Advisory Board--The Midwives Advisory Board appointed by the presiding officer of the Commission with the approval of the Commission.

(5) Code--Texas Health and Safety Code.

(6) Collaboration--The process in which a midwife and a health care practitioner of a different profession jointly manage the care of a woman or newborn according to a mutually agreed-upon plan of care.

(7) [(6)] Commission--The Texas Commission of Licensing and Regulation.

(8) Consultation--The process by which a midwife, who maintains responsibility for the woman's care, seeks the advice of another health care professional or member of the health care team.

(9) [(7)]Department--The Texas Department of Licensing and Regulation.

(10) [(8)]Executive director--The executive director of the department.

(11) [(9)]Health authority--A physician who administers state and local laws regulating public health under the Health and Safety Code, Chapter 121, Subchapter B.

(12) [(10)]Local health unit--A division of a municipality or county government that provides limited public health services as provided by the Health and Safety Code, §121.004.

(13) [(11)]Newborn care--The care of a child for the first six weeks of the child's life.

(14) [(12)]Normal childbirth--The labor and vaginal delivery at or close to term (37 up to 42 weeks) of a pregnant woman whose assessment reveals no abnormality or signs or symptoms of complications.

(15) [(13)]Physician--A physician licensed to practice medicine in Texas by the Texas Medical Board.

(16) [(14)]Postpartum care--The care of a woman for the first six weeks after the woman has given birth.

(17) [(15)]Program--The department's midwifery program.

(18) [(16)]Public health district--A district created under the Health and Safety Code, Chapter 121, Subchapter E.

(19) Referral--The process by which a midwife directs the client to a health care professional who has current obstetric or pediatric knowledge and is either a physician licensed in the United States, or working in association with a licensed physician.

(20) [(17)]Retired midwife--A midwife licensed in Texas who is over the age of 55 and not currently employed in a health care field.

(21) [(18)]Standing delegation orders--Written instructions, orders, rules, regulations or procedures prepared by a physician and designated for a patient population, and delineating under what set of conditions and circumstances actions should be instituted, as described in the rules of the Texas Medical Board in Chapter 193 (relating to Standing Delegation Orders) and §115.111 of this title (relating to Coordinating Care with Other Health Care Providers[~~Inter-professional Care~~]).

(22) Transfer--The process by which a midwife relinquishes care of the client for pregnancy, labor, delivery, or postpartum care or care of the newborn to another health care professional who has current obstetric or pediatric knowledge and is either a physician licensed in the United States, or working in association with a licensed physician.

(23) [(19)]Voluntary charity care--Midwifery care provided without compensation and with no expectation of compensation.

§115.70. *Standards of Conduct.*

The following are grounds for denial of application for licensure or license renewal and for disciplinary action.

(1) The commission or executive director may deny an application for initial licensure or license renewal and may take disciplinary action against any person based upon proof of the following:

(A) - (L) (No change.)

(M) ~~a~~demonstrated lack of personal or professional character in the practice of midwifery;

(N) failure to use generally accepted standards of midwifery care;

(O) failure to exercise ordinary diligence in the provision of midwifery care;

(P) failure to act competently in the provision of midwifery care; or

(Q) a material misrepresentation knowingly made to the department on any matter or to a client during the provision of midwifery care.

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

§115.100. *Standards for the Practice of Midwifery in Texas.*

(a) ~~[Midwifery care supports individual rights and self-determination within the boundaries of safety.]~~ Using reasonable skill and knowledge, the midwife shall:

(1) provide clients with a description of the scope of midwifery services and information regarding the client's rights and responsibilities in accordance with the Act;

(2) assess the client on an ongoing basis for any factors which might preclude a client from admission into or continuing in midwifery care and document that assessment in the midwifery record;

(3) provide clients with information about other providers and services when requested or when the care required is not within the scope of practice of midwifery; and

(4) practice in accordance with the knowledge, clinical skills, and judgments described in the Midwives Alliance of North America (MANA) Core Competencies for Basic Midwifery Practice, adopted in December, 2014 ~~[August 4, 2011]~~, within the bounds of the midwifery scope of practice as defined by the Act and Rules;

(b) (No change.)

(c) The midwife shall document midwifery~~[Midwifery]~~ care ~~[is documented]~~ in legible, complete health records. The midwife shall:

(1) maintain records that completely and accurately document the client's history, physical exam, laboratory test results, antepartum visits, consultations~~[consultation reports]~~, referrals, labor, delivery, postpartum visits, and neonatal evaluations at the time midwifery services are delivered and when reports are received;

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

(4) maintain the confidentiality of midwifery~~[client]~~ records; and

(5) maintain records:

(A) for the mother, for a minimum of five years; and

(B) for the infant, until the age of majority.

(d) The midwife shall engage in~~[Midwifery care includes documentation of]~~ a periodic process of evaluation and quality assurance ~~[of midwifery practice]~~. The midwife shall:

(1) collect client care data systematically and be involved in analysis of that data for the evaluation of the process and outcome of care;

(2) review problems identified by the midwife or by other professionals or consumers in the community; and

(3) act to resolve problems that are identified.

§115.111. *Coordinating Care with Other Health Care Providers.*

(a) A midwife shall consult with, refer to, collaborate with, or transfer to an appropriate healthcare provider or facility in accordance with the Act and this chapter.

(b) If a client elects not to accept a referral or a physician or associate's advice, the midwife shall:

(1) continue to care for the client after discussing and documenting the risks in the midwifery record, which shall include informing the client that her condition may worsen and require transfer;

(2) seek a consultation;

(3) manage the client in collaboration with an appropriate health care professional; or

(4) terminate care.

(c) If a midwife provides any prescription medication to a client or her newborn other than oxygen and eye prophylaxis, standing delegation orders from a physician licensed in Texas must be obtained. The midwife shall ensure that the orders are current (renewed annually) and comply with the rules of the Texas Medical Board.

§115.112. *Termination of the Midwife-Client Relationship.*

A midwife shall terminate care of a client only in accordance with this section unless a transfer of care results from an emergency situation.

(1) (No change.)

(2) The midwife may terminate care for any reason by:

(A) providing a minimum of 14~~[30]~~ days written notice, during which the midwife shall continue to provide midwifery care~~]; to enable the client to select another health care provider];~~

(B) making an attempt to tell the client in person and in the presence of a witness of the midwife's wish to terminate care and the date that care will be terminated;

(C) providing a list of alternate health care providers~~[referrals]~~; and

(D) documenting the termination of care in midwifery records.

(3) If a client elects not to accept a non-emergency transfer, the midwife shall:

(A) terminate the midwife-client relationship; or

(B) manage the client in collaboration with a health care professional who has current obstetric or pediatric knowledge and is either a physician licensed in the United States, or working in association with a licensed physician.

§115.113. *Transfer of Care in an Emergency Situation.*

(a) In an emergency situation, the midwife shall initiate emergency care as indicated by the situation and immediate transfer of care

by making a reasonable effort to contact the health care professional or institution to whom the client will be transferred and to follow the health care professional's instructions; and continue emergency care as needed while:

- (1) transporting the client by private vehicle; or
- (2) calling 911 and reporting the need for immediate transfer.

(b) It is an emergency if, during labor, delivery, or six hours immediately following placental delivery, the midwife determines that transfer is necessary and the client refuses transfer. The midwife shall call 911 and provide further care as indicated by the situation. The midwife shall not provide any further care after the arrival of first responders unless requested by first responders.

§115.114. *Prenatal Care.*

(a) Using reasonable skill and knowledge, the midwife shall collect, assess, and document maternal care data through a detailed obstetric, gynecologic, medical, social, and family history and a complete prenatal physical exam and appropriate laboratory testing, including antenatal testing if necessary; develop and implement a plan of care; thereafter evaluate the client's condition on an ongoing basis; and modify the plan of care as necessary. Health education/counseling shall be provided by the midwife as appropriate.

(b) If on initial or subsequent assessment, one of the following conditions exists, the midwife shall recommend referral and document that recommendation in the midwifery record:

- (1) - (9) (No change.)
- (10) twin[multiple] gestation;
- (11) - (12) (No change.)
- (13) abnormal[significant] vaginal bleeding;
- (14) maternal age less than 15 at estimated date of delivery[EDC];
- (15) [cancer or] history of cancer (except for ovarian, breast, uterine, or cervical cancer which will require transfer in accordance with subsection (c)(16));

(16) - (17) (No change.)

(c) If on initial or subsequent assessment, one of the following conditions exists, the midwife shall recommend transfer in accordance and document that recommendation in the midwifery record:

- (1) - (7) (No change.)
- (8) any previous uterine surgery, other than a low transverse cesarean section[cesarean section with a vertical or classical incision, or any previous uterine surgery which required an incision in the uterine fundus];
- (9) - (10) (No change.)
- (11) any known fetal malformation requiring immediate post-natal hospital care;
- (12) Preterm Premature Rupture of[Of] Membranes (PPROM);
- (13) intrauterine growth restriction;
- (14) insulin dependent diabetes; [or]
- (15) triplet or higher order multiple gestation;
- (16) active cancer or history of ovarian, breast, uterine, or cervical cancer;

(17) undiagnosed vaginal bleeding lasting longer than two weeks; or

(18) [(15)]any other condition or symptom which could threaten the life of the mother or fetus, as assessed by a midwife exercising reasonable skill and knowledge.

(d) If a client has reached 42.0 weeks gestation and is not yet in labor, the midwife shall immediately either:

(1) collaborate with a physician and obtain appropriate antenatal testing, in order to continue midwifery care; or

(2) initiate transfer and document that action in the midwifery record.

~~[(d) In lieu of referral or transfer, the midwife may manage the client in collaboration with an appropriate health care professional of this title.]~~

§115.115. *Labor and Delivery.*

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

(c) The midwife shall assist only in normal, spontaneous vaginal deliveries as allowed by the Act or this chapter.

(d) (No change.)

(e) If on initial or subsequent assessment during labor or delivery, one of the following conditions exists, the midwife shall initiate immediate emergency transfer in accordance with §115.113 and document that action in the midwifery record:

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

(6) a non-reassuring fetal heart rate pattern, which includes but is not limited to sinusoidal pattern, more than 50% contractions in the first stage of labor with late or variable decelerations, or minimal variability with one of the following: recurrent late decelerations; recurrent variable decelerations; or fetal bradycardia;

(7) - (16) (No change.)

§115.117. *Newborn Care During the First Six Weeks After Birth.*

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

(c) If on any newborn assessment in the immediate postpartum period (first six hours of life), one of the following conditions exists, the midwife shall recommend referral and document that recommendation in the midwifery record:

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

(4) larger than 97th percentile[large] for gestational age; or

(5) (No change.)

(d) - (f) (No change.)

§115.118. *Administration of Oxygen.*

(a) A midwife is not required to use oxygen but~~[Purpose: This section outlines procedures for administration of oxygen by midwives. Whether or not a midwife chooses to administer oxygen to the mother and/or newborn, the midwife] remains responsible for assessing the client and~~~~[or] newborn₂;~~ recommending referral₂; and~~[or]~~ recommending transfer or transport of the mother and newborn.

~~[(b) Under this section a midwife is not required to use oxygen.]~~

(b) ~~[(e)] [Provisions.]~~ This section establishes that:

(1) intrapartum oxygen may be administered to the mother for the following:

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

(C) signs or symptoms of maternal shock or hemorrhage prior to transport;[øø]

(D) as indicated by American Heart Association Cardiopulmonary Resuscitation Guidelines[guidelines]; or

(E) other situations not listed above and deemed necessary according to generally accepted standards of midwifery practice to protect the health and well-being of the mother or fetus;

(2) postpartum oxygen may be administered while monitoring according to the Midwifery Practice Standards and Principles:

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

(3) indications for administration of oxygen shall be clearly documented in the midwifery record[client's chart].

(c) [(d)]Midwives are authorized to purchase equipment and supplies listed in the American Heart Association Cardiopulmonary Resuscitation Guidelines and the American Academy of Pediatrics Neonatal Resuscitation Guidelines for the administration of oxygen.

§115.119. Eye Prophylaxis.

(a) (No change.)

(b) A midwife in attendance at childbirth who is unable to apply prophylaxis as required by Section 81.091, Health and Safety Code, due to the objection of the parent, managing conservator, or guardian of the newborn child does not commit an offense under that section and is not subject to any criminal, civil, or administrative liability or any professional disciplinary action for failure to administer the prophylaxis. The midwife in attendance at childbirth shall ensure that the administration of eye prophylaxis, or the objection of the parent, managing conservator, or guardian, is entered into the medical record of the child[must obtain a written exemption from treatment in accordance with Health and Safety Code, §81.009 from any parent who refuses to allow a midwife to administer or cause to be administered eye prophylaxis in accordance with Health and Safety Code, §81.091].

(c) (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 September 17, 2018.

TRD-201804006
Brian E. Francis
Executive Director
Texas Department of Licensing and Regulation
Earliest possible date of adoption: October 28, 2018
For further information, please call: (512) 463-8179



16 TAC §115.90, §115.111

The repeals are proposed under Texas Occupations Code, Chapters 51 and 203, 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, Chapters 51 and 203. No other statutes, articles, or codes are affected by the proposal.

§115.90. State Roster of Licensed Midwives.

§115.111. Inter-professional Care.

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 September 17, 2018.

TRD-201804005
Brian E. Francis
Executive Director
Texas Department of Licensing and Regulation
Earliest possible date of adoption: October 28, 2018
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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §§703.11, 703.13, 703.14, 703.21, 703.24

The Cancer Prevention and Research Institute of Texas (CPRIT or the Institute) proposes amendments to 25 Texas Administrative Code §§703.11, 703.13, 703.14, 703.21, and 703.24. The proposed amendments allow a required filing to be submitted on the next business day if the due date falls on a Saturday, Sunday, or federal holiday.

Background and Justification

The proposed amendments allow required grant filings to be submitted the next business day following a due date that falls on a weekend or federal holiday as designated by the U.S. Office of Personnel Management. For example, if the due date of a Financial Status Report (FSR) falls on a Saturday, the grant recipient may submit the FSR on the first business day following the due date without the Institute considering the report delinquent. Moving the due date to a business day is consistent with the practice of most state and federal agencies. Implementing this change assists CPRIT's grant recipients and may reduce the occurrence of delinquent reports.

Fiscal Note

Kristen Pauling Doyle, Deputy Executive Officer and General Counsel for the Cancer Prevention and Research Institute of Texas, has determined that for the first five-year period the rule change is in effect, there will be no foreseeable implications relating to costs or revenues for state or local government due to enforcing or administering the rules.

Public Benefit and Costs

Ms. Doyle has determined that for each year of the first five years the rule change is in effect the public benefit anticipated due to enforcing the rule will be clarifying that filings required by CPRIT's administrative rules may be submitted on the next business day if the due date falls on a weekend or federal holiday.

Small Business, Micro-Business, and Rural Communities Impact Analysis

Ms. Doyle has determined that the rule change will not affect small businesses, micro businesses or rural communities.

Government Growth Impact Statement

The Institute, in accordance with 34 Texas Administrative Code §11.1, has determined that during the first five years that the section will be in effect:

- (1) the proposed rule changes will not create or eliminate a government program;
- (2) implementation of the proposed rule changes will not affect the number of employee positions;
- (3) implementation of the proposed rule changes will not require an increase or decrease in future legislative appropriations;
- (4) the proposed rule changes will not affect fees paid to the agency;
- (5) the proposed rule changes will not create new rules;
- (6) the proposed rule changes will not expand existing rules;
- (7) the proposed rule changes will not change the number of individuals subject to the rules; and
- (8) The rule changes are unlikely to have a significant impact on the state's economy. Although these changes are likely to have neutral impact on the state's economy, the Institute lacks sufficient data to predict the impact with certainty.

Submit written comments on the proposed rule changes to Ms. Kristen Pauling Doyle, General Counsel, Cancer Prevention and Research Institute of Texas, P.O. Box 12097, Austin, Texas 78711, no later than October 29, 2018. The Institute asks parties filing comments to indicate whether they support the rule revisions proposed by the Institute and, if a change is requested, to provide specific text proposed to be included in the rule. Comments may be submitted electronically to kdoyle@cpr.it.texas.gov. Comments may be submitted by facsimile transmission to (512) 475-2563.

Statutory Authority

The Institute proposes the rule changes under the authority of the Texas Health and Safety Code Annotated, §102.108, which provides the Institute with broad rule-making authority to administer the chapter. Ms. Doyle has reviewed the proposed amendments and certifies the proposal to be within the Institute's authority to adopt.

There is no other statute, article, or code affected by these rules.

§703.11. Requirement to Demonstrate Available Funds for Cancer Research Grants.

(a) Prior to the disbursement of Grant Award funds, the Grant Recipient of a Cancer Research Grant Award shall demonstrate that the Grant Recipient has an amount of Encumbered Funds equal to at least one-half of the Grant Award available and not yet expended that are dedicated to the research that is the subject of the Grant Award.

(1) The Grant Recipient's written certification of Matching Funds, as described in this section, shall be included in the Grant Contract.

(2) A Grant Recipient of a multiyear Grant Award may certify Matching Funds on a year-by-year basis for the amount of Award Funds to be distributed for the Project Year based upon the Approved Budget.

(3) A Grant Recipient receiving multiple Grant Awards may provide certification at the institutional level.

(4) Nothing herein restricts the Institute from requiring the Grant Recipient to demonstrate an amount of Encumbered Funds greater than one-half of the Grant Award available and not yet expended that are dedicated to the research that is the subject of the Grant Award. To the extent that a greater Matching Funds amount will be required, the Institute shall include the requirement in the Request for Applications and in the Grant Contract.

(b) For purposes of the certification required by subsection (a) of this section, a Grant Recipient that is a public or private institution of higher education, as defined by §61.003, Texas Education Code, may credit toward the Grant Recipient's Matching Funds obligation the dollar amount equivalent to the difference between the indirect cost rate authorized by the federal government for research grants awarded to the Grant Recipient and the five percent (5%) Indirect Cost limit imposed by §102.203(c), Texas Health and Safety Code, subject to the following requirements:

(1) The Grant Recipient shall file certification with the Institute documenting the federal indirect cost rate authorized for research grants awarded to the Grant Recipient;

(2) To the extent that the Grant Recipient's Matching Funds credit does not equal or exceed one-half of the Grant Award funds to be distributed for the Project Year, then the Grant Recipient's Matching Funds certification shall demonstrate that a combination of the dollar amount equivalent credit and the funds to be dedicated to the Grant Award project as described in subsection (c) of this section is available and sufficient to meet or exceed the Matching Fund requirement;

(3) Calculation of the portion of federal indirect cost rate credit associated with subcontracted work performed for the Grant Recipient shall be in accordance with the Grant Recipient's established internal policy; and

(4) If the Grant Recipient's federal indirect cost rate changes six months or less following the anniversary of the Effective Date of the Grant Contract, then the Grant Recipient may use the new federal indirect cost rate for the purpose of calculating the Grant Recipient's Matching Funds credit for the entirety of the Project Year.

(c) For purposes of the certification required by subsection (a) of this section, Encumbered Funds must be spent directly on the Grant Project or spent on closely related work that supports, extends, or facilitates the Grant Project and may include:

(1) Federal funds, including, but not limited to, American Recovery and Reinvestment Act of 2009 funds, and the fair market value of drug development support provided to the recipient by the National Cancer Institute or other similar programs;

(2) State of Texas funds;

(3) funds of other states;

(4) Non-governmental funds, including private funds, foundation grants, gifts and donations;

(5) Unrecovered Indirect Costs not to exceed ten percent (10%) of the Grant Award amount, subject to the following conditions:

(A) These costs are not otherwise charged against the Grant Award as the five percent (5%) indirect funds amount allowed under §703.12(c) of this chapter (relating to Limitation on Use of Funds);

(B) The Grant Recipient must have a documented federal indirect cost rate or an indirect cost rate certified by an independent accounting firm; and

(C) The Grant Recipient is not a public or private institution of higher education as defined by §61.003 of the Texas Education Code.

(6) Funds contributed by a subcontractor or subawardee and spent on the Grant Project, so long as the subcontractor's or subawardee's portion of otherwise allowable Matching Funds for a Project Year may not exceed the percentage of the total Grant Funds paid to the subcontractor or subawardee for the same Project Year.

(d) For purposes of the certification required by subsection (a) of this section, the following items do not qualify as Encumbered Funds:

- (1) In-kind costs;
- (2) Volunteer services furnished to the Grant Recipient;
- (3) Noncash contributions;
- (4) Income earned by the Grant Recipient that is not available at the time of Grant Award;
- (5) Pre-existing real estate of the Grant Recipient including building, facilities and land;
- (6) Deferred giving such as a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund; or
- (7) Other items as may be determined by the Oversight Committee.

(e) To the extent that a Grant Recipient of a multiyear Grant Award elects to certify Matching Funds on a Project Year basis, the failure to provide certification of Encumbered Funds at the appropriate time for each Project Year may serve as grounds for suspending reimbursement or advancement of Grant Funds for project costs or terminating the Grant Contract.

(f) In no event shall Grant Award funds for a Project Year be advanced or reimbursed, as may be appropriate for the Grant Award and specified in the Grant Contract, until the certification required by subsection (a) of this section is filed and approved by the Institute.

