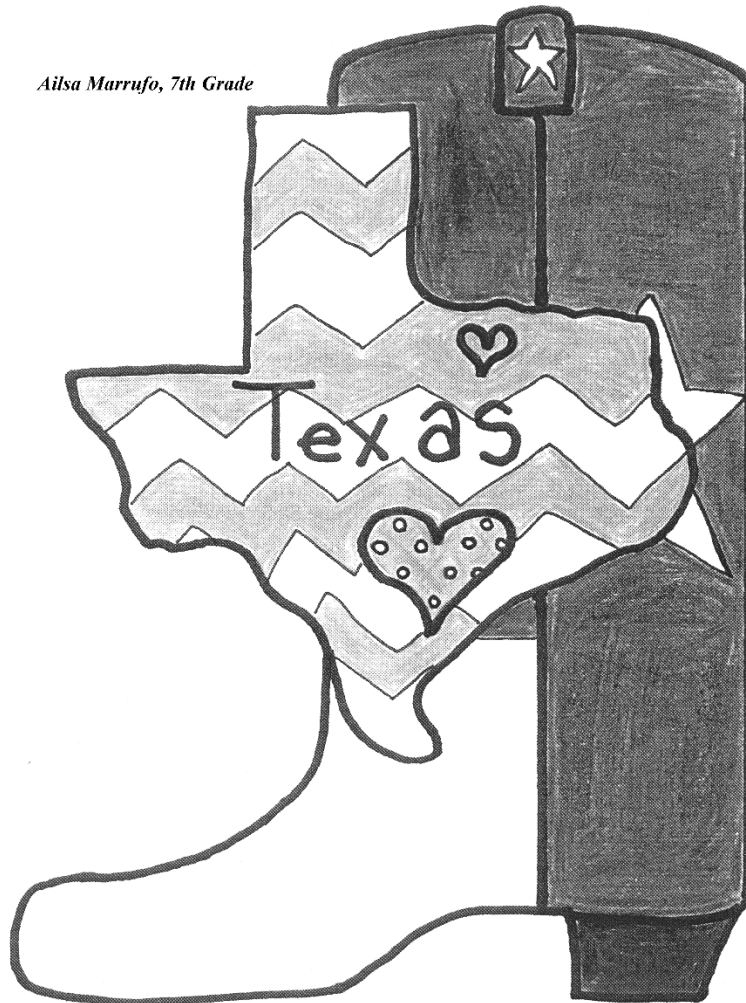

TEXAS REGISTER

Volume 44 Number 11

March 15, 2019

Pages 1411 - 1484

Ailsa Marrufo, 7th 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 \$340.00 (\$502.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P O Box 1710, Latham, NY 12110.

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

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

POSTMASTER: Send address changes to the *Texas Register*, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

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

<http://www.sos.state.tx.us>
register@sos.texas.gov

Secretary of State – David Whitley

Director - Robert Summers

Staff

Lauri Caperton
Cristina Jaime
Belinda Kirk
Jill S. Ledbetter
Cecilia Mena
Joy L. Morgan
Breanna Mutschler
Andrea Reyes
Barbara Strickland

IN THIS ISSUE

GOVERNOR

Proclamation 41-3622.....1415

ATTORNEY GENERAL

Opinions.....1417

TEXAS ETHICS COMMISSION

Advisory Opinion Request/Question.....1419

PROPOSED RULES

STATE BOARD FOR EDUCATOR