(g) No later than thirty (30) days following the due date of the FSR reflecting expenses incurred during the last quarter of the Grant Recipient's Project Year, the Grant Recipient shall file a form with the Institute reporting the amount of Matching Funds spent for the preceding Project Year.

(h) If the Grant Recipient failed to expend Matching Funds equal to one-half of the actual amount of Grant Award funds distributed to the Grant Recipient for the same Project Year the Institute shall:

- (1) Carry forward and add to the Matching Fund requirement for the next Project Year the dollar amount equal to the deficiency between the actual amount of Grant Award funds distributed and the actual Matching Funds expended, so long as the deficiency is equal to or less than twenty percent (20%) of the total Matching Funds required for the same period and the Grant Recipient has not previously had a Matching Funds deficiency for the project;
- (2) Suspend distributing Grant Award funds for the project to the Grant Recipient if the deficiency between the actual amount of Grant Funds distributed and the Matching Funds expended is greater than twenty percent (20%) but less than fifty percent (50%) of the total Matching Funds required for the period₂[-]

(A) The Grant Recipient will have no less than eight months from the anniversary of the Grant Contract's effective date to demonstrate that it has expended Encumbered Funds sufficient to fulfill the Matching Funds deficiency for the project.

(B) If the Grant Recipient fails to fulfill the Matching Funds deficiency within the specified period, then the Grant Contract shall be considered in default and the Institute may proceed with terminating the Grant Award pursuant to the process established in the Grant Contract₁[-]

(3) Declare the Grant Contract in default if the deficiency between the actual amount of Grant Award funds distributed and the Matching Funds expended is greater than fifty percent (50%) of the total Matching Funds required for the period. The Institute may proceed with terminating the Grant Award pursuant to the process established in the Grant Contract; or

(4) Take appropriate action, including withholding reimbursement, requiring repayment of the deficiency, or terminating the Grant Contract if a deficiency exists between the actual amount of Grant Award funds distributed and the Matching Funds expended and it is the last year of the Grant Contract₁[-]

(i) Nothing herein shall preclude the Institute from taking action other than described in subsection (h) of this section based upon the specific reasons for the deficiency. To the extent that other action not described herein is taken by the Institute, such action shall be documented in writing and included in Grant Contract records. The options described in subsection (h)(1) and (2) of this section may be used by the Grant Recipient only one time for the particular project. A second deficiency of any amount shall be considered an event of default and the Institute may proceed with terminating the Grant Award pursuant to the process established in the Grant Contract.

(j) The Grant Recipient shall maintain adequate documentation supporting the source and use of the Matching Funds reported in the certification required by subsection (a) of this section. The Institute shall conduct an annual review of the documentation supporting the source and use of Matching Funds reported in the required certification for a risk-identified sample of Grant Recipients. Based upon the results of the sample, the Institute may elect to expand the review of supporting documentation to other Grant Recipients. Nothing herein restricts the authority of the Institute to review supporting documentation for one or more Grant Recipients or to conduct a review of Matching Funds documentation more frequently.

(k) If a deadline set by this rule falls on a Saturday, Sunday, or federal holiday as designated by the U.S. Office of Personnel Management, the required filing may be submitted on the next business day. The Institute will not consider a required filing delinquent if the Grant Recipient complies with this subsection.

§703.13. Audits and Investigations.

(a) Upon request and with reasonable notice, an entity receiving Grant Award funds directly under the Grant Contract or indirectly through a subcontract under the Grant Contract shall allow, or shall cause the entity that is maintaining such items to allow the Institute, or auditors or investigators working on behalf of the Institute, including the State Auditor and/or the Comptroller of Public Accounts for the State of Texas, to review, inspect, audit, copy or abstract its records pertaining to the specific Grant Contract during the term of the Grant Contract and for the three year period following the date the last disbursement of funds is made by the Institute or all reports required pursuant to the Grant Contract are submitted and approved, whichever date is later.

(1) A Grant Recipient shall maintain its records pertaining to the specific Grant Contract for a period of three years following the date the last disbursement of funds is made by the Institute or all reports required pursuant to the Grant Contract are submitted and approved, whichever date is later.

(2) The Grant Recipient may maintain its records in either electronic or paper format.

(b) Notwithstanding the foregoing, the Grant Recipient shall submit a single audit determination form no later than 60 days following the close of the Grant Recipient's fiscal year. The Grant Recipient shall report whether the Grant Recipient has expended \$750,000 or more in state awards during the Grant Recipient's fiscal year. If the Grant Recipient has expended \$750,000 or more in state awards in its fiscal year, the Grant Recipient shall obtain either an annual single independent audit, a program specific independent audit, or an agreed upon procedures engagement as defined by the American Institute of Certified Public Accountants and pursuant to guidance provided in subsection (e) of this section.

(1) The audited time period is the Grant Recipient's fiscal year.

(2) The audit must be submitted to the Institute within thirty (30) days of receipt by the Grant Recipient but no later than 270 days following the close of the Grant Recipient's fiscal year and shall include a corrective action plan that addresses any weaknesses, deficiencies, wrongdoings, or other concerns raised by the audit report and a summary of the action taken by the Grant Recipient to address the concerns, if any, raised by the audit report.

(A) The Grant Recipient may seek additional time to submit the required audit and corrective action plan by providing a written explanation for its failure to timely comply and providing an expected time for the submission.

(B) The Grant Recipient's request for additional time must be submitted on or before the due date of the required audit and corrective action plan. For purposes of this rule, the "due date of the required audit" is no later than the 270th day following the close of the Grant Recipient's fiscal year.

(C) Approval of the Grant Recipient's request for additional time is at the discretion of the Institute. Such approval must be granted by the Chief Executive Officer.

(c) No reimbursements or advances of Grant Award funds shall be made to the Grant Recipient if the Grant Recipient is delinquent in filing the required audit and corrective action plan. A Grant Recipient that has received approval from the Institute for additional time to file the required audit and corrective action plan may receive reimbursements or advances of Grant Award funds during the pendency of the delinquency unless the Institute's approval declines to permit reimbursements or advances of Grant Award funds until the delinquency is addressed.

(d) A Grant Recipient that is delinquent in submitting to the Institute the audit and corrective action plan required by this section is not eligible to be awarded a new Grant Award or a continuation Grant Award until the required audit and corrective action plan are submitted. A Grant Recipient that has received approval from the Institute for additional time to file the required audit and corrective action plan may remain eligible to be awarded a new Grant Award or a continuation Grant Award unless the Institute's approval declines to continue eligibility during the pendency of the delinquency.

(e) For purposes of this rule, an agreed upon procedures engagement is one in which an independent certified public accountant is hired by the Grant Recipient to issue a report of findings based on specific procedures to be performed on a subject matter.

(1) The option to perform an agreed upon procedures engagement is intended for a non-profit or for-profit Grant Recipient that is not subject to Generally Accepted Government Audit Standards (also

known as the Yellow Book) published by the U.S. Government Accountability Office.

(2) The agreed upon procedures engagement will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

(3) The certified public accountant is to perform procedures prescribed by the Institute and to report his or her findings attesting to whether the Grant Recipient records is in agreement with stated criteria.

(4) The agreed upon procedures apply to all current year expenditures for Grant Awards received by the Grant Recipient. Nothing herein prohibits the use of a statistical sample consistent with the American Institute of Certified Public Accountants' guidance regarding government auditing standards and 2 CFR Part 200, Subpart F, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

(5) At a minimum, the agreed upon procedures report should address:

- (A) Processes and controls;
- (B) The Grant Contract;
- (C) Indirect Costs;
- (D) Matching Funds, if appropriate;
- (E) Grant Award expenditures (payroll and non-payroll related transactions);
- (F) Equipment;
- (G) Revenue Sharing and Program Income;
- (H) Reporting; and
- (I) Grant Award closeout.

(6) The certified public accountant should consider the specific Grant Mechanism and update or modify the procedures accordingly to meet the requirements of each Grant Award and the Grant Contract reviewed.

(f) If a deadline set by this rule falls on a Saturday, Sunday, or federal holiday as designated by the U.S. Office of Personnel Management, the required filing may be submitted on the next business day. The Institute will not consider a required filing delinquent if the Grant Recipient complies with this subsection.

§703.14. Termination, Extension, Close Out of Grant Contracts, and De-Obligation of Grant Award Funds.

(a) The termination date of a Grant Contract shall be the date stated in the Grant Contract, except:

(1) The Chief Executive Officer may elect to terminate the Grant Contract earlier because the Grant Recipient has failed to fulfill contractual obligations, including timely submission of required reports or certifications;

(2) The Institute terminates the Grant Contract because funds allocated to the Grant Award are reduced, depleted, or unavailable during the award period, and the Institute is unable to obtain additional funds for such purposes; or

(3) The Institute and the Grant Recipient mutually agree to terminate the Grant Contract earlier.

(b) If the Institute elects to terminate the Grant Contract pursuant to subsection (a)(1) or (2) of this section, then the Chief Executive Officer shall notify the Grant Recipient in writing of the intent to

terminate funding at least thirty (30) days before the intended termination date. The notice shall state the reasons for termination, and the procedure and time period for seeking reconsideration of the decision to terminate. Nothing herein restricts the Institute's ability to terminate the Grant Contract immediately or to seek additional remedies if justified by the circumstances of the event leading to early termination.

(c) The Institute may approve the Grant Recipient's written request to extend the termination date of the Grant Contract to permit the Grant Recipient additional time to complete the work of the project.

(1) A no cost extension may be granted if the Grant Recipient is in good fiscal and programmatic standing. The Institute's decision to approve or deny a no cost extension request is final.

(2) The Grant Recipient may request a no cost extension no earlier than 180 days and no later than thirty (30) days prior to the termination date of the Grant Contract.

(A) If a Grant Recipient fails to request a no cost extension within the required timeframe, the Grant Recipient may petition the Chief Executive Officer in writing to consider the no cost extension. The Grant Recipient's petition must show good cause for failing to submit the request within the timeframe specified in subsection (c) of this section [~~the above section~~].

(B) Upon a finding of good cause, the Chief Executive Officer may consider the request. If a no cost extension request is approved under this subsection, the Chief Executive Officer must notify the Oversight Committee in writing and provide justification for the approval.

(3) The Institute may approve one or more no cost extensions. The duration of each no cost extension may be no longer than six months from the termination date of the Grant Contract, unless the Institute finds that special circumstances justify authorizing additional time to complete the work of the project.

(A) The Grant Recipient's first no cost extension that is less than or equal to six months will be approved so long as the Grant Recipient is in good fiscal and programmatic standing

(B) If a grant recipient requests a second no cost extension or requests a no cost extension greater than six months, the grantee must provide good cause for approving the request.

(4) If the Institute approves the request to extend the termination date of the Grant Contract, then the termination date shall be amended to reflect the change.

(5) Nothing herein prohibits the Institute and the Grant Recipient from taking action more than 180 days prior to the termination date of the Grant contract to extend the termination date of the Grant Contract. Approval of an extension must be supported by a finding of good cause and the Grant Contract shall be amended to reflect the change.

(d) The Grant Recipient must submit a final Financial Status Report and final Grant Progress Report as well as any other required reports as specified in the Grant Contract. For purposes of this rule, the final Grant Progress Report and other required reports shall be collectively referred to as "close out documents."

(1) The final Financial Status Report shall be submitted to the Institute within ninety (90) days of the end of the state fiscal quarter that includes the termination date of the Grant Contract. The Grant Recipient's failure to submit the Financial Status report within thirty (30) days following the due date specified in this subsection will waive reimbursement of project costs incurred during the reporting period. The Institute may approve additional time to submit the final Financial

Status Report if the Grant Recipient can show good cause for failing to timely submit the final Financial Status Report.

(2) Close out documents must be submitted within ninety (90) days of the termination date of the Grant Contract. The final reimbursement payment shall not be made until all close out documents have been submitted and approved by the Institute. Failure to submit one or more close out documents within 180 days of the Grant Contract termination date shall result in the Grant Recipient being ineligible to receive new Grant Awards or continuation Grant Awards until such time that the close out documents are submitted unless the Institute waives the final submission of close out documents by the Grant Recipient.

(A) Approval of the Grant Recipient's request to waive the submission of close out documents is at the discretion of the Institute. Such approval must be granted by the Chief Executive Officer.

(B) The Oversight Committee shall be notified in writing of the Grant Recipient's waiver request and the Chief Executive Officer's decision to approve or reject the waiver request.

(C) Unless the Oversight Committee votes by a simple majority of members present and able to vote to overturn the Chief Executive Officer's decision regarding the waiver, the Chief Executive Officer's decision shall be considered final.

(e) The Institute may make upward or downward adjustments to the Allowable Costs requested by the Grant Recipient within ninety (90) days following the approval of the close out reports or the final Financial Status Report, whichever is later.

(f) Nothing herein shall affect the Institute's right to disallow costs and recover Grant Award funds on the basis of a later audit or other review or the Grant Recipient's obligation to return Grant Award funds owed as a result of a later refund, correction, or other transaction.

(g) Any Grant Award funds paid to the Grant Recipient in excess of the amount to which the Grant Recipient is finally determined to be entitled under the terms of the Grant Contract constitute a debt to the state. If not paid within a reasonable period after demand, the Institute may reduce the debt owed by:

(1) Making an administrative offset against other requests for reimbursements;

(2) Withholding advance payments otherwise due to the Grant Recipient; or

(3) Other action permitted by law.

(h) Grant Award funds approved by the Oversight Committee and specified in the Grant Contract but not spent by the Grant Recipient at the time that the Grant Contract is terminated are considered de-obligated for the purposes of calculating the maximum amount of annual Grant Awards and the total amount authorized by Section 67, Article III, Texas Constitution. Such de-obligated funds are available for all purposes authorized by the statute.

(i) If a deadline set by this rule falls on a Saturday, Sunday, or federal holiday as designated by the U.S. Office of Personnel Management, the required filing may be submitted on the next business day. The Institute will not consider a required filing delinquent if the Grant Recipient complies with this subsection.

§703.21. Monitoring Grant Award Performance and Expenditures.

(a) The Institute, under the direction of the Chief Compliance Officer, shall monitor Grant Awards to ensure that Grant Recipients comply with applicable financial, administrative, and programmatic terms and conditions and exercise proper stewardship over Grant

Award funds. Such terms and conditions include requirements set forth in statute, administrative rules, and the Grant Contract.

(b) Methods used by the Institute to monitor a Grant Recipient's performance and expenditures may include:

(1) Financial Status Reports Review--The Institute shall review Grant Award expenditures reported by Grant Recipients on the quarterly Financial Status Reports and supporting documents to determine whether expenses charged to the Grant Award are:

(A) Allowable, allocable, reasonable, necessary, and consistently applied regardless of the source of funds; and

(B) Adequately supported with documentation such as cost reports, receipts, third party invoices for expenses, or payroll information.

(2) Timely submission of Grant Award Reports--The Institute shall monitor the submission of all required reports and implement a process to ensure that Grant Award funds are not disbursed to a Grant Recipient with one or more delinquent reports.

(3) Grant Progress Reports--The Institute shall review Grant Progress Reports to determine whether sufficient progress is made consistent with the scope of work and timeline set forth in the Grant Contract.

(A) The Grant Progress Reports shall be submitted at least annually, but may be required more frequently pursuant to Grant Contract terms or upon request and reasonable notice of the Institute.

(B) Unless specifically stated otherwise herein, the annual Grant Progress Report shall be submitted within sixty (60) days after the anniversary of the effective date of the Grant Contract. The annual Grant Progress Report shall include at least the following information:

(i) An affirmative verification by the Grant Recipient of compliance with the terms and conditions of the Grant Contract;

(ii) A description of the Grant Recipient's progress made toward completing the scope of work specified by the Grant Contract, including information, data, and program metrics regarding the achievement of project goals and timelines;

(iii) The number of new jobs created and the number of jobs maintained for the preceding twelve month period as a result of Grant Award funds awarded to the Grant Recipient for the project;

(iv) An inventory of the equipment purchased for the project in the preceding twelve month period using Grant Award funds;

(v) A verification of the Grant Recipient's efforts to purchase from suppliers in this state more than 50 percent goods and services purchased for the project with grant funds;

(vi) A Historically Underutilized Businesses report;

(vii) Scholarly articles, presentations, and educational materials produced for the public addressing the project funded by the Institute;

(viii) The number of patents applied for or issued addressing discoveries resulting from the research project funded by the Institute;

(ix) A statement of the identities of the funding sources, including amounts and dates for all funding sources supporting the project;

(x) A verification of the amounts of Matching Funds dedicated to the research that is the subject of the Grant Award for

the period covered by the annual report, which shall be submitted pursuant to the timeline in §703.11 of this title (relating to Requirement to Demonstrate Available Funds for Cancer Research Grants). In order to receive disbursement of grant funds, the most recently due verification of the amount of Matching Funds must be approved by CPRIT;

(xi) All financial information necessary to support the calculation of the Institute's share of revenues, if any, received by the Grant Recipient resulting from the project; and

(xii) A single audit determination form, which shall be submitted pursuant to the timeline in §703.13.

(C) Notwithstanding subparagraph (B) of this paragraph, in the event that the Grant Recipient and Institute execute the Grant Contract after the effective date of the Grant Contract, the Chief Program Officer may approve additional time for the Grant Recipient to prepare and submit the outstanding reports. The approval shall be in writing and maintained in the Institute's electronic Grants Management System. The Chief Program Officer's approval may cover more than one report and more than one fiscal quarter.

(D) In addition to annual Grant Progress Reports, a final Grant Progress Report shall be filed no more than ninety (90) days after the termination date of the Grant Contract. The final Grant Progress Report shall include a comprehensive description of the Grant Recipient's progress made toward completing the scope of work specified by the Grant Contract, as well as other information specified by the Institute.

(E) The Grant Progress Report will be evaluated pursuant to criteria established by the Institute. The evaluation shall be conducted under the direction of the Chief Prevention Officer, the Chief Product Development Officer, or the Chief Scientific Officer, as may be appropriate. Required financial reports associated with the Grant Progress Report will be reviewed by the Institute's financial staff. In order to receive disbursement of grant funds, the final progress report must be approved by CPRIT.

(F) If the Grant Progress Report evaluation indicates that the Grant Recipient has not demonstrated progress in accordance with the Grant Contract, then the Chief Program Officer shall notify the Chief Executive Officer and the General Counsel for further action.

(i) The Chief Program Officer shall submit written recommendations to the Chief Executive Officer and General Counsel for actions to be taken, if any, to address the issue.

(ii) The recommended action may include termination of the Grant Award pursuant to the process described in §703.14 of this chapter (relating to Termination, Extension, and Close Out of Grant Contracts).

(G) If the Grant Recipient fails to submit required financial reports associated with the Grant Progress Report, then the Institute financial staff shall notify the Chief Executive Officer and the General Counsel for further action.

(H) In order to receive disbursement of grant funds, the most recently due progress report must be approved by CPRIT.

(I) If a Grant Recipient fails to submit the Grant Progress Report within 60 days of the anniversary of the effective date of the Grant Contract, then the Institute shall not disburse any Grant Award funds as reimbursement or advancement of Grant Award funds until such time that the delinquent Grant Progress Report is approved.

(J) In addition to annual Grant Progress Reports, Product Development Grant Recipients shall submit a Grant Progress Report at the completion of specific tranches of funding specified in the

Award Contract. For the purpose of this subsection, a Grant Progress Report submitted at the completion of a tranche of funding shall be known as "Tranche Grant Progress Report."

(i) The Institute may specify other required reports, if any, that are required to be submitted at the time of the Tranche Grant Progress Report.

(ii) Grant Funds for the next tranche of funding specified in the Grant Contract shall not be disbursed until the Tranche Grant Progress Report has been reviewed and approved pursuant to the process described in this section.

(4) Desk Reviews--The Institute may conduct a desk review for a Grant Award to review and compare individual source documentation and materials to summary data provided during the Financial Status Report review for compliance with financial requirements set forth in the statute, administrative rules, and the Grant Contract.

(5) Site Visits and Inspection Reviews--The Institute may conduct a scheduled site visit to a Grant Recipient's place of business to review Grant Contract compliance and Grant Award performance issues. Such site visits may be comprehensive or limited in scope.

(6) Audit Reports--The Institute shall review audit reports submitted pursuant to §703.13 of this chapter (relating to Audits and Investigations).

(A) If the audit report findings indicate action to be taken related to the Grant Award funds expended by the Grant Recipient or for the Grant Recipient's fiscal processes that may impact Grant Award expenditures, the Institute and the Grant Recipient shall develop a written plan and timeline to address identified deficiencies, including any necessary Grant Contract amendments.

(B) The written plan shall be retained by the Institute as part of the Grant Contract record.

(c) All required Grant Recipient reports and submissions described in this section shall be made via an electronic grant portal designated by the Institute, unless specifically directed to the contrary in writing by the Institute.

(d) The Institute shall document the actions taken to monitor Grant Award performance and expenditures, including the review, approvals, and necessary remedial steps, if any.

(1) To the extent that the methods described in subsection (b) of this section are applied to a sample of the Grant Recipients or Grant Awards, then the Institute shall document the Grant Contracts reviewed and the selection criteria for the sample reviewed.

(2) Records will be maintained in the electronic Grant Management System as described in §703.4 of this chapter (relating to Grants Management System).

(e) The Chief Compliance Officer shall be engaged in the Institute's Grant Award monitoring activities and shall notify the General Counsel and Oversight Committee if a Grant Recipient fails to meaningfully comply with the Grant Contract reporting requirements and deadlines, including Matching Funds requirements.

(f) The Chief Executive Officer shall report to the Oversight Committee at least annually on the progress and continued merit of each Grant Program funded by the Institute. The written report shall also be included in the Annual Public Report. The report should be presented to the Oversight Committee at the first meeting following the publication of the Annual Public Report.

(g) The Institute may rely upon third parties to conduct Grant Award monitoring services independently or in conjunction with Institute staff.

(h) If a deadline set by this rule falls on a Saturday, Sunday, or federal holiday as designated by the U.S. Office of Personnel Management, the required filing may be submitted on the next business day. The Institute will not consider a required filing delinquent if the Grant Recipient complies with this subsection.

§703.24. Financial Status Reports.

(a) Grant Recipients shall report expenditures to be reimbursed with Grant Award funds on the quarterly Financial Status Report form.

(1) Expenditures shall be reported by budget category consistent with the Grant Recipient's Approved Budget.

(2) All expenditures must be supported with appropriate documentation showing that the costs were incurred and paid. A Grant Recipient that is a public or private institution of higher education as defined by §61.003, Texas Education Code is not required to submit supporting documentation for an individual expense totaling less than \$750 in the "supplies" or "other" budget categories.

(3) The Financial Status Report and supporting documentation must be submitted via the Grant Management System, unless the Grant Recipient is specifically directed in writing by the Institute to submit or provide it in another manner.

(4) The Institute may request in writing that a Grant Recipient provide more information or correct a deficiency in the supporting documentation for a Financial Status Report. If a Grant Recipient does not submit the requested information within 21 days after the request is submitted, the Financial Status Report will be disapproved by the Institute.

(A) Nothing herein restricts the Institute from disapproving the FSR without asking for additional information or prior to the submission of additional information.

(B) Nothing herein extends the FSR due date.

(5) The requirement to report and timely submit quarterly Financial Status Reports applies to all Grant Recipients, regardless of whether Grant Award funds are disbursed by reimbursement or in advance of incurring costs.

(b) Quarterly Financial Status Reports shall be submitted to the Institute within ninety (90) days of the end of the state fiscal quarter (based upon a September 1 - August 31 fiscal year). The Institute shall review expenditures and supporting documents to determine whether expenses charged to the Grant Award are:

(1) Allowable, allocable, reasonable, necessary, and consistently applied regardless of the source of funds; and

(2) Adequately supported with documentation such as cost reports, receipts, third party invoices for expenses, or payroll information.

(c) A Grant Award with a Grant Contract effective date within the last quarter of a state fiscal year (June 1 - August 31) will have an initial financial reporting period beginning September 1 of the following state fiscal year.

(1) A Grant Recipient that incurs Authorized Expenses after the Grant Contract effective date but before the beginning of the next state fiscal year may request reimbursement for those Authorized Expenses.

(2) The Authorized Expenses described in paragraph (1) of this subsection must be reported in the Financial Status Report reflecting Authorized Expenses for the initial financial reporting period beginning September 1.

(d) Except as provided herein, the Grant Recipient waives the right to reimbursement of project costs incurred during the reporting period if the Financial Status Report for that quarter is not submitted to the Institute within thirty (30) days of the Financial Status Report due date. Waiver of reimbursement of project costs incurred during the reporting period also applies to Grant Recipients that have received advancement of Grant Award funds.

(1) For purposes of this rule, the "Financial Status Report due date" is ninety (90) days following the end of the state fiscal quarter.

(2) The Chief Executive Officer may approve a Grant Recipient's request to defer submission of the reimbursement request for the current fiscal quarter until the next fiscal quarter if, on or before the original Financial Status Report due date, the Grant Recipient submits a written explanation for the Grant Recipient's inability to complete a timely submission of the Financial Status Report.

(3) A Grant Recipient may appeal the waiver of its right to reimbursement of project costs.

(A) The appeal shall be in writing, provide good cause for failing to submit the Financial Status Report within thirty (30) days of the Financial Status Report due date, and be submitted via the Grant Management System.

(B) The Chief Executive Officer may approve the appeal for good cause. The decision by the Chief Executive Officer to approve or deny the grant recipient's appeal shall be in writing and available to the Grant Recipient via the Grant Management System.

(C) The Chief Executive Officer's decision to approve or deny the Grant Recipient's appeal is final, unless the Grant Recipient timely seeks reconsideration of the Chief Executive Officer's decision by the Oversight Committee.

(D) The Grant Recipient may request that the Oversight Committee reconsider the Chief Executive Officer's decision regarding the Grant Recipient's appeal. The request for reconsideration shall be in writing and submitted to the Chief Executive Officer within 10 days of the date that the Chief Executive Officer notifies the Grant Recipient of the decision regarding the appeal as noted in subparagraph (C) of this paragraph.

(E) The Chief Executive Officer shall notify the Oversight Committee in writing of the decision to approve or deny the Grant Recipient's appeal. The notice should provide justification for the Chief Executive Officer's decision. In the event that the Grant Recipient timely seeks reconsideration of the Chief Executive Officer's decision, the Chief Executive Officer shall provide the Grant Recipient's written request to the Oversight Committee at the same time.

(F) The Grant Recipient's request for reconsideration is deemed denied unless three or more Oversight Committee members request that the Chief Executive Officer add the Grant Recipient's request for reconsideration to the agenda for action at the next regular Oversight Committee meeting. The decision made by the Oversight Committee is final.

(G) If the Grant Recipient's appeal is approved by the Chief Executive Officer or the Oversight Committee, the Grant Recipient shall report the project costs and provide supporting documentation for the costs incurred during the reporting period covered by the appeal on the next available financial status report to be filed by the Grant Recipient.

(H) Approval of the waiver appeal does not connote approval of the expenditures; the expenditures and supporting documentation shall be reviewed according to subsection (b) of this section.

(I) This subsection applies to any waivers of the Grant Recipient's reimbursement decided by the Institute on or after September 1, 2015.

(4) Notwithstanding subsection (c) of this section, in the event that the Grant Recipient and Institute execute the Grant Contract after the effective date of the Grant Contract, the Chief Program Officer may approve additional time for the Grant Recipient to prepare and submit the outstanding Financial Status Report(s). The approval shall be in writing and maintained in the Grants Management System. The Chief Program Officer's approval may cover more than one Financial Status Report and more than one fiscal quarter.

(5) In order to receive disbursement of grant funds, the most recently due Financial Status Report must be approved by the Institute.

(e) If a deadline set by this rule falls on a Saturday, Sunday, or federal holiday as designated by the U.S. Office of Personnel Management, the required filing may be submitted on the next business day. The Institute will not consider a required filing delinquent if the Grant Recipient complies with this subsection.

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 September 14, 2018.

TRD-201804000

Heidi McConnell

Chief Operating Officer

Cancer Prevention and Research Institute of Texas

Earliest possible date of adoption: October 28, 2018

For further information, please call: (512) 305-8487

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 51. EXECUTIVE

SUBCHAPTER N. EMPLOYEE TRAINING

31 TAC §51.500

The Texas Parks and Wildlife Department proposes an amendment to §51.500, concerning Employee Training. Under the provisions of Government Code, §656.047, a state agency may spend public funds as appropriate to pay the salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program. Government Code, §656.048, requires a state agency to adopt rules to require the executive head of the agency to authorize the tuition reimbursement payment before an employee of the agency may be reimbursed. The proposed amendment would require approval by the department's executive director before payment of reimbursement to an employee or admin-

istrator for tuition under the provisions of Government Code, §656.047.

Scott Stover, Director of the Support Resources Division, has determined that there will be no fiscal implications to state or local government as a result of administering the amendment.

Mr. Stover 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 rules that comply with the direction of the Texas Legislature.

There will not be any adverse economic effect on persons required to comply with the amendment 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 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 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 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.

The department has determined that the amendment as proposed will not affect small businesses, micro-businesses, or rural communities. 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 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 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 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 approval of tuition reimbursement by the executive director); neither increase nor decrease the number of individuals

subject to regulation through time; not 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 Scott Stover, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4849 (email: scott.stover@tpwd.texas.gov) or via the department's website at https://tpwd.texas.gov/business/feedback/public_comment/.

The amendment is proposed under authority of Government Code, §656.048 which requires the commission to adopt rules requiring that before an administrator or employee of the agency may be reimbursed under Section 656.047(b), the executive head of the agency must authorize the tuition reimbursement payment fees to be charged for replacement licenses.

The proposed amendment affects Government Code, Chapter 656.

§51.500. *Employee Training.*

(a) - (j) (No change.)

(k) A reimbursement to an employee or administrator for tuition under the provisions of Government Code, §656.047 must be approved by the executive director before the reimbursement is paid.

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 September 13, 2018.

TRD-201803992

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: October 28, 2018

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



CHAPTER 57. FISHERIES

SUBCHAPTER E. PERMITS TO COLLECT OR SELL NONGAME FISH TAKEN FROM PUBLIC FRESH WATER

31 TAC §57.385

The Texas Parks and Wildlife Department proposes an amendment to §57.385, concerning Permits to Collect or Sell Nongame Fish Taken from Public Water. The proposed amendment would increase the volumetric threshold value beyond which persons possessing or transporting shad must obtain a permit and clarify that the exceptions provided for the permit requirement apply only on the waterbody where the shad were collected.

Under current rule (§57.385(b)), the collection of shad from public fresh water without a permit is prohibited if the shad are possessed in container(s) exceeding 82 quarts in volume, with exceptions. The proposed amendment would increase the minimum volume from 82 quarts to 30 gallons and clarify that the possession and transport of shad from the waterbody where collected is prohibited unless a permit has been obtained.

The current threshold value of 82 quarts was selected because the department determined that such a volume represented a

biologically insignificant impact to the resource. As a result of further evaluation, the department believes that increasing that value to 30 gallons will not result in negative population impacts.

The proposed amendment also would retitle the section and the subchapter to more accurately reflect the activities governed by the rules. The new title of Chapter 57, Subchapter E, would become "Permits to Possess or Sell Nongame Fish Taken from Public Fresh Water", and the new title for §57.385 would become "Special Provisions for the Collection, Possession, and Sale of Shad".

Ken Kurzawski, Regulations and Information Programs Director, Inland Fisheries Division, has determined that for each of the first five years that the rule as proposed is in effect, there will be fiscal implications to state government as a result of enforcing or administering the rule. The department estimates that fewer than 10 persons currently required to obtain the \$60 permit would no longer be required to obtain the permit, resulting in annual revenue loss to the department of \$600 or less.

Mr. Kurzawski also has determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the management and protection of nongame fisheries resources.

There will be no economic impact on persons required to comply with the rule.

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 and micro-businesses. 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 rules will not affect small businesses, micro-businesses, or rural communities, since the proposed rule will relax the current threshold for permit possession and therefore subject fewer small businesses and micro-businesses to permit requirements. The department has determined that because of the very small number of persons engaged in commercial activities involving shad, the very small volume of shad being subjected to commercial exploitation, and the abundance of shad resources, the proposed rule will not affect rural communities. 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 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 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 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, §2001.024, the department has prepared the following Government Growth Impact Statement (GGIS). The proposed rule, 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; and not create a new regulation. The proposed rule, if adopted, will liberalize an existing regulation (by increasing the minimum aggregate volume of shad that may be possessed without a permit); decrease the number of individuals subject to regulation; and will not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Ken Kurzawski, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas, 78744; (512) 389-4591 (email: ken.kurzawski@tpwd.texas.gov) or via the department website at http://tpwd.texas.gov/business/feedback/public_comment/.

The amendment is proposed under Parks and Wildlife Code, Chapter 67, which gives the commission the authority to establish any limitations on the take, possession, propagation, transportation, importation, exportation, sale, and offering for sale of nongame fish and wildlife necessary to manage those species.

The proposed amendment affects Parks and Wildlife Code, Chapter 67.

§57.385. *Special Provisions for the Collection, Possession, and Sale of [-] Shad.*

(a) (No change.)

(b) No person may collect and possess shad taken from public fresh water without a permit issued under this section unless the person possesses a valid recreational fishing license issued by the department and the shad are:

(1) [are] not sold or exchanged for anything of value; and

(2) [are] possessed in a container or containers that in the aggregate constitute 30 gallons or less in volume. The volume limit does not apply when shad are possessed:

~~[(A) in a container or containers that in the aggregate constitute 82 quarts or less in volume;]~~

~~(A) [(B)] on the waterbody from which the shad were taken [and are used as bait]; or~~

~~(B) [(C)] by a licensed fishing guide [to be provided to persons engaged in fishing as part of the guide's services regardless of the container volume].~~

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 September 13, 2018.

TRD-201803993

Robert D. Sweeney, Jr.
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: October 28, 2018
For further information, please call: (512) 389-4775



CHAPTER 65. WILDLIFE SUBCHAPTER K. RAPTOR PROCLAMATION

31 TAC §§65.269, 65.270, 65.272

The Texas Parks and Wildlife Department proposes amendments to §§65.269, 65.270, and 65.272, concerning the Raptor Proclamation.

The proposed amendments to §65.269, concerning Marking, Banding, and Telemetry, and §65.270, concerning Notification, Reporting, and Recordkeeping Requirements, would replace references to a specific URL with a general reference. The sport of falconry is regulated at both the federal and state levels. Federal rules require certain raptors possessed in captivity to be banded for identification purposes, and stipulates the electronic reporting of band numbers to the U.S. Fish and Wildlife Service (FWS) under various circumstances. The current rule identifies a specific URL to be used for that purpose; however, that URL is no longer functional, as it has been replaced by another. Rather than specify the URL by rule, the department believes it is prudent to refer generically to the database maintained by the FWS for the purposes of reporting band numbers.

The proposed amendment to §65.272, concerning Transfer, Sale, and Donation, would clarify rules regarding the transfer of wild-caught raptors to falconers in other states. The current rule stipulates that no person may transfer more than one wild-caught raptor to an out-of-state resident in any 12-month period, but confusion exists as to whether the provision applies in aggregate (i.e., to raptors in the possession of a falconer that were caught in different years) or only to the year in which a raptor was caught. The proposed amendment would specifically state that a wild-caught raptor could be transferred in the same year it was trapped, but limit such transfers to one per year.

John Davis, Wildlife Diversity Program Director, has determined that for each of the first five years that the amendments as proposed are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Davis also has determined that for each of the first five years that the amendments as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be the regulation of falconry activities in Texas consistent with federal law and the provision of opportunity for citizens to trap, possess, and hunt with raptors.

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 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 rules will not affect small businesses, micro-businesses, or rural communities. 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 rules as proposed will not impact local economies.

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, §2001.024, 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; not expand, limit, or repeal an existing regulation; 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 Megan Nelson at (512) 389-4434, email: megan.nelson@tpwd.texas.gov. Comments also may be submitted via the department's website at http://tpwd.texas.gov/business/feedback/public_comment/.

The amendments are proposed under Parks and Wildlife Code, Chapter 49, which authorizes the commission to prescribe rules for the taking, capture, possession, propagation, transportation, export, import, and sale of raptors, time and area from which raptors may be taken or captured, and species that may be taken or captured; provide standards for possessing and housing raptors held under a permit; prescribe annual reporting requirements and procedures; prescribe eligibility requirements and fees for and issue any falconry, raptor propagation, or nonresident trapping permit; and require and regulate the identification of raptors held by permit holders.

The proposed amendments affect Parks and Wildlife Code, Chapter 49.

§65.269. *Marking, Banding, and Telemetry.*

(a) Markers and bands.

(1) (No change.)

(2) A person who takes a goshawk, Harris's hawk, peregrine falcon, or gyrfalcon from the wild or acquires one from a rehabilitator must band the raptor with a Type 1 leg band. Within ten days from the date of take, the person shall report the take of the bird by entering the required information (including the band number) in the elec-

tronic database maintained by the FWS for that purpose[at <http://permits.fws.gov/186A>]. Upon request, the department will supply a band in advance of capture.

(3) A person who possesses a raptor bred in captivity must band the bird with a Type 2 leg band. If the band required by this subsection is removed or lost, it must be reported within ten days of removal or loss by contacting the department. The department shall issue a replacement band upon notification. The person shall band the bird with the replacement band immediately upon receipt of the band and immediately upon rebanding shall submit all required information electronically to the database maintained by the FWS for that purpose[at <http://permits.fws.gov/186A>].

(4) If a band is removed or lost from a raptor that is not captive-bred, the person in whose name the raptor is possessed must report the removal or loss within five days and request a replacement band from the department. The person shall band the bird with the replacement band immediately upon receipt and shall submit the required information electronically immediately upon rebanding to the database maintained by the FWS for that purpose[at <http://permits.fws.gov/186A>].

(5) - (7) (No change.)

(b) (No change.)

§65.270. *Notification, Reporting, and Recordkeeping Requirements.*

(a) (No change.)

(b) A permittee shall maintain a copy of all notifications required under this section for a period of five years. Notification under this subsection shall be made via the electronic database maintained by the FWS for that purpose[at <http://permits.fws.gov/186A>]. Except as specifically provided by paragraph (6) of this subsection, notification shall be within ten days of any event condition listed in this subsection. A permittee is required to provide notification:

(1) - (7) (No change.)

(c) - (f) (No change.)

§65.272. *Transfer, Sale, and Donation.*

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

(c) A lawfully caught wild raptor may be transferred to a qualified out-of-state resident in the same year that it was trapped; however, no person may make more than one such transfer per permit year.[No person may transfer more than one wild-caught raptor to an out-of-state resident in any 12-month period.]

(d) - (h) (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 September 13, 2018.

TRD-201803994

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: October 28, 2018

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 341. GENERAL STANDARDS FOR JUVENILE PROBATION DEPARTMENTS

The Texas Juvenile Justice Department (TJJD) proposes to amend §341.202, concerning Policies and Procedures, and §341.400, concerning Duties of Certified Juvenile Probation Officers.

SUMMARY OF CHANGES

To reflect the requirements of Human Resources Code Section 152.00145, as added by HB 1204 (85th Texas Legislature), §341.202 will be amended to require each juvenile board to establish policies that prioritize: (1) the diversion of children younger than 12 years of age from referral to a prosecuting attorney under Family Code Chapter 53; and (2) the limitation of detention of children younger than 12 years of age to circumstances of last resort.

Due to changes made by SB 1304 (85th Texas Legislature), the amended §341.400 will: (1) remove the requirement to provide a verbal explanation to the juvenile and parent/guardian concerning certain information formerly contained in Family Code §58.209, such as who has access to juvenile records and when records may be eligible for restricted access or sealing; and (2) add a requirement to provide a written explanation of how juvenile records are sealed and to provide a copy of Family Code Chapter 58, Subchapter C-1, which addresses sealing and destruction of juvenile records.

FISCAL NOTE

Emily Anderson, Chief Financial Officer, has determined that for each year of the first five years the amended sections are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Kaci Singer, Staff Attorney and Policy Supervisor, has determined that for each year of the first five years the amended sections are in effect, the public benefit anticipated as a result of administering the sections will be to ensure that juvenile boards and juvenile probation departments comply with statutes related to juvenile records and services for juveniles.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. No private real property rights are affected by adoption of these sections.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the proposed rules are in effect, the rules will have the following impacts.

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

- (2) The proposed rules do not require the creation or elimination of employee positions at TJJD.
- (3) The proposed rules do not require an increase or decrease in future legislative appropriations to TJJD.
- (4) The proposed rules do not require an increase or decrease in fees paid to TJJD.
- (5) The proposed rules do not create a new regulation.
- (6) The proposed rules do not expand, limit, or repeal an existing regulation.
- (7) The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
- (8) The proposed rules will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Steve Roman, Policy Coordinator, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas, 78711, or e-mail to policy.proposals@tjjd.texas.gov.

SUBCHAPTER B. JUVENILE BOARD RESPONSIBILITIES

37 TAC §341.202

STATUTORY AUTHORITY

The amended section is proposed under Section 221.002(a)(1), Human Resources Code, which requires TJJD to adopt reasonable rules that provide minimum standards for various aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services.

No other statute, code, or article is affected by this proposal.

§341.202. Policies and Procedures.

(a) **Personnel Policies.** The juvenile board must establish written personnel policies.

(b) **Department Policies.** The juvenile board must establish written department policies and procedures. These policies and procedures must address [include, at a minimum,] the following topics if they apply [provisions, if applicable].

(1) **Deferred Prosecution.**

(A) If the juvenile board adopts a fee schedule for the collection of deferred prosecution fees, the board must establish a written policy that includes the following requirements.

(i) The monthly fee must be determined after obtaining a financial statement from the parent or guardian and may not exceed the maximum set by [Texas] Family Code §53.03.

(ii) The fee schedule must be based on total parent/guardian income.

(iii) The chief administrative officer or his/her designee must approve in writing the fee assessed for each child including any waiver of deferred prosecution fees.

(B) A deferred prosecution fee may not be imposed if the juvenile board does not adopt a fee schedule and rules for waiver of the deferred prosecution fee.

(2) **Volunteers and Interns.** If a juvenile probation department uses [utilizes] volunteers or interns, the juvenile board must establish policies for the volunteer and/or internship program that include:

(A) a description of the scope, responsibilities, and limited authority of volunteers and interns who work with the department;

(B) selection and termination criteria, including disqualification based on specified criminal history;

(C) a requirement to conduct criminal history searches as described in Chapter 344 of this title for volunteers and interns who will have direct, unsupervised access to juveniles;

(D) a prohibition on having unsupervised contact with juveniles for volunteers and interns whose criminal history does not meet the requirements in Chapter 344 of this title;

(E) the orientation and training requirements, including training on recognizing and reporting abuse, neglect, and exploitation;

(F) a requirement that volunteers and interns meet minimum professional requirements if serving in a professional capacity; and

(G) a requirement to maintain a sign-in log that documents the name of the volunteer or intern [volunteer/intern], the purpose of the visit, the date of the service, and the beginning and ending time of the service performed for the department.

(3) **Zero-Tolerance for Sexual Abuse.** The juvenile board must establish zero-tolerance policies and procedures regarding sexual abuse as defined in Chapter 358 of this title. The policies and procedures must:

(A) prohibit sexual abuse of juveniles under the jurisdiction of the department by department staff, volunteers, interns, and contractors;

(B) establish the actions department staff must take in response to allegations of sexual abuse and TJJD-confirmed incidents of sexual abuse; and

(C) provide for administrative disciplinary sanctions and referral for criminal prosecution.

(4) **Pretrial Detention for Certain Juveniles.** As required by [Texas] Human Resources Code §152.0015, the juvenile board must establish a policy that specifies whether a person who has been transferred for criminal prosecution under [Texas] Family Code §54.02 and is younger than 17 years of age may be detained in a juvenile facility pending trial.

(5) **Juveniles Younger Than 12 Years of Age.** As required by Human Resources Code §152.00145, the juvenile board must establish policies that prioritize:

(A) the diversion of children younger than 12 years of age from referral to a prosecuting attorney under Family Code Chapter 53; and

(B) the limitation of detention of children younger than 12 years of age to circumstances of last resort.

(6) ~~[(5)]~~ **Taking Juveniles into Custody.** The juvenile board must establish a policy that specifies whether juvenile probation officers may take a juvenile into custody as allowed by [Texas] Family Code §§52.01(a)(4), 52.01(a)(6), or 52.015.

(A) If the policy allows juvenile probation officers to take a juvenile into custody, the policy must specify whether the officers are allowed to use force in doing so.

(B) If the policy allows juvenile probation officers to use force in taking a juvenile into custody, the policy must:

(i) address prohibited conduct, circumstances under which force is authorized, and training requirements;

(ii) require each use of force to be documented, except when the only force used is the placement of mechanical restraints on the juvenile.

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 September 17, 2018.

TRD-201804007

Karen Kennedy

Interim General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: October 28, 2018

For further information, please call: (512) 490-7014



SUBCHAPTER D. REQUIREMENTS FOR JUVENILE PROBATION OFFICERS

37 TAC §341.400

STATUTORY AUTHORITY

The amended section is proposed under Section 221.002(a)(1), Human Resources Code, which requires TJJD to adopt reasonable rules that provide minimum standards for various aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services.

No other statute, code, or article is affected by this proposal.

§341.400. *Duties of Certified Juvenile Probation Officers.*

(a) The following duties and responsibilities may be performed only by certified juvenile probation officers, except as allowed by subsection (b) of this section:

(1) recommending a disposition in formal court proceedings;

(2) providing final approval of written social history reports;

(3) acting as the primary supervising officer for court-ordered and deferred prosecution cases;

(4) acting as the primary supervising officer in a collaborative supervision agreement under [Texas] Family Code §51.075;

(5) developing and implementing case plans in accordance with Subchapter E of this chapter;

(6) conducting intake interviews and preliminary investigations and making release decisions under [Texas] Family Code §53.01[~~5~~] unless another staff member is designated to do so by the juvenile board;

(7) taking a child into custody as authorized by [Texas] Family Code §§52.01(a)(4), 52.01(a)(6), or 52.015;

(8) serving as the designated inter-county transfer officer and performing the duties required by [Texas] Family Code §51.072;

(9) referring a child to a local mental health or mental retardation authority as required by [Texas] Family Code §54.0408; and

(10) ~~providing [explaining] to the juvenile and to the juvenile's parent, guardian, or custodian a written explanation of the process of sealing juvenile records and a copy of Family Code Chapter 58, Subchapter C-1.;~~ the following, as required by Texas Family Code §58.209[~~5~~]

~~[(A) who will have access to the juvenile's record; and]~~

~~[(B) under what circumstances that record may be eligible for restricted access or sealing; and]~~

~~[(11) providing the juvenile with a written copy of the explanation in paragraph (10) of this subsection.]~~

(b) An individual hired as a juvenile probation officer who is not yet certified as a juvenile probation officer may perform the duties under subsection (a) of this section only if the individual has:

(1) not exceeded the deadline for submitting a certification application established by Chapter 344 of this title;

(2) completed a minimum of 40 hours of training, which must include the mandatory exam topics required in Chapter 344 of this title; and

(3) passed the certification exam for juvenile probation officers.

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 September 17, 2018.

TRD-201804008

Karen Kennedy

Interim General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: October 28, 2018

For further information, please call: (512) 490-7014



CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

The Texas Juvenile Justice Department (TJJD) proposes to amend §380.8503, concerning Intake and Admission Process, and §380.9909, concerning Access to Youth Information and Records.

SUMMARY OF CHANGES

The amendment to §380.8503 will remove the requirement to provide each TJJD youth and parent/guardian with a written explanation of Family Code §58.209, which had addressed access to juvenile records. That statute was repealed by SB 1304 (85th Texas Legislature).

The amendment to §380.9909 will: (1) remove the subsection describing records that have been designated as restricted access by court order pursuant to §58.201 of the Texas Family Code, as that section of the Code was repealed by SB 1304 (85th Texas Legislature); and (2) clarify that protected health information generated by HIPAA-covered contract providers *that is also included in the electronic health record* of TJJD youth is TJJD property.

FISCAL NOTE

Emily Anderson, Chief Financial Officer, has determined that for each year of the first five years the amended sections are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Kaci Singer, Staff Attorney and Policy Supervisor, has determined that for each year of the first five years the amended sections are in effect, the public benefit anticipated as a result of administering the sections will be to ensure that TJJJ complies with statutory changes related to juvenile records.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. No private real property rights are affected by adoption of these sections.

GOVERNMENT GROWTH IMPACT

TJJJ has determined that, during the first five years the proposed rules are in effect, the rules will have the following impacts.

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

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Steve Roman, Policy Coordinator, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas, 78711, or email to policy.proposals@tjjd.texas.gov.

SUBCHAPTER A. ADMISSION, PLACEMENT, RELEASE, AND DISCHARGE

DIVISION 2. COMMITMENT AND RECEPTION

37 TAC §380.8503

STATUTORY AUTHORITY

The amended section is proposed under Section 242.003, Human Resources Code, which requires TJJJ to adopt rules appropriate to the proper accomplishment of TJJJ's functions and to adopt rules for governing TJJJ schools, facilities, and programs.

No other statute, code, or article is affected by this proposal.

§380.8503. *Intake and Admission Process.*

(a) Purpose. This rule establishes ~~[The purpose of this rule is to establish]~~ the process for receiving youth into the custody of the Texas Juvenile Justice Department (TJJJ).

(b) Intake and Admission Process.

(1) The TJJJ orientation and assessment unit performs ~~[units perform]~~ all intake activities, including receipt of the youth from the committing county.

(2) The orientation and assessment unit receives ~~[units receive]~~ youth between 8:00 a.m. and 7:00 p.m., Monday through Friday.

(3) Youth are not allowed to have personal possessions while at the orientation and assessment unit ~~[units]~~.

(4) TJJJ staff members perform the following admission procedures, at a minimum:

(A) search each youth in accordance with §380.9709 of this title;

(B) inventory any personal possessions and return them to the county transporter;

(C) complete a body identification form;

(D) require the youth to shower, screen the youth for pediculosis, and provide treatment if indicated;

(E) complete an initial health screening;

(F) issue clothing;

(G) provide personal hygiene articles;

(H) photograph and fingerprint each youth;

(I) assign an official TJJJ number;

(J) initiate sex offender registration with the Texas Department of Public Safety (DPS), if required; and

(K) take a blood sample from each youth for the DPS DNA database.

(5) TJJJ notifies each ~~[the]~~ youth's parent/guardian in writing of ~~[the following, at a minimum]:~~

(A) the youth's admission;

(B) TJJJ's medical consent authority, as explained in ~~[in accordance with]~~ §380.9181 of this title;

~~[(C) contraband money as defined in §380.9107 of this title found in possession of a TJJJ youth in a residential program will be deposited in the student benefit fund;]~~

~~[(D) providing contraband to a TJJJ youth, including alcohol, drugs, tobacco, or a cellular phone, is a criminal offense and could be subject to prosecution;]~~

(C) ~~[(E)]~~ procedures for communicating with his/her ~~[their]~~ child through mail, phone calls, and visits;

~~[(F) TJJJ may use the chemical agent Oleoresin Capsicum, also known as OC spray, as necessary under §380.9723 of this title; and]~~

(D) ~~[(G)]~~ the parent/guardian's rights as provided in the TJJJ parent's ~~[parents']~~ bill of rights; and ~~[.]~~

(E) the following information:

(i) contraband money, as defined in §380.9107 of this title, found in possession of a TJJJ youth in a residential facility will be deposited in the student benefit fund;

(ii) providing contraband to a TJJD youth, including alcohol, drugs, tobacco, or a cellular phone, is a criminal offense and could be subject to prosecution; and

(iii) TJJD may use the chemical agent oleoresin capsicum, also known as OC spray, as necessary under §380.9723 of this title.

(6) TJJD provides orientation to youth about the TJJD system, as required by §380.9115 of this title, and documents the orientation [as required in §380.9115 of this title].

(7) TJJD provides youth with counseling services and academic instruction during the youth's stay at the orientation and assessment unit.

(8) Upon transportation of youth to their initial placements, TJJD notifies the parent/guardian, parole officer, and others as needed of the initial placement location.

~~[(9) TJJD provides each youth a written explanation of §58.209 of the Texas Family Code, regarding access to records, and sends a copy to the youth's parent/guardian.]~~

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 September 17, 2018.

TRD-201804011

Karen Kennedy

Interim General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: October 28, 2018

For further information, please call: (512) 490-7014



SUBCHAPTER G. GENERAL PROVISIONS

DIVISION 1. YOUTH RECORDS

37 TAC §380.9909

STATUTORY AUTHORITY

The amended section is proposed under Section 242.003, Human Resources Code, which requires TJJD to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

No other statute, code, or article is affected by this proposal.

§380.9909. Access to Youth Information and Records.

(a) Purpose. This rule establishes controls on access to Texas Juvenile Justice Department (TJJD) youth records and information in compliance with federal and state laws and regulations that limit access to youth records.

(b) Applicability. This rule applies to all youth committed to TJJD.

(c) General Provisions. Records and information concerning youth:

- (1) must be marked "confidential"; [~~"confidential;~~"]
- (2) must remain in the custody and control of authorized personnel at all times;
- (3) may not be disclosed except as allowed by law; and

(4) must be stored and transported in a manner that ensures security and confidentiality.

(d) Access by a Youth or Parent.

(1) In the interest of protecting TJJD youth and the public, TJJD may disclose records and other information concerning a youth to the youth and the youth's parent or guardian only if the disclosure would not:

(A) materially harm the treatment and rehabilitation of the youth; or

(B) substantially decrease the likelihood of TJJD receiving information from the same or similar sources in the future.

(2) If TJJD decides it is appropriate to disclose information to the parent or guardian concerning a youth who is at least 18 years old, TJJD may do so only with the youth's written consent.

(e) Educational Information.

(1) Educational information is made available in accordance with Title 20 of the United States Code §1232g and Title 34 of the Code of Federal Regulations (CFR).

(2) A TJJD youth who is at least 18 years old may access his/her own educational information or grant consent to another individual to access his/her information. If the youth is under the age of 18, the parent or guardian has the right to access the youth's educational information or grant consent to another individual to access the youth's educational information.

(3) TJJD may disclose educational information of a youth who is at least 18 years old to a parent without the youth's consent if the parent is claiming the youth as a "dependent student" as defined in Section 152 of the Internal Revenue Code.

(4) No consent is necessary if TJJD is releasing educational information on a youth to school officials within TJJD or to the school district where the youth seeks to attend.

(f) Alcohol and Drug Treatment Records.

(1) Access to youth records that contain certain information identifying the youth as chemically dependent or as a substance abuser may be disclosed only as provided in 42 CFR Part 2. Confidentiality requirements for this type of information are more restrictive than requirements in other regulations.

(2) Drug and alcohol information that may not be released includes any information that:

(A) would identify a youth as an alcohol or drug abuser; or

(B) is obtained for the purpose of treating alcohol or drug abuse, making a diagnosis for that treatment, or making a referral for that treatment.

(3) At the time of admission, youth diagnosed as alcohol or drug abusers must:

(A) be informed that federal laws protect the confidentiality of their alcohol and drug abuse records; and

(B) be given a written [e~~opy of the~~] summary of the federal law and regulations.

(4) If a document contains information regarding alcohol and drug abuse but it also contains other information that may appropriately be released, TJJD must redact the alcohol and drug abuse information unless appropriate release forms have been completed.

~~{(g) Restricted Access to Youth Records. If records have been designated as restricted access by court order pursuant to Texas Family Code §58.201, et seq., TJJJ must not permit access to these records except:}~~

~~{(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Texas Government Code §411.082; or}~~

~~{(2) by the person who is the subject of the records, on an order from the juvenile court granting the petition filed by or on behalf of the person who is the subject of the records; or}~~

~~{(3) by TJJJ for research purposes; or}~~

~~{(4) with the permission of the juvenile court, by a party to a civil suit if the person who is the subject of the records has put facts relating to the person's records at issue in the suit; or}~~

~~{(5) with the written permission of the individual, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the armed forces.}~~

~~(g) [(h)] Release of Information upon Escape. TJJJ may disseminate the following information upon an escape of a youth:~~

~~(1) the youth's name, including other names by which the youth is known;~~

~~(2) the youth's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;~~

~~(3) a photograph of the youth; and~~

~~(4) if necessary to protect the welfare of the community, any other information that reveals dangerous tendencies of the youth or expedites the apprehension of the youth.~~

~~(h) [(i)] Access under Federal Protection and Advocacy Systems. Pursuant to Title 42 of the United States Code §10805 and §15043, federal law provides for a federally funded system of mental health advocates and a federally funded system of advocates for the developmentally disabled and grants those advocates access to facilities and TJJJ records for the purpose of investigating abuse and neglect of the mentally ill or developmentally disabled.~~

~~(i) [(j)] Health Insurance Portability and Accountability Act.~~

~~(1) TJJJ is not a covered entity under the Health Insurance Portability and Accountability Act (HIPAA) because it does not engage in covered transactions as defined by 45 CFR §160.103. Records created by an entity covered by HIPAA are subject to TJJJ's regular confidentiality rules and procedures.~~

~~(2) Protected health information generated by HIPAA-covered contract providers (e.g., University of Texas Medical Branch) and included in the electronic health record of [tø] youth in high-restriction~~

facilities and halfway house programs is the property of TJJJ. The status of the source of the information does not impose HIPAA restrictions on the use of that healthcare information.

(3) To the extent that any healthcare information obtained by TJJJ may be covered by HIPAA as it applies to youth at high-restriction facilities and halfway houses, that healthcare information is for the governmental uses and purposes enumerated in 45 CFR §164.512, including but not limited to:

(A) the provision of healthcare to that youth;

(B) the health and safety of that youth or other youths;

(C) the health and safety of the officers or employees of or others at a high-restriction facility or halfway house;

(D) the health and safety of such individuals and officers or other persons responsible for the transporting of youths or their transfer from one institution, facility, or setting to another;

(E) law enforcement on the premises of a high-restriction facility or halfway house; and

(F) the administration of the safety, security, and good order of a high-restriction facility or halfway house.

(4) A contract healthcare provider who is a HIPAA-covered entity and provides services to TJJJ youth other than those youth in high-restriction facilities or halfway houses is required as a condition of the contract to secure all necessary consents or authorizations to provide to or obtain from TJJJ protected health information.

~~(j) [(k)] Release of Certain Information for a Legitimate Need. TJJJ may disclose information regarding a youth's location and committing court to a person having a legitimate need for the information (e.g., to provide a location for a bench warrant or service of process to be issued the youth).~~

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 September 17, 2018.

TRD-201804013

Karen Kennedy

Interim General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: October 28, 2018

For further information, please call: (512) 490-7014





Jolie Phillips
10th Grade

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 31. NATURAL RESOURCES AND CONSERVATION

PART 16. COASTAL COORDINATION ADVISORY COMMITTEE

CHAPTER 501. COASTAL MANAGEMENT PROGRAM

The Commissioner of the General Land Office (Commissioner) adopts amendments to §501.1, relating to Program for Special Management of Coastal Natural Resource Areas; §501.2, relating to Findings; §501.3, relating to Definitions and Abbreviations; §501.10, relating to Compliance with CMP Goals and Policies; §501.25, relating to Policies for Dredging and Dredged Material and Placement; and §501.26, relating to Policies for Construction in the Beach/Dune System. The Commissioner also adopts new §501.4, relating to Coastal Coordination Advisory Committee, and concurrently adopts the repeal of §501.4, relating to General Procedures. The amendments, repeal, and new section are adopted without changes to the proposed text published in the March 16, 2018, of the *Texas Register* (43 TexReg 1582) and therefore will not be republished.

BACKGROUND AND JUSTIFICATION

The amended sections, repeal, and new section are adopted, in part, to implement changes made by Senate Bill (SB) 656, enacted by the 82nd Texas Legislature. SB 656 abolished the Coastal Coordination Council (Council), transferred the Council's functions to the Commissioner and the General Land Office, and directed the Commissioner to establish the Coastal Coordination Advisory Committee. In addition to implementing SB 656, the amendments are adopted to reflect current practice and enhance the clarity, readability, and organization of the rules.

COMMENTS

No comments were received during the 30-day comment period.

SUBCHAPTER A. GENERAL PROVISIONS

31 TAC §§501.1 - 501.4

STATUTORY AUTHORITY

The amendments and new section are adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner

to review and amend the CMP; §33.204, which authorizes the Commissioner by rule to adopt goals and policies of the CMP; and §33.2041, which authorizes the Commissioner by rule to establish the Coastal Coordination Advisory Committee.

The adoption of the amendments and new section is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804009

Mark A. Havens

Chief Clerk, Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



31 TAC §501.4

STATUTORY AUTHORITY

The repeal is adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner by rule to adopt goals and policies of the CMP; and §33.2041, which authorizes the Commissioner by rule to establish the Coastal Coordination Advisory Committee.

The adoption is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804022

Mark A. Havens
Chief Clerk, Deputy Land Commissioner
Coastal Coordination Advisory Committee
Effective date: October 7, 2018
Proposal publication date: March 16, 2018
For further information, please call: (512) 475-1859



SUBCHAPTER B. GOALS AND POLICIES

31 TAC §§501.10, 501.25, 501.26

The amendments are adopted under Texas Natural Resources Code, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; and §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804010
Mark A. Havens
Chief Clerk and Deputy Land Commissioner
Coastal Coordination Advisory Committee
Effective date: October 17, 2018
Proposal publication date: March 16, 2018
For further information, please call: (512) 475-1859



CHAPTER 504. PERMITTING ASSISTANCE COASTAL MANAGEMENT PROGRAM

The Commissioner of the General Land Office (Commissioner) adopts the repeal of §504.1, relating to Permitting Assistance Group, and concurrently adopts new §504.1, relating to Purpose. The Commissioner also adopts new §504.2, relating to Definitions, and new §504.3, relating to Permitting Assistance Group. The Commissioner further adopts amendments to §504.10, relating to Scope of the Permitting Assistance Program; §504.11, relating to Permitting Assistance Coordinator; §504.13, relating to Assistance Products and Services; §504.20, Initiating the Preliminary Review Process; §504.21, relating to Preliminary Statement from Permitting Agencies or Subdivisions; §504.22, relating to Preliminary Findings; and §504.30, relating to Assisting Applicants for Federal Licenses and Permits with Consistency Certifications.

The repeal, new sections, and amendments are adopted without changes to the proposed text published in the March 16, 2018, of the *Texas Register* (43 TexReg 1592) and therefore will not be republished.

BACKGROUND AND JUSTIFICATION

The repeal, new sections, and amendments are adopted, in part, to implement changes made by Senate Bill (SB) 656, enacted by the 82nd Texas Legislature. Senate Bill 656 abolished the Coastal Coordination Council (Council), transferred the Council's functions to the Commissioner and the General Land Office, and directed the Commissioner to establish the Coastal Coordination Advisory Committee and evaluate the functions of the Permitting Assistance Group (PAG). In addition to implementing changes associated with SB 656, the amendments are adopted to reflect current practice and enhance the clarity, readability, and organization of the rules.

COMMENTS

No comments were received during the 30-day comment period.

SUBCHAPTER A. COASTAL MANAGEMENT PROGRAM

31 TAC §504.1

STATUTORY AUTHORITY

The repeal is adopted under Texas Natural Resources Code, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive Coastal Management Plan (CMP); §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; §33.2041, which authorizes the Commissioner to establish by rule the Coastal Coordination Advisory Committee; and §33.205, which authorizes the Commissioner to establish by rule processes for preliminary consistency review and permitting assistance.

The adoption of the repeal is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804024
Mark A. Havens
Chief Clerk, Deputy Land Commissioner
Coastal Coordination Advisory Committee
Effective date: October 7, 2018
Proposal publication date: March 16, 2018
For further information, please call: (512) 475-1859



31 TAC §§504.1 - 504.3

STATUTORY AUTHORITY

The new rules are adopted under Texas Natural Resources Code, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive Coastal Management Program (CMP); §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies

of the CMP; §33.2041, which authorizes the Commissioner to establish by rule the Coastal Coordination Advisory Committee; and §33.205, which authorizes the Commissioner to establish by rule processes for preliminary consistency review and permitting assistance.

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 September 17, 2018.

TRD-201804012

Mark A. Havens

Chief Clerk, Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER B. SMALL BUSINESS

31 TAC §§504.10, 504.11, 504.13

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive Coastal Management Plan (CMP); §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; §33.2041, which authorizes the Commissioner to establish by rule the Coastal Coordination Advisory Committee; and §33.205, which authorizes the Commissioner to establish by rule processes for preliminary consistency review and permitting assistance.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804014

Mark A. Havens

Chief Clerk, Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER C. PRELIMINARY CONSISTENCY REVIEW

31 TAC §§504.20 - 504.22

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive Coastal Management Plan (CMP); §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; §33.2041, which authorizes the Commissioner to establish by rule the Coastal Coordination Advisory Committee; and §33.205, which authorizes the Commissioner to establish by rule processes for preliminary consistency review and permitting assistance.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804015

Mark A. Havens

Chief Clerk, Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER D. ASSISTANCE WITH FEDERAL ACTIONS

31 TAC §504.30

STATUTORY AUTHORITY

The amendment is adopted under Texas Natural Resources Code, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive Coastal Management Plan (CMP); §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; §33.2041, which authorizes the Commissioner to establish by rule the Coastal Coordination Advisory Committee; and §33.205, which authorizes the Commissioner to establish by rule processes for preliminary consistency review and permitting assistance.

The adoption of the amendment is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804016

Mark A. Havens

Chief Clerk, Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



CHAPTER 505. PROCEDURES FOR STATE CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM GOALS AND POLICIES

The Commissioner of the General Land Office (Commissioner) adopts amendments to §505.10, relating to Purpose and Policy; §505.11, relating to Actions and Rules Subject to the Coastal Management Program; new §505.12, relating to Definitions; amendments to §505.20, relating to Council Review and Certification of Existing Agency Rules; §505.21, relating to Effect of Council Certification of Agency Rules and Rule Amendments; §505.22, relating to Consistency Required for New Rules and Rule Amendments Subject to the Coastal Management Program; §505.23, relating to Council Certification of Rules and Rule Amendments; §505.24, relating to Pre-Certification Review of Draft Rules and Draft Rule Amendments; §505.25, relating to Revocation of Certification; §505.26, relating to Approval of Thresholds for Referral; §505.30, relating to Agency Consistency Determination; §505.31, relating to Preliminary Consistency Review of Proposed Agency Actions by the Coastal Coordination Council; §505.32, relating to Requirements for Referral of a Proposed Agency Action; §505.33, relating to Filing of Request for Referral; §505.34, relating to Referral of a Proposed Agency Action to the Council for Consistency Review; §505.35, relating to Council Procedures for Review of a Proposed Agency Action; §505.36, relating to Standard of Council Review of a Proposed Agency Action; §505.37, relating to Activities Pending Council Review of a Proposed Agency Action; §505.38, relating to Council Action on Review of a Proposed Agency Action; §505.39, relating to Agency Action after Council Protest; §505.42, relating to Enforcement; §505.51, relating to Request for a Non-Binding Advisory Opinion and Council Action; §505.52, relating to Request for Council Participation in the Development of General Plans; §505.53, relating to Purpose and Effect of an Advisory Opinion; §505.63, relating to Preliminary Consistency Review of a Subdivision Action by the Coastal Coordination Council; §505.64, relating to Requirements for a Referral of Subdivision Actions; §505.65, relating to Filing of Request for Referral; §505.66, relating to Referral of Subdivision Actions to the Council for Consistency Review; §505.67, relating to Council Procedures for Review of Subdivision Actions; §505.68, relating to Standard of Council Review for Subdivision Actions; §505.69, relating to Activities Pending Council Review; §505.70, relating to Council Action on Review of Subdivision Action; §505.71, relating to Subdivision Action after Council Protest; and §505.74, relating to Enforcement. The amendments are adopted without changes to the proposed text as published in the March 16, 2018, of the

Texas Register (43 TexReg 1597) and, therefore, will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are adopted, in part, to implement changes made by Senate Bill (SB) 656, enacted by the 82nd Texas Legislature. SB 656 abolished the Coastal Coordination Council (Council), transferred the Council's functions to the Commissioner and the General Land Office, and directed the Commissioner to establish the Coastal Coordination Advisory Committee. In addition to implementing SB 656, the amendments are adopted to reflect current practice and enhance the clarity, readability, and organization of the rules.

COMMENTS

No comments were received during the 30-day comment period.

SUBCHAPTER A. PURPOSE AND SCOPE

31 TAC §§505.10 - 505.12

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; and §33.2052, which authorizes the Commissioner to establish by rule a process by which an agency may submit rules to the Commissioner for review and certification for consistency with the goals and policies of the CMP.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804017

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER B. COMMISSIONER REVIEW AND CERTIFICATION OF AGENCY RULES

31 TAC §§505.20 - 505.26

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO

to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; and §33.2052, which authorizes the Commissioner to establish by rule a process by which an agency may submit rules to the Commissioner for review and certification for consistency with the goals and policies of the CMP.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804018

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER C. CONSISTENCY AND COMMISSIONER REVIEW OF PROPOSED STATE AGENCY ACTIONS

31 TAC §§505.30 - 505.39, 505.42

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; and §33.2052, which authorizes the Commissioner to establish by rule a process by which an agency may submit rules to the Commissioner for review and certification for consistency with the goals and policies of the CMP.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804019

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER D. COMMISSIONER ADVISORY OPINIONS ON GENERAL PLANS

31 TAC §§505.51 - 505.53

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP; and §33.2052, which authorizes the Commissioner to establish by rule a process by which an agency may submit rules to the Commissioner for review and certification for consistency with the goals and policies of the CMP.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804020

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



SUBCHAPTER E. CONSISTENCY AND COMMISSIONER REVIEW OF LOCAL GOVERNMENT ACTIONS

31 TAC §§505.63 - 505.71, 505.74

STATUTORY AUTHORITY

The amendments are adopted under Texas Natural Resources Code, Chapter 33, §33.051, which authorizes the Commissioner and the GLO to perform the duties provided in Subchapter C; §33.052, which authorizes the Commissioner and the GLO to develop, coordinate, and implement a continuing comprehensive CMP; §33.054, which allows the Commissioner to review and amend the CMP; §33.204, which authorizes the Commissioner to adopt by rule goals and policies of the CMP;

and §33.2052, which authorizes the Commissioner to establish by rule a process by which an agency may submit rules to the Commissioner for review and certification for consistency with the goals and policies of the CMP.

The adoption of the amendments is necessary to implement Texas Natural Resources Code, Chapter 33, Subchapters C and F.

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 September 17, 2018.

TRD-201804021

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

Coastal Coordination Advisory Committee

Effective date: October 7, 2018

Proposal publication date: March 16, 2018

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



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 7. PREPAID HIGHER EDUCATION TUITION PROGRAM

SUBCHAPTER B. BOARD MEETING GUIDELINES AND REQUIREMENTS

34 TAC §7.18

The Comptroller of Public Accounts adopts amendments to §7.18, concerning Complaints, without changes to the proposed text as published in the July 6, 2018, issue of the *Texas Register* (43 TexReg 4538).

The amendments to §7.18 update the language in subsection (a) to require that a statement specifying where to send complaints is placed on plan or program websites and plan or program descriptions instead of on all applications, contracts and informational materials. This change is being made because increased internet access and usage make websites more effective in conveying this information, and because plan or program descriptions are a more appropriate placement than plan or program contracts. The amendment also corrects a typographical error in subsection (b).

No comments were received regarding adoption of the amendments.

These amendments are adopted under Education Code, §54.618(b)(2), which authorizes the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

These amendments implement Education Code, Chapter 54, Subchapter F.

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 September 14, 2018.

TRD-201803996

Victoria North

Chief Counsel, Fiscal and Agency Affairs Legal Services Division

Comptroller of Public Accounts

Effective date: October 4, 2018

Proposal publication date: July 6, 2018

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



SUBCHAPTER K. HIGHER EDUCATION SAVINGS PLAN

34 TAC §7.101

The Comptroller of Public Accounts adopts amendments to §7.101, concerning definitions, without changes to the proposed text as published in the July 6, 2018, issue of the *Texas Register* (43 TexReg 4539).

The amendments to §7.101 revise paragraph (6)(A) to exclude from the definition of "Promotional material, or savings plan information" internet banner ads that link directly to a web page that contains a link to the savings plan description. This change is being made to allow the comptroller the flexibility to link ads to a webpage that contains the savings plan descriptions instead of the home page of the savings plan.

The amendments to §7.101 also revise paragraph (6)(E) to exclude from the definition of "Promotional material, or savings plan information" objects, advertisements, or social media posts that include no more than the name and logo of the plan and a short slogan that does not constitute a call to invest. This change is being made due to the increased use and content of online advertising, and to be consistent with federal rules and guidance.

No comments were received regarding adoption of the amendments.

These amendments are adopted under Education Code, §§54.618, 54.702(a), 54.708, and 54.710, which authorize the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

These amendments implement Education Code, Chapter 54, Subchapter G.

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 September 14, 2018.

TRD-201803997

Victoria North
Chief Counsel, Fiscal and Agency Affairs Legal Services Division
Comptroller of Public Accounts
Effective date: October 4, 2018
Proposal publication date: July 6, 2018
For further information, please call: (512) 475-0387



**SUBCHAPTER L. PREPAID TUITION UNIT
UNDERGRADUATE EDUCATION PROGRAM:
TEXAS TOMORROW FUND II**

34 TAC §7.121

The Comptroller of Public Accounts adopts an amendment to §7.121, concerning Application, without changes to the proposed text as published in the July 6, 2018, issue of the *Texas Register* (43 TexReg 4540).

The amendment to §7.121 updates the address in subsection (b) where applications are made available by deleting the room number.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Education Code, §54.752(b)(1), which authorizes the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

This amendment implements Education Code, Chapter 54, Subchapter H.

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

Filed with the Office of the Secretary of State on September 14, 2018.

TRD-201803998

Victoria North

Chief Counsel, Fiscal and Agency Affairs Legal Services Division

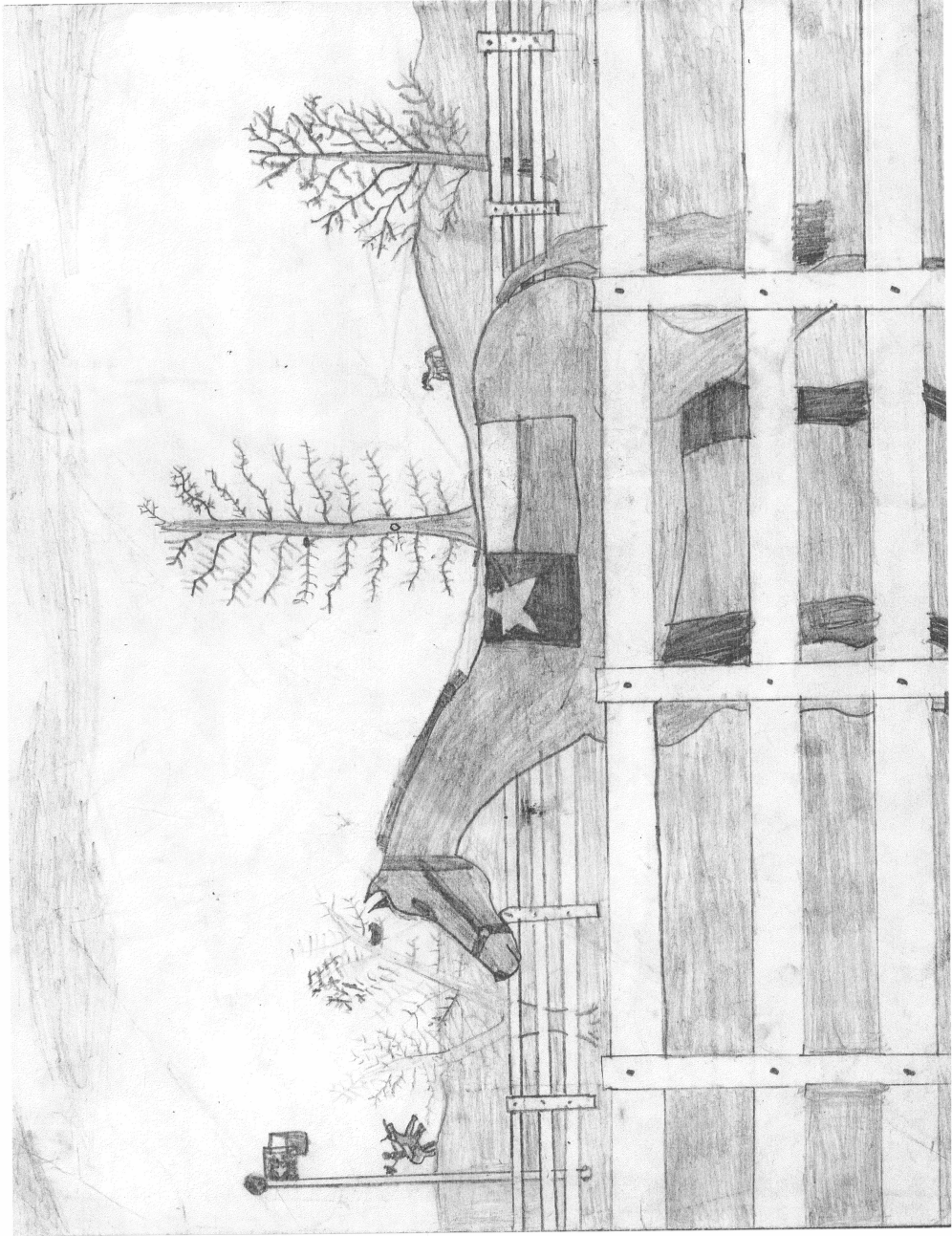
Comptroller of Public Accounts

Effective date: October 4, 2018

Proposal publication date: July 6, 2018

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





IN ADDITION

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

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, 303.008, 303.009, 304.003, and 346.101, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/24/18 - 09/30/18 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/24/18 - 09/30/18 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 09/01/18 - 09/30/18 is 18% or Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 09/01/18 - 09/30/18 is 18% for Commercial over \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 10/01/18 - 12/31/18 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 10/01/18 - 12/31/18 is 18% for Commercial over \$250,000.

The retail credit card quarterly rate as prescribed by §303.009¹ for the period of 10/01/18 - 12/31/18 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The lender credit card quarterly rate as prescribed by §346.101¹ for the period of 10/01/18 - 12/31/18 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009⁴ for the period of 10/01/18 - 12/31/18 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009 for the period of 10/01/18 - 12/31/18 is 18% for Commercial over \$250,000.

The retail credit card annual rate as prescribed by §303.009¹ for the period of 10/01/18 - 12/31/18 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 09/01/18 - 09/30/18 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed §304.003 for the period of 09/01/18 - 09/30/18 is 5.00% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

³For variable rate commercial transactions only.

⁴Only for open-end credit as defined in §301.002(14), Texas Finance Code.

TRD-201804065

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: September 18, 2018

Court of Criminal Appeals

In the Court of Criminal Appeals of Texas

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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Misc. Docket No. 18-017
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**ORDER PROPOSING AMENDMENTS TO
TEXAS RULES OF APPELLATE PROCEDURE 73.1 AND 73.4**
=====

ORDERED that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals proposes amendments to Rules of Appellate Procedure 73.1 and 73.4 with a comment.
2. These amendments may be changed in response to public comments received before October 24, 2018. Any interested party may submit written comments to the Court of Criminal Appeals at txccarulescomments@txcourts.gov.
3. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

Dated: September 10, 2018.

Sharon Keller, Presiding Judge

Michael Keasler, Judge

Barbara Hervey, Judge

Elsa Alcala, Judge

Bert Richardson, Judge

Kevin P. Yeary, Judge

David Newell, Judge

Mary Lou Keel, Judge

Scott Walker, Judge

Rule 73 Postconviction Applications for Writs of Habeas Corpus

73.1. Form for Application Filed Under Article 11.07 of the Code of Criminal Procedure

* * *

(g) Verification. The application must be verified by either:

- (1) oath made before a notary public or other officer authorized to administer oaths; or
- (2) an unsworn declaration in substantially the form required by Civil Practice and Remedies Code chapter 132 as set out in the verification section of the application form.

* * *

73.4. Filing and Transmission of Habeas Record

* * *

(b) In addition to the duties set out in Article 11.07, the district clerk shall do the following:

* * *

(3) When a district clerk transmits the record in a postconviction application for a writ of habeas corpus under Code of Criminal Procedure articles 11.07 or 11.071, the district clerk must prepare and transmit a summary sheet that includes the following information:

- (A) the convicting court's name and county, and the name of the judge who tried the case;
- (B) the applicant's name, the offense, the plea, the cause number, the sentence, and the date of sentence, as shown in the judgment of conviction;
- (C) the cause number of any appeal from the conviction and the citation to any published report;
- (D) whether a hearing was held on the application, whether findings of fact were made, any recommendation of the convicting court, and the name of the judge who presided over the application;
- (E) the name of counsel if applicant is represented; and
- (F) the following certification:

I certify that all applicable requirements of Texas Rule of Appellate Procedure 73.4 have been complied with in this habeas proceeding, including the requirement to serve on all the parties in the case any objections, motions, affidavits, exhibits, proposed findings of fact and conclusions of law, findings of fact and conclusions of law, and any other orders entered or pleadings filed in the habeas case.

Signature of District Clerk or Clerk's Representative Date Signed

* * *

Comment to 2018 change: Rules 73.1 and 73.4 are amended in conjunction with amendments to the form for applications filed under Article 11.07 of the Code of Criminal Procedure (Appendix E to these rules) and the Clerk's Summary Sheet (Appendix F to these rules). The amendments clarify terminology and procedures for filing Article 11.07 writ applications and update the Article 11.07 writ application form to incorporate current technologies and filing procedures. The application form will be made available on the internet through the Court of Criminal Appeals' website. In addition, the amendments bring the application and filing procedures into conformity with Civil Practice and Remedies Code chapter 132, which permits both inmates and non-inmates to file unsworn declarations in lieu of notarized oaths. Further, the rules amendments and changes to the clerk's summary sheet clarify the information that district clerks must provide to the Court of Criminal Appeals and add a new requirement that clerks certify that they have complied with all the requirements of Rule 73.4, including the requirement to serve on all parties in the case all objections, motions, affidavits, exhibits, proposed findings of fact and conclusions of law, findings of fact and conclusions of law, and any other orders entered or pleadings filed in the habeas case.

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

=====
Misc. Docket No. 18-018
=====

=====
**ORDER PROPOSING AMENDMENTS TO APPENDIX E OF THE
TEXAS RULES OF APPELLATE PROCEDURE**
=====

ORDERED that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals proposes amendments to Appendix E of the Rules of Appellate Procedure.
2. These amendments may be changed in response to public comments received before October 24, 2018. Any interested party may submit written comments to the Court of Criminal Appeals at txccarulescomments@txcourts.gov.
3. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

Dated: September 10, 2018.

Sharon Keller, Presiding Judge

Michael Keasler, Judge

Barbara Hervey, Judge

Elsa Alcala, Judge

Bert Richardson, Judge

Kevin P. Yeary, Judge

David Newell, Judge

Mary Lou Keel, Judge

Scott Walker, Judge

APPENDIX E
COURT OF CRIMINAL APPEALS OF TEXAS
APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07

DEFINITIONS

In this application form:

1. “Applicant” means a person seeking relief in an application for a writ of habeas corpus from his or her felony conviction imposing a sentence other than the death penalty or a probated sentence that has not been revoked. An applicant can be an inmate or a non-inmate whose liberty is restrained.
2. “Inmate” means a person who is in custody in a prison or jail.
3. “Petitioner” means a person, **including an attorney or a non-attorney**, presenting an application for a writ of habeas corpus on behalf of another person (the applicant). Any petitioner may present an application on behalf of an applicant for the purpose of obtaining relief from the applicant’s felony conviction. However, the petitioner presenting the application form must sign and attest that he or she has consulted with the applicant concerning the application and the applicant has given consent to the filing of this application form.

INSTRUCTIONS

1. **All applicants and petitioners, including attorneys, must use the complete application form.** You must use this application form, which begins on the page following these instructions, to file an application, or an amended or supplemental application, for a writ of habeas corpus seeking relief **from a final felony conviction under Article 11.07 of the Code of Criminal Procedure.** (This application form is not for death-penalty cases, probated sentences which have not been revoked, misdemeanors, or pretrial habeas applications under Article 11.08 of the Code of Criminal Procedure.)
2. **Failure to follow these instructions may cause your entire application to be dismissed.**
3. The district clerk of the county in which you were convicted will make this application form available to you, on request, without charge. The form can also be obtained from the Court of Criminal Appeals’ website.
4. You must **file** the entire application form, including those sections that do not apply to you. If any pages are missing from the form, or if the questions have been renumbered or omitted, your entire application may be dismissed as non-compliant.
5. You must make a separate application on a separate form for each case number from which you seek relief. Even if the judgments were entered in the same court on the same day, you must complete a separate application form for each case number. If a case number has multiple counts, include all the counts on one application form.

6. You **must** include all grounds for relief on the application form as provided by the instructions under item 18. You **must** also briefly summarize the facts of your ground on the application form as provided by the instructions under item 18. Each ground shall begin on a new page, and the recitation of the facts supporting the ground shall be no longer than the two pages provided for the ground in the form.
7. Answer every item that applies to you on the application form. Do not attach any additional pages for any ground. However, if you have more than five grounds for relief, you may include additional copies of pages 14 and 15 to add more grounds for relief. Additional grounds must still comply with instruction 6.
8. Legal citations and arguments may be made in a separate memorandum that complies with Texas Rule of Appellate Procedure 73 and certifies that the document does not exceed 15,000 words if computer-generated or 50 pages if not.
9. You must verify the application form by signing either the appropriate Unsworn Declaration or the “Oath Before a Notary Public,” which are at the end of this form. If you are a petitioner presenting the application on behalf of an applicant, you may sign and verify the application form on behalf of the applicant. **However, any petitioner who signs and verifies the application form may be prosecuted and convicted for aggravated perjury if the application form contains any false statement of a material fact.**
10. When the application form is fully completed, mail the original and any exhibits and memorandum of law to the district clerk of the county of conviction or electronically file the application form with the district clerk of the county of conviction following the current electronic filing rules for criminal cases. Keep a copy of the application form for your records.
11. You must notify the district clerk of the county of conviction of any change in your address or email address after you have filed your application form. In addition, after the application form has been received by the Court of Criminal Appeals, you must notify the Clerk of the Court of Criminal Appeals of any change in your address or email address.
12. **Warning: If the application form does not include all of the grounds for relief, additional grounds brought at a later date may be procedurally barred.** *See* TEX. CODE CRIM. PROC. Art. 11.07 § 4.

Case No. _____
(The district clerk of the county of conviction will fill in this blank.)

**IN THE COURT OF CRIMINAL APPEALS OF TEXAS
APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07**

NAME: _____

DATE OF BIRTH: _____

PLACE OF CONFINEMENT: _____

WARDEN: _____

TDCJ-CID NUMBER: _____ SID NUMBER: _____

(1) This application concerns (check all that apply):

a conviction

parole

a sentence

mandatory supervision

time credit

out-of-time appeal or petition for
discretionary review

(2) What are the court number and county of the district court in which you were convicted?

(3) What was the case number in the trial court? (Put only one case number here, even if it includes multiple counts. You must make a separate application on a separate form for other case numbers.)

(4) What was the name of the trial judge?

(5) Were you represented by counsel? If yes, provide the attorney's name:

(6) What was the date that the judgment was entered?

(7) For what offense were you convicted and what was the sentence?

(8) If you were sentenced on more than one count of an indictment in the same court at the same time, what counts were you convicted of and what was the sentence in each count?

(9) What was the plea you entered? (Check one.)

guilty-open plea

guilty-plea bargain

not guilty

nolo contendere/no contest

If you entered different pleas to counts in a multi-count indictment, please explain:

(10) What kind of trial did you have?

no jury

jury for guilt and punishment

jury for guilt, judge for punishment

(11) Did you testify at trial? If yes, at what phase of the trial did you testify?

(12) Has your sentence discharged? yes no

If you answered yes, when did your sentence discharge? _____

(13) Did you appeal from the judgment of conviction?

yes no

If you did appeal, answer the following questions:

(A) Which court of appeals decided the appeal? _____

(B) What was the case number? _____

(C) Were you represented by counsel on appeal? If yes, provide the attorney's name: _____

(D) What was the decision and the date of the decision? _____

(14) Did you file a petition for discretionary review in the Court of Criminal Appeals?

yes no

If you did file a petition for discretionary review, answer the following questions:

(A) What was the case number? _____

(B) What was the decision and the date of the decision? _____

(15) Have you previously filed an application for a writ of habeas corpus under Article 11.07 of the Texas Code of Criminal Procedure challenging *the conviction in this case number*?

yes no

If you answered yes, answer the following questions:

(A) What was the Court of Criminal Appeals' writ number? _____

(B) What was the decision and the date of the decision? _____

(C) Please briefly explain why the current grounds were not presented and could not have been presented in your previous application.

(16) Do you currently have any petition or appeal pending in any other state or federal court?

yes

no

If you answered yes, please provide the name of the court and the case number:

(17) If you are presenting a time credit claim, other than for pre-sentence jail time credit, have you exhausted your administrative remedies by presenting the time credit claim to the time credit resolution system of the Texas Department of Criminal Justice? (This requirement applies to any final felony conviction, including state jail felonies.)

yes

no

If you answered yes, answer the following questions:

(A) What date did you present the claim to the time credit resolution system?

(B) Did you receive a decision and, if yes, what was the date of the decision? _____

If you answered no, please explain why you have not presented your time credit claim to the time credit resolution system of the Texas Department of Criminal Justice:

- (18) **Beginning on page 6, state concisely every legal ground for why you think that you are being illegally confined or restrained and then briefly summarize the facts supporting each ground. You must present each ground and a brief summary of the facts on the application form. If your grounds and a brief summary of the facts have not been presented on the application form, the Court will not consider your grounds. A factual summary that merely references an attached memorandum or another ground for relief will not constitute a sufficient summary of the facts.**

If you have more than four grounds, use pages 14 and 15 of the application form, which you may copy as many times as needed to give you a separate page for each ground, with each ground numbered in sequence. The recitation of the facts supporting each ground must be no longer than the two pages provided for the ground in the form.

You may include with the application form a memorandum of law if you want to present legal authorities or provide greater factual detail, but the Court will *not* consider grounds for relief set out in a memorandum of law that were not raised on the application form. The memorandum of law must comply with Texas Rule of Appellate Procedure 73 and must not exceed 15,000 words if computer-generated or 50 pages if not. If you are challenging the validity of your conviction, please include a summary of the facts pertaining to your offense and trial in your memorandum of law.

If the application form does not include all of the grounds for relief, additional grounds brought at a later date may be procedurally barred.

WHEREFORE, I PRAY THAT THE COURT GRANT THE RELIEF TO WHICH APPLICANT MAY BE ENTITLED IN THIS PROCEEDING.

VERIFICATION

This application form *must be verified* in one of the following ways by either an applicant or a petitioner or it may be dismissed for noncompliance.

Applicants

In order to verify this application form, an applicant must sign one of the following:

- (1) the “Unsworn Declaration” for inmates (page 16) if applicant is an inmate; or
- (2) the “Unsworn Declaration” for non-inmates (page 17) if applicant is not an inmate; or
- (3) the “Oath Before a Notary Public” before a notary public (page 18).

Petitioners

If a petitioner, including an attorney, presents an application form on behalf of an applicant, the petitioner may verify the application form for the applicant. In order to verify this application form, a petitioner must sign one of the following:

- (1) the “Unsworn Declaration” for inmates (page 16) if petitioner is an inmate; or
- (2) the “Unsworn Declaration” for non-inmates (page 17) if petitioner is not an inmate; or
- (3) the “Oath Before a Notary Public” before a notary public (page 18).

In addition, *all petitioners*, including attorneys, presenting an application on behalf of an applicant must complete “Petitioner’s Information” and sign “Petitioner’s Statement” (page 19).

UNSWORN DECLARATION (INMATE)

My name is (First)_____ (Middle)_____ (Last)_____,
my date of birth is _____, and my inmate identifying number, if any, is _____.

I am presently incarcerated in (Corrections unit name)_____ in
(City)_____, (County)_____, (State)_____,
(Zip Code)_____.

I declare under penalty of perjury that the contents of this application for a writ of habeas corpus and the facts stated in the application form are true and correct.

Executed on the _____ day of (Month)_____ (Year)_____.

Signature of Declarant _____

UNSWORN DECLARATION (NON-INMATE)

My name is (First) _____ (Middle) _____ (Last) _____,
my date of birth is _____, and my address is (Street) _____
_____, (City) _____,
(State) _____, (Zip Code) _____, and (Country) _____.

I declare under penalty of perjury that the contents of this application for a writ of habeas corpus
and the facts stated in the application form are true and correct.

Executed in _____ County, State of _____, on the
_____ day of (Month) _____ (Year) _____.

Signature of Declarant _____

OATH BEFORE A NOTARY PUBLIC

STATE OF TEXAS

COUNTY OF _____

_____, being duly sworn, under oath says: "I am the applicant or petitioner in this action and know the contents of this application for a writ of habeas corpus and, according to my belief, the facts stated in the application form are true."

Signature of Declarant

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF _____, 20 ____.

Signature of Notary Public

PETITIONER=S INFORMATION

(Contact information for a petitioner presenting this application on behalf of the applicant)

Petitioner’s printed name: _____

State bar number, if applicable: _____

Address: _____

Telephone: _____

Fax: _____

Email Address: _____

PETITIONER=S STATEMENT

“I am signing and presenting this application form on behalf of the applicant for the purpose of obtaining relief from the applicant’s felony conviction. I have consulted with the applicant concerning this application and the applicant has given consent to the filing of this application form.”

Signature of Petitioner

Signed on _____, 20____.

TRD-201804051
Deana Williamson
Clerk
Court of Criminal Appeals
Filed: September 18, 2018

◆ ◆ ◆
Credit Union Department

Application to Expand Field of Membership

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

An application was received from LibertyOne Credit Union, Dallas, Texas to expand its field of membership. The proposal would permit U.S. Government employees who live in, work in, are paid from, or report to a facility in Dallas County, Tarrant County, Collin County, Denton County, Ellis County, Hood County, Hunt County, Johnson County, Kaufman County, Parker County, Rockwall County, Somervell County or Wise County, Texas, including employees of any on-site contractors who regularly work at U.S. Government facilities located within these counties, to be eligible for membership in the credit union.

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

TRD-201804075
Harold E. Feeney
Commissioner
Credit Union Department
Filed: September 19, 2018

◆ ◆ ◆
Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final actions taken on the following applications:

Applications to Expand Field of Membership - Approved

Texas Dow Employees Credit Union, Lake Jackson, Texas - See *Texas Register* issue dated June 29, 2018

Texell Credit Union, Temple, Texas - See *Texas Register* issue dated June 29, 2018

SPCO Credit Union, Houston, Texas - See *Texas Register* issue dated June 29, 2018

Merger or Consolidation - Approved

First United Credit Union, (Tyler) and Keystone Credit Union (Tyler) - See *Texas Register* issue dated on January 26, 2018

TRD-201804074

Harold E. Feeney
Commissioner
Credit Union Department
Filed: September 19, 2018

◆ ◆ ◆
Texas Council for Developmental Disabilities

Request for Proposals: Texas Council for Developmental Disabilities Advanced Leadership Training for Professionals

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for one organization to implement an Advanced Leadership Training for Professionals project.

The purpose of offering funding for the project described in this Request for Proposals (RFP) is to develop the next generation of leaders who work in fields that serve people with developmental disabilities. Individuals who participate in this advanced leadership training program will gain knowledge and skills so they can impact the services and supports systems used by Texans with intellectual and developmental disabilities.

TCDD has approved funding up to \$150,000 per organization, per year, for up to 5 years. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this RFP may be obtained at www.DDSuite.org. More information about TCDD may be obtained through TCDD's website at www.tcdd.texas.gov. All questions pertaining to this RFP should be directed in writing to Danny Fikac, Planning Specialist, via email at Danny.Fikac@tcdd.texas.gov. Mr. Fikac may also be reached by telephone at (512) 437-5415.

Deadline: Proposals must be submitted through www.DDSuite.org by November 2, 2018. Proposals will not be accepted after the due date.

TRD-201804083
Beth Stalvey
Executive Director
Texas Council for Developmental Disabilities
Filed: September 19, 2018

◆ ◆ ◆
Request for Proposals: Texas Council for Developmental Disabilities Media Fellows Program

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for up to two organizations to implement a Media Fellows Program.

The purpose of offering funding for the project described in this Request for Proposals (RFP) is to support opportunities for experienced media professionals to train and mentor TCDD Media Fellows to create media that covers disability-related issues and includes the voices, experiences, and knowledge of people with disabilities.

TCDD has approved funding up to \$67,500 per organization, per year, for up to 2 years. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Ad-

ministration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this RFP may be obtained at www.DDSuite.org. More information about TCDD may be obtained through TCDD's website at www.tcdd.texas.gov. All questions pertaining to this RFP should be directed in writing to Danny Fikac, Planning Specialist, via email at Danny.Fikac@tcdd.texas.gov. Mr. Fikac may also be reached by telephone at (512) 437-5415.

Deadline: Proposals must be submitted through www.DDSuite.org by November 2, 2018. Proposals will not be accepted after the due date.

TRD-201804085

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: September 19, 2018



Request for Proposals: Texas Council for Developmental Disabilities Sexual Health Education

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for one organization to implement a Sexual Health Education project.

The purpose of offering funding for the project described in this Request for Proposals (RFP) is to implement a project that will improve the sexual health of people with disabilities in Texas through training and/or educational opportunities. At least five training and/or educational opportunities will be held in multiple locations throughout Texas over the course of three years.

TCDD has approved funding up to \$100,000 per organization, per year, for up to 3 years. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this RFP may be obtained at www.DDSuite.org. More information about TCDD may be obtained through TCDD's website at www.tcdd.texas.gov. All questions pertaining to this RFP should be directed in writing to Danny Fikac, Planning Specialist, via email at Danny.Fikac@tcdd.texas.gov. Mr. Fikac may also be reached by telephone at (512) 437-5415.

Deadline: Proposals must be submitted through www.DDSuite.org by November 2, 2018. Proposals will not be accepted after the due date.

TRD-201804084

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: September 19, 2018

Texas Education Agency

Request for Applications (RFA) Concerning Generation Twenty-Four Open-Enrollment Charter Application (RFA #701-18-116)

Filing Date. September 19, 2018

Filing Authority. Texas Education Code (TEC), §12.101 and §12.152

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-18-116 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities. At least one member of the governing board of the group requesting the charter must attend one required applicant information session. Sessions are scheduled for Friday, October 5, 2018, and Friday, October 12, 2018, in Room 1-100, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494. Failure to attend one of the sessions will disqualify an applicant from submitting a complete application for an open-enrollment charter.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district facility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement governing the relationship between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment 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. It 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 system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment 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, prekindergarten programs, 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 an open-enrollment 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, January 4, 2019, 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 charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under the TEC, Chapter 37, Subchapter A.

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

The commissioner may approve open-enrollment charter schools as provided in the TEC, §12.101 and §12.152. There are currently 176 charters approved under the TEC, §12.101 (Subchapter D), and 6 charters approved under the TEC, §12.152 (Subchapter E). There is a cap of 270 charters approved under the TEC, §12.101, and no cap on the number of charters approved under the TEC, §12.152. The commissioner is scheduled to consider awards under RFA #701-18-116 in June 2019.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. 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.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Twenty-Four Open-Enrollment Charter Application (RFA #701-18-116), which includes an appli-

cation and procedures, may be obtained on the TEA website at 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 School Administration, Texas Education Agency, at (512) 463-9575 or charterschools@tea.texas.gov.

TRD-201804076

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: September 19, 2018

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Request for Applications (RFA) Concerning Generation
Twenty-Four Open-Enrollment Charter Application (RFA
#701-18-117)

Filing Date. September 19, 2018

Filing Authority. Texas Education Code (TEC), §12.101 and §12.152

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) 701-18-117 from eligible entities to operate open-enrollment charter schools. Eligible entities include public senior college or university or a public junior college. At least one faculty supervising the college or university's proposed charter school's educational program and requesting the charter must attend one required applicant information session. Sessions are scheduled for Friday, October 5, 2018, and Friday, October 12, 2018, in Room 1-100, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494. Failure to attend one of the sessions will disqualify an applicant from submitting a complete application for an open-enrollment charter.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located on the campus of the public college or university or at another location designated by the public college or university provided there is no duplication of charter school services in the area in which the applicant proposes to operate the school. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement governing the relationship between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment 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. It 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 system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment 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, prekindergarten programs, 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 an open-enrollment 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, January 4, 2019, 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 charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under the TEC, Chapter 37, Subchapter A.

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

The commissioner may approve open-enrollment charter schools as provided in the TEC, §12.101 and §12.152. There are currently 176 charters approved under the TEC, §12.101 (Subchapter D), and 6 charters approved under the TEC, §12.152 (Subchapter E). The commissioner is scheduled to consider awards under RFA 701-18-117 in June 2019.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is

likely to be affected by the open-enrollment charter school. 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.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Twenty-Four Open-Enrollment Charter Application (RFA #701-18-117), which includes an application and procedures, may be obtained on the TEA website at 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 School Administration, Texas Education Agency, at (512) 463-9575 or charterschools@tea.texas.gov.

Issued in Austin, Texas, on September 19, 2018.

TRD-201804077

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: September 19, 2018

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is October 29, 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 October 29, 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: 4S NOORANI INVESTMENT INCORPORATED dba Grab-N-Go Express; DOCKET NUMBER: 2018-0680-PST-E; IDENTIFIER: RN102266699; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once per month; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2018-0721-PWS-E; IDENTIFIER: RN102675717; LOCATION: Kerrville, Kerr County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code, §341.0315(c), by failing to provide a minimum well capacity of 0.6 gallons per minute per connection; PENALTY: \$165; ENFORCEMENT COORDINATOR: James Boyle, (512) 239-2527; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: AUSTIN WOOD RECYCLING LTD; DOCKET NUMBER: 2018-0685-WQ-E; IDENTIFIER: RN105388367; LOCATION: Austin, Travis County; TYPE OF FACILITY: wood recycling center; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of wastewater into or adjacent to water in the state; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: Farhaud Abbaszadeh, (512) 239-0779; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(4) COMPANY: BLUEBONNET YOUTH RANCH; DOCKET NUMBER: 2018-0700-PWS-E; IDENTIFIER: RN101280832; LOCATION: Yoakum, Dewitt County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j)(1)(A) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the executive director and receive approval prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; 30 TAC §290.43(d)(2), by failing to provide the facility's pressure tank with a pressure release device; 30 TAC §290.45(b)(1)(A)(ii) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 50 gallons per connection; and 30 TAC §290.121(a) and (b), by failing to 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 public water system will use to comply with the monitoring requirements; PENALTY: \$1,130; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(5) COMPANY: City of Grapevine; DOCKET NUMBER: 2018-0942-WQ-E; IDENTIFIER: RN110399391; LOCATION: Grapevine, Tarrant County; TYPE OF FACILITY: construction site; RULE VIOLATED: TWC, §26.121(a)(2), by failing to prevent an unauthorized discharge of other waste into or adjacent to any water in the state; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Claudia Corrales, (432) 620-6138; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: City of Mart; DOCKET NUMBER: 2018-0681-PWS-E; IDENTIFIER: RN101388544; LOCATION: Mart, McLennan County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.112(e)(1) and (f)(2) and §290.122(c)(2)(A) and (f), by failing to submit a Total Organic Carbon Monthly Operating Report (TOCMOR) with the required total organic carbon and alkalinity sampling data to the executive director (ED) by the tenth day of the month following the end of the reporting period during

the fourth quarter of 2016 through the fourth quarter of 2017, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a TOCMOR for the fourth quarter of 2016; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a TOCMOR for the first quarter of 2016, failing to submit a Surface Water Monthly Operating Report for the months of November 2016 and January 2017, and failing to collect lead and copper tap samples for the January 1, 2016 - December 31, 2016, monitoring period; PENALTY: \$2,011; ENFORCEMENT COORDINATOR: Ross Luedtke, (512) 239-3157; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: City of Moulton; DOCKET NUMBER: 2018-0921-PWS-E; IDENTIFIER: RN101391787; LOCATION: Moulton, Lavaca County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(e)(2), by failing to conduct an operation evaluation and submit a written operation evaluation report to the executive director (ED) within 90 days after being notified of analytical results that caused an exceedance during the fourth quarter of 2017; and 30 TAC §290.115(f)(1) and §290.122(b)(2)(A) and (f), and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average, and failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to comply during the first quarter of 2018; PENALTY: \$584; ENFORCEMENT COORDINATOR: Ross Luedtke, (512) 239-3157; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(8) COMPANY: City of Port Lavaca; DOCKET NUMBER: 2017-0415-MWD-E; IDENTIFIER: RN101612893; LOCATION: Port Lavaca, Calhoun County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010251001, Monitoring and Reporting Requirements Number 7.c, by failing to submit a noncompliance notification, for any effluent violation which deviates from the permitted limitation by more than 40%, in writing to the TCEQ Corpus Christi Regional Office and the TCEQ Enforcement Division within five working days of becoming aware of the non-compliance; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0010251001, Operational Requirements Number 1, by failing to properly operate and maintain the facility and all of its systems of collection, treatment, and disposal; and 30 TAC §305.125(1) and (17) and TPDES Permit Number WQ0010251001, Sludge Provisions, by failing to submit the annual sludge report for the monitoring period ending July 31, 2016, to the TCEQ Corpus Christi Regional Office and the TCEQ Enforcement Division by September 30, 2016; PENALTY: \$19,180; Supplemental Environmental Project offset amount: \$15,344; ENFORCEMENT COORDINATOR: Farhaud Abbaszadeh, (512) 239-0779; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(9) COMPANY: Collective Hotels and Retreats, Incorporated; DOCKET NUMBER: 2018-0598-EAQ-E; IDENTIFIER: RN110094190; LOCATION: Wimberly, Hays County; TYPE OF FACILITY: retreat; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(10) COMPANY: D-BAR-B WATER-WASTEWATER SUPPLY CORPORATION; DOCKET NUMBER: 2018-0079-PWS-E; IDENTIFIER: RN101441293; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(c)(1), by failing to provide minimum treatment equipment consisting of coagulation with direct filtration and adequate disinfection for the groundwater under the influence of surface water (GUI) system; 30 TAC §290.111(a)(2) and (h), by failing to submit Surface Water Monthly Operating Reports for the GUI system for the months of June 2017 - October 2017; and 30 TAC §290.111(c)(3)(B) and §290.122(b)(2)(A) and (f), by failing to meet minimum treatment technique requirements for the GUI system before the water reaches the entry point to the distribution system for the months of June 2017 - October 2017, and failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the executive director regarding the failure to meet minimum treatment requirements; PENALTY: \$1,863; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: Fort Clark Springs Association, Incorporated; DOCKET NUMBER: 2018-0757-MSW-E; IDENTIFIER: RN102336302; LOCATION: Brackettville, Kinney County; TYPE OF FACILITY: type 1 - arid exempt landfill; RULES VIOLATED: 30 TAC §30.213(a) and §330.121(a), and Municipal Solid Waste (MSW) Permit Number 2354, Site Operating Plan, Personal Training Section, Table 5 - Job Positions, Descriptions, and Training Requirements, by failing to employ at least one licensed individual who supervises or manages the operations of a MSW facility; PENALTY: \$813; ENFORCEMENT COORDINATOR: Marla Waters, (512) 239-4712; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(12) COMPANY: Fresno Investments, Incorporated dba 3 WAY CORNER STORE; DOCKET NUMBER: 2018-0679-PST-E; IDENTIFIER: RN102475225; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(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); PENALTY: \$4,000; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(13) COMPANY: HMP 2243 LP; DOCKET NUMBER: 2018-0872-EAQ-E; IDENTIFIER: RN109461186; LOCATION: Georgetown, Williamson County; TYPE OF FACILITY: commercial project; RULES VIOLATED: 30 TAC §213.4(a)(1) and (k) and Water Pollution Abatement Plan (WPAP) Number 11000434, Standard Conditions, Number 6, by failing to obtain approval prior to conducting regulated activity outside the approved limits of construction and within a sensitive geologic buffer zone established under a WPAP; and 30 TAC §213.4(k) and §213.5(f)(1) and WPAP Number 11000434, Standard Conditions, Number 7, by failing to submit written notification of intent to commence construction no later than 48 hours prior to commencement of regulated activity; PENALTY: \$6,588; ENFORCEMENT COORDINATOR: Caleb Olson, (512) 239-2541; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(14) COMPANY: James Lake Midstream LLC; DOCKET NUMBER: 2018-0405-AIR-E; IDENTIFIER: RN107088759; LOCATION: Goldsmith, Ector County; TYPE OF FACILITY: oil and gas pro-

duction plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), and Federal Operating Permit (FOP) Number O3771/General Operating Permit (GOP) Number 514, Site-wide Requirements (b)(2) and (4)(F), by failing to submit an initial notification within 24 hours after the discovery of an emissions event; and 30 TAC §116.615(2) and §122.143(4), THSC, §382.085(b), Standard Permit Registration Number 116553, and FOP Number O3771/GOP Number 514, Site-wide Requirements (b)(2) and (9)(E)(ii), by failing to prevent unauthorized emissions; PENALTY: \$6,801; ENFORCEMENT COORDINATOR: Jo Hunsberger, (512) 239-1274; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(15) COMPANY: Kary Toomer; DOCKET NUMBER: 2018-1178-WOC-E; IDENTIFIER: RN106576465; LOCATION: The Colony, Denton County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(16) COMPANY: LOVE'S TRAVEL STOPS and COUNTRY STORES, INCORPORATED; DOCKET NUMBER: 2018-0581-PWS-E; IDENTIFIER: RN102452539; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.109(d)(4)(B) (formerly §290.109(c)(4)(B)), and §290.122(c)(2)(A) and (f), by failing to collect, within 24 hours of notification of the routine distribution total coliform-positive samples on June 28, 2016, July 27, 2016, June 29, 2017, July 30, 2017, and August 31, 2017, one raw groundwater source *Escherichia coli* (*E.coli*) (or other approved fecal indicator) sample from the active groundwater source in use at the time the distribution coliform-positive samples were collected, and failing to issue public notification and submit a copy of the public notification to the executive director regarding the failure to collect one groundwater source *E.coli* (or other approved fecal indicator) sample from an active groundwater source in use at the time the distribution coliform-positive sample was collected during the month of July 2016; PENALTY: \$924; ENFORCEMENT COORDINATOR: Soraya Bun, (512) 239-2695; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(17) COMPANY: LUCAS FOOD MART INCORPORATED; DOCKET NUMBER: 2018-0896-PST-E; IDENTIFIER: RN102353414; LOCATION: Lucas, Collin County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Tyler Gerhardt, (512) 239-2506; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Matthew W. Haynes; DOCKET NUMBER: 2018-0741-OSS-E; IDENTIFIER: RN104341235; LOCATION: Kountze, Hardin County; TYPE OF FACILITY: on-site sewage facility (OSSF); RULES VIOLATED: 30 TAC §285.61(4) and Texas Health and Safety Code, §366.051(c), by failing to ensure that authorization to construct has been obtained prior to beginning construction of an OSSF; PENALTY: \$461; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(19) COMPANY: Nerro Supply, LLC; DOCKET NUMBER: 2018-0887-PWS-E; IDENTIFIER: RN102677069; LOCATION: Bryan, Brazos County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(ii) and Texas Health

and Safety Code, §341.0315(c), by failing to provide a minimum total storage capacity of 200 gallons per connection; PENALTY: \$150; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(20) COMPANY: Nerro Supply, LLC dba Apache Hills; DOCKET NUMBER: 2018-0858-PWS-E; IDENTIFIER: RN102686706; LOCATION: Somerville, Burleson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute per connection; and 30 TAC §290.45(b)(1)(C)(ii) and THSC, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; PENALTY: \$300; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(21) COMPANY: ORANGEFIELD WATER SUPPLY CORPORATION; DOCKET NUMBER: 2018-0881-PWS-E; IDENTIFIER: RN101222818; LOCATION: Orangefield, Orange County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(f)(3)(A), by failing to submit a recommendation to the executive director (ED) for optimal corrosion control treatment within six months following the end of the January 1, 2017 - December 31, 2017, monitoring period, during which the lead action level was exceeded; 30 TAC §290.117(g)(2)(A), by failing to submit a recommendation to the ED for source water treatment within 180 days following the end of the January 1, 2017 - December 31, 2017, monitoring period, during which the lead action level was exceeded; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of each public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to collect lead and copper tap samples for the January 1, 2012 - December 31, 2014, and January 1, 2016 - December 31, 2016, monitoring periods, and failing to conduct triggered source monitoring in April 2015; PENALTY: \$817; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(22) COMPANY: Owens Corning Insulating Systems, LLC; DOCKET NUMBER: 2017-1451-AIR-E; IDENTIFIER: RN100223585; LOCATION: Waxahachie, Ellis County; TYPE OF FACILITY: insulation manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Texas Health and Safety Code, §382.085(b), New Source Review Permit Number 6093, Special Conditions Number 1, and Federal Operating Permit Number O1094, General Terms and Conditions and Special Terms and Conditions Number 8, by failing to prevent unauthorized emissions; PENALTY: \$15,000; ENFORCEMENT COORDINATOR: Shelby Orme, (512) 239-1001; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(23) COMPANY: Phelps and Son Cabinets Incorporated; DOCKET NUMBER: 2018-1212-MLM-E; IDENTIFIER: RN110232113; LOCATION: Whitesboro, Grayson County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §111.201, by failing to not cause, suffer, allow or permit any outdoor burning within the State of Texas, except as provided by 30 TAC Chapter 111, Subchapter B, or by orders or permits of the commission; and 30 TAC §330.15(c), by failing to not cause, suffer, allow, or permit the dumping or disposal of municipal solid waste without the written authorization of the commission; PENALTY: \$1,750; ENFORCEMENT COORDINATOR: Huan Nguyen, (512) 239-1661; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(24) COMPANY: REALTEX VENTURES, LP; DOCKET NUMBER: 2018-0245-EAQ-E; IDENTIFIER: RN105658223; LOCATION: Austin, Travis County; TYPE OF FACILITY: daycare center; RULES VIOLATED: 30 TAC §213.4(g) and Water Pollution Abatement Plan (WPAP) Number 11-08120102, Standard Condition Number 4, by failing to submit proof of recordation of notice in the county deed records to the TCEQ Austin Regional Office within 60 days of receiving written WPAP approval; 30 TAC §213.4(j) and WPAP Number 11-08120102, Standard Condition Number 6, by failing to receive approval of a WPAP modification before commencing construction of a regulated activity; and 30 TAC §213.5(b)(4)(D)(ii)(II) and WPAP Number 11-08120102, Standard Condition Number 18, by failing to submit the certification letter from a Texas Licensed Professional Engineer that the permanent best management practices were constructed and function as designed to the TCEQ Austin Regional Office within 30 days of site completion; PENALTY: \$15,000; ENFORCEMENT COORDINATOR: Caleb Olson, (512) 239-2541; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(25) COMPANY: San Patricio County Municipal Utility District Number 1; DOCKET NUMBER: 2018-0436-PWS-E; IDENTIFIER: RN106898067; LOCATION: Edroy, San Patricio County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §§290.46(f)(4), 290.106(e), and 290.122(c)(2)(A) and (f), by failing to report the results of asbestos sampling to the executive director (ED) for the January 1, 2014 - December 31, 2014, monitoring period, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to report the results of asbestos sampling for the January 1, 2014 - December 31, 2014, monitoring period; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the ED by the tenth day of the month following the end of the quarter for the second and third quarters of 2017; 30 TAC §290.117(c)(2)(C), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2015 - December 31, 2017, monitoring period; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit DLQORs for the second and fourth quarters of 2016; and 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, and failing to submit to the TCEQ by July 1st for each year, a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility, and that the information in the CCR is correct and consistent with compliance monitoring data for calendar years 2015 and 2016; PENALTY: \$565; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

TRD-201804054

Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: September 18, 2018



Enforcement Orders

An agreed order was adopted regarding JVickers Enterprises LLC dba Country Boys, Docket No. 2016-0892-PST-E on September 18, 2018, assessing \$3,504 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 PEDERNALES ELECTRIC COOPERATIVE, INC. dba PEC Cedar Park District Office, Docket No. 2017-1739-PST-E on September 18, 2018, assessing \$4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Logan Harrell, 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 Boy Scouts of America, Alamo Area Council, Inc., Docket No. 2018-0137-PWS-E on September 18, 2018, assessing \$50 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201804066

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 18, 2018



Enforcement Orders

An agreed order was adopted regarding City of Anton, Docket No. 2014-1208-MLM-E on September 19, 2018, assessing \$9,675 in administrative penalties with \$1,935 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Thomas A. Brown, Sr., Docket No. 2016-0736-LII-E on September 19, 2018, assessing \$936 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Logan Harrell, 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 Nalco Company LLC, Docket No. 2016-1282-AIR-E on September 19, 2018, assessing \$8,663 in administrative penalties with \$1,732 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 Southwest Convenience Stores, LLC dba 7 Eleven 57410, dba 7 Eleven 57411, and dba 7 Eleven 57413, Docket No. 2016-1772-PST-E on September 19, 2018, assessing \$49,929 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of La Grange, Docket No. 2016-1851-PWS-E on September 19, 2018, assessing \$360 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, 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 Exxon Mobil Corporation, Docket No. 2016-1858-AIR-E on September 19, 2018, assessing \$50,000 in administrative penalties. 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 Mobile Crushing & Screening, Inc., Docket No. 2016-1975-AIR-E on September 19, 2018, assessing \$12,812 in administrative penalties with \$2,562 deferred. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding William Brent Davis dba Cypresswood Estates, Docket No. 2016-2052-PWS-E on September 19, 2018, assessing \$3,316 in administrative penalties. 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 Reyes Cantu dba Mi Taco Village and Ernesto Cantu dba Mi Taco Village, Docket No. 2016-2115-PWS-E on September 19, 2018, assessing \$550 in administrative penalties. 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 Gulfwest Waste Solutions, LLC, Docket No. 2016-2119-MLM-E on September 19, 2018, assessing \$26,056 in administrative penalties with \$5,211 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ALLSUP PETROLEUM, INC. dba Allsup 242, Docket No. 2017-0038-PST-E on September 19, 2018, assessing \$9,813 in administrative penalties with \$1,962 deferred. Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Michele Audrey Shackelford dba Shelcon Services, Docket No. 2017-0159-MLM-E on September 19, 2018, assessing \$2,262 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Beaumont, Docket No. 2017-0406-PWS-E on September 19, 2018, assessing \$12,893 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2017-0520-MWD-E on September 19, 2018, assessing \$34,500 in administrative penalties with \$6,899 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding S. W. Johnson Construction Co., INC., Docket No. 2017-0532-WQ-E on September 19, 2018, assessing \$20,625 in administrative penalties with \$17,025 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 NAA ENTERPRISES INC. dba In & Out Express 3, Docket No. 2017-0584-PST-E on September 19, 2018, assessing \$11,076 in administrative penalties with \$2,215 deferred. Information concerning any aspect of this order may be obtained by contacting Jonathan Nguyen, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Department of Transportation, Docket No. 2017-0609-EAQ-E on September 19, 2018, assessing \$27,000 in administrative penalties with \$5,400 deferred. Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding E. I. du Pont de Nemours and Company, Docket No. 2017-0705-IHW-E on September 19, 2018, assessing \$14,725 in administrative penalties with \$2,945 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding D&A Recycling Center, LLC, Docket No. 2017-0807-MSW-E on September 19, 2018, assessing \$1,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chevron Phillips Chemical Company LP, Docket No. 2017-0855-AIR-E on September 19, 2018, assessing \$36,000 in administrative penalties. 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 Formosa Plastics Corporation, Texas, Docket No. 2017-0884-AIR-E on September 19, 2018, assessing \$20,126 in administrative penalties with \$4,025 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, 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 KELLEY'S USED AUTO PARTS, INC., Docket No. 2017-1001-MSW-E on September 19, 2018, assessing \$135,000 in administrative penalties with \$131,400 deferred. Information concerning any aspect of this order may be obtained by contacting Adam Taylor, 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 LyondellBasell Acetyls, LLC, Docket No. 2017-1075-AIR-E on September 19, 2018, assessing \$8,176 in administrative penalties with \$1,635 deferred. Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, 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. 2017-1078-AIR-E on September 19, 2018, assessing \$20,581 in administrative penalties with \$4,116 deferred. Information concerning any aspect of this order may be obtained by contacting

Carol McGrath, 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 Docket No. 2017-1198-PET on September 19, 2018, assessing \$0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alicia Ramirez, 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 Docket No. 2017-1199-PET on September 19, 2018, assessing \$0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alicia Ramirez, 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 Total Petrochemicals & Refining USA, Inc., Docket No. 2017-1234-AIR-E on September 19, 2018, assessing \$60,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chevron Phillips Chemical Company LP, Docket No. 2017-1328-AIR-E on September 19, 2018, assessing \$150,000 in administrative penalties with \$30,000 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, 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 Gary C. Aardal dba Pigeon Road Estates, Docket No. 2017-1573-PWS-E on September 19, 2018, assessing \$495 in administrative penalties with \$495 deferred. Information concerning any aspect of this order may be obtained by contacting Soraya Bun, 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 Stolthaven Houston, Inc., Docket No. 2017-1619-AIR-E on September 19, 2018, assessing \$6,825 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ryan C. Hoerauf, Inc., Docket No. 2017-1635-AIR-E on September 19, 2018, assessing \$9,000 in administrative penalties with \$1,800 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 City of Rio Hondo, Docket No. 2017-1681-PWS-E on September 19, 2018, assessing \$644 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding T.O.F.S., LLC, Docket No. 2017-1710-SLG-E on September 19, 2018, assessing \$7,993 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ENGLISH ENTERPRISES, LLC, Docket No. 2018-0007-PWS-E on September 19, 2018, assess-

ing \$1,040 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201804081

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 19, 2018



Notice of Correction to Agreed Order Number 24

In the March 2, 2018, issue of the *Texas Register* (43 TexReg 1293), the Texas Commission on Environmental Quality published notice of Agreed Orders, specifically Item Number 24, for R-1 Management, LLC. The error is as submitted by the commission.

The reference to penalty should be corrected to read: "\$603".

For questions concerning this error, please contact Michael Parrish at (512) 239-2548.

TRD-201804055

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 18, 2018



Notice of Public Meeting Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 152013

Application. Bosque Solutions LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 152013, which would authorize construction of a permanent concrete batch plant located at 7327 Gibson Cemetery Road, Mansfield, Tarrant County, Texas 76063. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.592818&lng=-97.203907&zoom=13&type=r>. The proposed facility will emit the following air contaminants: particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the administrative and technical reviews of the application and determined that the application meets all of the requirements of a standard permit authorized by 30 TAC §116.611, which would establish the conditions under which the plant must operate. The executive director has made a preliminary decision to issue the registration because it meets all applicable rules.

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:

Thursday, October 18, 2018, at 7:00 p.m.

Red's Roadhouse

1170 E. Kennedale Parkway

Kennedale, Texas 76060

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://www14.tceq.texas.gov/epic/eComment/>. 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 website at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas/Fort Worth regional office, and the Mansfield Public Library, 104 South Wisteria, Mansfield, Tarrant County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas. Visit www.tceq.texas.gov/goto/cbp to review the standard permit. Further information may also be obtained from Bosque Solutions LLC, P.O. Box 2101, Mansfield, Texas 76063-0020 or by calling Mr. Josh Butler, Project Manager, Elm Creek Environmental, LLC at (214) 334-6954.

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: September 14, 2018

TRD-201804067

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 18, 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 Sue Edwards at (512) 463-5800.

Deadline: Monthly Report due February 5, 2018, for Committees

Dennis Hatchett, Texas Southern University PAC, P.O. Box 27462, Houston, Texas 77227

Deadline: 8-Day Pre-Election Report due February 26, 2018, for Candidates and Officeholders

Cynthia Terry, 300 Throckmorton Ste. 500, Fort Worth, Texas 76102

Deadline: Semiannual Report due July 16, 2018, for Candidates and Officeholders

Matthew S. Beebe, 70 NE Loop 410, Ste. 755, San Antonio, Texas 78216

Nicole D. Collier, P.O. Box 24241, Fort Worth, Texas 76124

Christofer Dehart, 1004 Cross Bend Rd., Plano, Texas 75023

Christopher E. Dennis, 2030 Yale Dr., Levelland, Texas 79336-6724

Michelle M. Fraga, 4001 N. Shepherd #209, Houston, Texas 77018

Charles V. Lauersdorf, 1814 Clydesdale Ct., Rowlett, Texas 75088

David P. Martin, P.O. Box 831256, San Antonio, Texas 78283

Leif A. Olson, 4830 Wilson Rd., Ste. 300, PMB 188, Humble, Texas 77396-1972

Jennifer N. Ramos, 1730 E. Oltorf St. Apt. 401, Austin, Texas 78741

Angela M. Tucker, 2100 Bloomdale Rd., Ste. 10030, McKinney, Texas 75071-8318

Christopher L. Ward, 1530 Foppiano Loop, Round Rock, Texas 78665

TRD-201803989

Seana Willing

Executive Director

Texas Ethics Commission

Filed: September 13, 2018



General Land Office

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

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of September 10, 2018, through September 17, 2018. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, September 21, 2018. The public comment period for this project will close at 5:00 p.m. on Monday, October 22, 2018.

FEDERAL AGENCY ACTIONS:

Applicant: Ms. Janine Unruh

Location: Project is located on the shoreline of Salt Lake at 325 Copano Ridge Road in Rockport, Aransas County, Texas

Latitude and Longitude (NAD 83): 28.076085, -97.097391

Project Description: Applicant proposes to construct a bulkhead approximately 5 feet high by 28 feet long and place fill material within a 28-foot-wide by 80-foot-long existing boat ramp in Salt Lake. The ap-

plicant will place approximately 2,044 cubic yards (CY) of fill within the project area and approximately 125 CY of fill below the Annual High Tide Line (AHT).

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2018-00561. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

CMP Project No: 19-1009-F1

Applicant: Dagger Island Partners, Ltd.

Location: Project is located in wetlands adjacent to Redfish Bay, at the intersection of FM 1069 and FM 2725, approximately 3 miles southeast of Ingleside, San Patricio County, Texas.

Latitude and Longitude (NAD 83): 28.841198, -97.18486

Project Description: This request is for an amendment and extension of time (EOT) for a permit originally issued 21 October 2010, which authorized Corpus Development, LP, to construct a large marina complex on a 568-acre site that includes docks, launch ramps, dry stack storage of vessels, and a boat repair facility. The permit was transferred to Dagger Island Partners, Ltd., on August 15, 2018. No work has been performed under the existing permit prior to the request for this EOT, and it was determined that an updated wetland delineation would be necessary prior to continuation with this request. The updated delineation was received on August 6, 2018, and is currently under review for completion and accuracy. The permit authorized the use of a combination of hydraulic and mechanical dredging to excavate a total of 52 acres, which would include construction of a 40-acre marina complex and two access channels totaling an additional 12 acres. The bulkheaded marina complex would consist of three different groups of slips. The authorized overall dimension of the northernmost marina basin is 748 feet long by 415 feet wide and the southern basin is 791 feet long by 392 feet wide. The center semi-circle is 587 feet long by 386 feet wide. The marina complex would include 312 floating boat slips secured in place with pilings with double-floating docks. An additional 31 slips dedicated for vessels 40 to 50 feet in length would be constructed around the perimeter of the central basin area. The marina complex would be connected to the Gulf Intracoastal Waterway (GIWW) via hydraulic and mechanical excavation of two access channels approximately 1,700 feet and 1,550 feet long and have a 150-foot top width and approximate 100-foot bottom width. Articulated block concrete revetment would be placed along the side slopes of the authorized access channels. The excavation/dredging involves placement of approximately 1,000,000 cubic yards of material from excavation of the marina complex and access channels into confined on-site uplands to bring those areas to the appropriate elevation for construction. The marina and channel depths will range from -7 feet Mean Low Tide (MLT) (-9 feet Mean Lower Low Water (MLLW)) to -12 feet MLT (-14 feet MLLW) within the marina complex to -12 MLT (-14 feet MLLW) at the channels and intersection with the GIWW. Per the updated wetland delineation dated August 6, 2018, (under review), the authorized work would impact a total of 40.84 acres of jurisdictional waters within an updated 53.53-acre dredging footprint (from the originally permitted 52 acres), including wetlands and/or special aquatic sites. An additional 0.67 acre of impacts would occur from the placement of fill material outside of the dredge area footprint. The impacted areas within the dredge area footprint consist of 0.07 acre of low marsh habitat, 5.15 acres of sand/algal flats, 8.32 acres of high marsh habitat, 0.95 acre of vegetated flats, 25.78 acres of semi-permanently inundated shallow un-vegetated water habitat, and 0.57 acre of seagrass. An additional 12.69 acres of upland would be converted to open water within the dredge area footprint.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2006-01397. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA). Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 19-1010-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from Mr. Jesse Solis, P.O. Box 12873, Austin, Texas 78711-2873, or via email at federal.consistency@tceq.texas.gov. Comments should be sent to Mr. Solis at the above address or by email.

TRD-201804079

Mark A. Havens
Chief Clerk, Deputy Land Commissioner
General Land Office
Filed: September 19, 2018



Texas Department of Housing and Community Affairs

Announcement of a Request for Proposal from Firms Interested in Providing Financial Advisory Services for One or More of Its Single Family and Multifamily Mortgage Revenue Bond New Issues and/or Refundings

The Texas Department of Housing and Community Affairs ("TDHCA") is issuing a request for proposal (RFP) from firms interested in providing financial advisory services for one or more of its single family and multifamily mortgage revenue bond new issues and/or refundings requested.

Responses to the RFP must be received at TDHCA no later than 2:00 p.m. CDT on Friday, October 19, 2018. To obtain a copy of the RFP, please email your request to the attention of Julie Dumbleck at julie.dumbleck@tdhca.state.tx.us or visit the Bond Finance Division web page at www.tdhca.state.tx.us.

TRD-201804072

Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Filed: September 19, 2018



Texas Department of Insurance

Company Licensing

Application for incorporation in the state of Texas by INSURANCE OF AMERICA COMPANY, a domestic fire and/or casualty company. The home office is in Dallas, Texas.

Application for incorporation in the state of Texas by SERVICE LLOYDS INSURANCE COMPANY, A STOCK COMPANY, a domestic fire and/or casualty company. The home office is in Austin, Texas.

Application for incorporation in the state of Texas by DEVOTED HEALTH PLAN OF TEXAS, INC., a domestic Health Maintenance Organization. The home office is in The Woodlands, Texas.

Application to do business in the state of Texas by AMERICAN INTEGRITY LIFE INSURANCE COMPANY, a foreign life, accident and/or health company. The home office is in Hot Springs, Arkansas.

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-201804082

Norma Garcia
General Counsel
Texas Department of Insurance
Filed: September 19, 2018



Notice

Notice of Annual Proposed Adjustments to Maximum Liability Limits Filing

Texas Windstorm Insurance Association

Description:

The Texas Windstorm Insurance Association (TWIA) made its annual filing for proposed adjustments to its maximum liability limits on August 8, 2018. The filing is for proposed adjustments on policies covering residential dwellings and individually owned townhouses and associated contents; contents of apartments, condominiums or townhouses; and commercial structures and associated contents, effective January 1, 2019, for new and renewal policies. **This filing is not a rate filing.**

By statute, the proposed adjustments are subject to review by the Commissioner of Insurance. Texas Insurance Code Section 2210.504 requires the Commissioner to approve, disapprove, or modify TWIA's proposed adjustments to the maximum liability limits.

The Commissioner will consider written and oral comments on the filing in a public hearing under Docket No. 2810 at 9:30 a.m., Central Time, on October 8, 2018, in Room 100 of the William P. Hobby Jr. State Office Building, Room 100, 333 Guadalupe Street, Austin, Texas 78701.

How to review, request copies, and comment:

To **review** or get copies of TWIA's proposed adjustments to its maximum liability limits filing:

--**Online:** Go to www.tdi.texas.gov/submissions/index-twia.html#limit.

--**In person:** You can review the filing at the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701 during regular business hours.

--**By mail:** Write to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

To **comment** on the filing, send written comments to ChiefClerk@tdi.texas.gov or by mail to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Hand delivered comments must be directed to the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701 during regular business hours. Comments may also be submitted at the public hearing. Your comments must be received by the close of the hearing on October 8, 2018.

TRD-201804080



Proposed Fiscal Year 2019 Research Agenda

Workers' Compensation Research and Evaluation Group

Labor Code §405.0026 requires the commissioner of insurance to adopt an annual research agenda for the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance (TDI). Labor Code §405.0025 requires the REG to conduct professional studies and research related to the delivery of benefits; litigation and controversy related to workers' compensation; insurance rates and ratemaking procedures; rehabilitation and reemployment of injured employees; the quality and cost of medical benefits; employer participation in the workers' compensation system; employment health and safety issues; and other matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system. Insurance Code §1305.502 requires the REG to develop and issue an annual informational report card that identifies and compares, on an objective basis, the quality, costs, health care provider availability, and other analogous factors of the workers' compensation system of this state with each other and with medical care provided outside of networks.

Labor Code §405.0026 requires the REG to prepare and publish annually in the *Texas Register* a proposed workers' compensation research agenda for the commissioner's review and approval.

On January 9, 2017, the commissioner of insurance delegated the functions of the REG to the commissioner of workers' compensation.

In August 2018, the REG posted on the TDI website an informal request for stakeholders and the public to provide input on a suggested fiscal year 2019 research agenda. The REG also requested input from legislative offices. The REG uses the following criteria to evaluate responses:

Is the proposed research project required by statute or likely to be part of an upcoming legislative review?

Will the results of the proposed research project address the informational needs of multiple stakeholder groups and legislative committees?

Is there available data to complete the project or can data be obtained easily and economically to complete the project?

Does the REG have the resources to complete the project during fiscal year 2018?

This year, the REG received no responses to its informal request for input. Based on the responses received and the criteria outlined above, the REG proposes the following research projects for the fiscal year 2019 research agenda:

Completion and publication of the thirteenth edition of the Workers' Compensation Health Care Network Report Card (required in 2019 under Insurance Code §1305.502(a)-(d) and Labor Code §405.0025(b)).

An update of return-to-work outcomes for injured employees in the Texas workers' compensation system (Labor Code §405.0025(a)(4)).

An annual update of medical costs and utilization in the Texas workers' compensation system, including an analysis on the impact of the Texas pharmacy closed formulary on compounded drugs (Labor Code §405.0025(a)(5)).

A baseline evaluation of medical services provided through telemedicine in the Texas workers' compensation system, including

medical utilization and costs of Medicare-approved services (Labor Code §405.0025(a)(5)).

The REG will consider expanding the scope of listed projects or conducting additional projects to accommodate stakeholder suggestions, subject to resource and data availability.

REQUEST FOR PUBLIC COMMENT OR PUBLIC HEARING

If you wish to comment on the proposed fiscal year 2019 research agenda or request a public hearing, you must do so in writing no later than 5 p.m. CST on Monday, October 29, 2018. A hearing request must be on a separate page from any written comments. The Texas Department of Insurance, Division of Workers' Compensation, requires two copies of your comments or hearing request. Send one copy by mail to Ashley Hyten, Office of General Counsel MS - 4D, Texas Department of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645 or by email to rulecomments@tdi.texas.gov. Send the other copy by mail to D.C. Campbell, Director of the Workers' Compensation Research and Evaluation Group, Texas Department of Insurance, Mail Code 107-WC, P.O. Box 149104, Austin, Texas 78714-9104 or by email to wcresearch@tdi.texas.gov. If the commissioner holds a hearing, the commissioner will also consider written and oral comments presented at the hearing.

Please visit the TDI website at www.tdi.texas.gov for copies of the proposed research agenda. You may send any questions you have regarding the proposed agenda to D.C. Campbell at wcresearch@tdi.texas.gov.

TRD-201804004

Nicholas Canaday III

General Counsel

Texas Department of Insurance

Filed: September 17, 2018



Texas Department of Licensing and Regulation

Notice of Vacancies on the Texas Water Well Drillers Advisory Council

The Texas Department of Licensing and Regulation (Department) announces two (2) vacancies on the Texas Water Well Drillers Advisory Council (Council) established by the Texas Occupations Code, Chapter 1901. The pertinent rules may be found in 16 TAC §76.65. The purpose of the Council is to advise the Texas Commission of Licensing and Regulation (Commission) on the contents of the licensing examination, the evaluation and recommendation of standards for continuing education programs, and rules for adoption by the Commission relating to the regulation of drillers registered under this chapter. **This announcement is for two public members.**

The Council is composed of nine members appointed by the presiding officer of the Commission, with the approval of the Commission. The Council consists of the following:

(1) Six licensed drillers who are residents of this state. One driller shall be selected from the state at large and one of each of the remaining five drillers shall be selected from the:

Gulf Coast,

Trans-Pecos,

Central Texas,

Northeast Texas, and

Panhandle-South Plains areas.

(2) Three members must be representatives of the public.

A person is not eligible for public membership if the person or the person's spouse is licensed by an occupational regulatory agency in the field of well drilling, or is employed by, participates in the management of, or has, other than as a consumer, a financial interest in a business entity or other organization related to the field of well drilling.

Members serve staggered six-year terms expiring September 15.

Interested persons should submit an application on the Department website at: <https://www.tdlr.texas.gov/AdvisoryBoard/login.aspx>. Applicants can also request an application from the Department by telephone (800) 803-9202 or email advisory.boards@tdlr.texas.gov. **This is not a paid position and there is no compensation or reimbursement for serving on the Council.**

TRD-201804068

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Filed: September 18, 2018



Public Utility Commission of Texas

Notice of Application for a Service Provider Certificate of Operating Authority

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on September 12, 2018, in accordance with Public Utility Regulatory Act §§54.151 - 54.156.

Docket Title and Number: Application of Mexcap LLC for a Service Provider Certificate of Operating Authority, Docket Number 48682.

Applicant seeks to provide facilities-based, data, and resale telecommunications services throughout the state of Texas.

Persons wishing to comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477 no later than October 5, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48682.

TRD-201803995

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: September 13, 2018



Notice of Application for Amendment to Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on September 12, 2018, for an amendment to a certificate of convenience and necessity (CCN) for a proposed transmission line in Brazoria, Matagorda, and Wharton Counties.

Docket Style and Number: Application of CenterPoint Energy Houston Electric, LLC to Amend a Certificate of Convenience and Necessity for a 345-kV Transmission Line in Brazoria, Matagorda, and Wharton Counties, Docket Number 48629.

The Application: CenterPoint Energy Houston Electric, LLC (CEHE) filed an application for approval to construct a new 345-kilovolt (kV) double-circuit transmission line located in Brazoria, Matagorda, and

Wharton Counties. The new transmission line will connect Bailey substation in Wharton County and Jones Creek substation in Brazoria County. The transmission line will be double-circuit lattice steel towers within a typical right-of-way approximately 100 feet wide. CEHE presented 30 alternative routes with miles of right-of-way ranging from approximately 53.9 to 84.3 miles. The estimated costs for the project range from approximately \$481,720,000 to \$695,201,000, depending on the route selected by the Commission. The Commission may approve any of the routes or route segments presented in the application.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477. The deadline for intervention in this proceeding is October 29, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48629.

TRD-201804062

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: September 18, 2018



Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on September 12, 2018, in accordance with the Texas Water Code.

Docket Style and Number: Application of Bluebonnet Hills Water Supply Corporation and the City of Cresson for the Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County, Docket Number 48680.

The Application: Bluebonnet Hills Water Supply Corporation is seeking to sell its water certificate of convenience and necessity number 12290 and transfer facilities to the City of Cresson. The transfer includes 164 current customers.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48680.

TRD-201804003

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: September 17, 2018



Notice of Petition of the Electric Reliability Council of Texas, Inc. for Approval of Amendments to Articles of Incorporation and Amended and Restated Bylaws

On September 11, 2018, the Electric Reliability Council of Texas, Inc. (ERCOT) filed with the Public Utility Commission of Texas (commis-

sion) a petition seeking approval of amendments to Articles of Incorporation and amended and restated Bylaws.

Docket Style and Number: Petition of the Electric Reliability Council of Texas, Inc. for Approval of Amendments to Articles of Incorporation and Amended and Restated Bylaws, Docket Number 48677.

The Application: ERCOT filed a petition seeking approval of amendments to Articles of Incorporation which reflect changes to: Article 6, which identifies PURA §39.151 as to the source for the composition of the ERCOT Board of Directors; Article 8, which identifies the commission rules that govern the distribution of assets and the winding up of business if ERCOT is decertified as an independent organization, and Article 11, relating to the limitation of liability for directors. The Bylaws amendment update Section 3.3, the definition of affiliate and clarify the process for determining affiliate status, clarifies the definition of "Officer," and updates legal code references and correct scrivener's errors.

Interested parties may access ERCOT's petition through the commission's web site at <http://www.puc.texas.gov> under Docket Number 48677.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission at P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48677.

TRD-201804078
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 19, 2018

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Texas Department of Transportation

Aviation Division - Request for Qualifications for Professional Engineering Services

The City of Grand Prairie, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for 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: City of Grand Prairie; TxDOT CSJ No.: 1802GNDPR.

The TxDOT Project Manager is Paul Slusser.

Scope: Provide engineering and design services, including construction administration, to:

1. Widen hangar access taxilane for standards;
2. Extend taxiway alpha south to connect to RWY 35 threshold;
3. Construct aircraft hold bay and run-up area at south end of runway; and
4. Engineering only for expansion of aircraft parking apron in infield area.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement,

disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 11%. The goal will be re-set for the construction phase.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Grand Prairie Municipal Airport may include the following:

Extend hangar access taxilane south on east side of airport; reconstruct and widen service access road east side of hangars; repair/replace fence on west/northwest side of airport; expand aircraft parking area in infield area; rehabilitate and mark Runway 17/35; rehabilitate and mark parallel taxiway; and rehabilitate and mark cross taxiways.

The City of Grand Prairie 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.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "Grand Prairie Municipal 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.

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 October 23, 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 local government representatives. 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 Paul Slusser, 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.

TRD-201803999

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: September 14, 2018



Aviation Division - Request for Qualifications for Professional Engineering Services

San Patricio County, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for 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: San Patricio County; TxDOT CSJ No.: 19HGIN-GL. The TxDOT Project Manager is Stephanie Kleiber, P.E.

Scope: Provide engineering and design services, including construction administration, to construct five (5) box hangars with pavement connection to existing taxilane.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 9%. The goal will be re-set for the construction phase.

To assist in your qualification statement preparation, the criteria, project diagram, and most recent Airport Layout Plan are available on-

line at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "San Patricio County." 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.

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 October 23, 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 local government representatives. 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 Sheri Quinlan, Grant Manager. For technical questions, please contact Stephanie Kleiber, 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.

TRD-201804030
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: September 17, 2018



Aviation Division - Request for Qualifications for Professional Engineering Services

Cochran County, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for 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: Cochran County; TxDOT CSJ No.: 1805MRTON. The TxDOT Project Manager is Paul Slusser.

Scope: Provide engineering and design services, including construction administration, to:

Rehabilitate Runway 4-22 and 17-35;

Rehabilitate taxiway to runway 4-22 and 17-35;

Rehabilitate apron; and

Install Portland Cement Concrete drainage swale on apron.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 0%. The goal will be re-set for the construction phase.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Cochran County Airport may include runway lighting rehabilitation.

Cochran 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.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "Cochran County 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.

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 October 23, 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 local government representatives. 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 Anna Ramirez, Grant Manager. For technical questions, please contact Paul Slusser, 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.

TRD-201804073

Jack Ingram

Associate General Counsel

Texas Department of Transportation

Filed: September 19, 2018



Workforce Solutions Brazos Valley Board

Public Notice Vendor List

Invitation to Apply to Be on Vendor List

The Workforce Solution Brazos Valley Board (WSBVB) routinely issues requests for information (RFIs), requests for proposals (RFPs),

and request for quotes (RFQs) to secure contractors to provide operational, administrative, child care, adult education, and workforce development services for the Brazos Valley region.

The WSBVB maintains a Vendor List of all potential vendors who have contacted the WSBVB and requested to be included on the list. The vendors receive notice of any request for proposals released where they have indicated an interest in the topic. Our RFPs are also listed on the *Texas Register* so it is not required that you be on our Vendor List to submit a proposal.

The WSBVB is committed to improving the workforce development system in the seven county region (Brazos, Burleson, Grimes, Leon, Madison, Robertson, and Washington counties) by increasing the availability and quality of workforce programs and services.

If you are on the Vendor List, you will be contacted once a year to ensure your contact information is accurate and return an updated application. If you do not respond to the yearly contact, you will be dropped from the Vendor List.

If you wish to be included on the Vendor List, complete the Vendor Application on www.bvjobs.org and return it to **Vicki Wilkins** by mail to Workforce Solutions Brazos Valley Board, P.O. Drawer 4128, Bryan, Texas 77805-4128, or hand deliver to Workforce Solutions Brazos Valley, 3991 E 29th Street, Bryan, Texas 77802, or email to **Vicki.Wilkins@bvcog.org**, or fax to (979) 595-2810.

The following vendor categories are included on the questionnaire:

--Direct Delivery of Services

(AEL Operations and Management, Child Care Operations and Management, Professional Employment Services, Rapid Response, Vocational Rehabilitation Employment Services Provider, Workforce Center Operations and Management, and Youth Services)

--Training

--Quality Control Measures

(EEO/ADA Compliance, Fiscal, programmatic Monitoring for Workforce, Child Care, AEL and/or Vocational Rehabilitation)

--Marketing/Outreach Services

(Media/Social Media)

--Supportive Services

(Uniforms, Tools, Books, Child Care Supplies such as toys, furniture, sunshades etc.)

--Vendor Services

(Accounting / Banking Services, ADA Equipment, Grant Reader/Writing, Legal Services, Paperless Services/Software, Planner, Procurement Specialist)

Additional questions should be directed to **Vicki Wilkins** at (979) 595-2801, extension 2011.

*To bid on a RFP/RFQ you are not required to be on the Vendors List. The list serves as a way to provide vendors a personal alert to new and upcoming RFI/RFP/RFQ releases.

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Relay Texas: (800) 735-2989 (TTY) and 711 (Voice) and (979) 595-2180.

Equal opportunity is the law.

TRD-201804063

Vonda Morrison

Program Manager

Workforce Solutions Brazos Valley Board

Filed: September 18, 2018



How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "43 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 43 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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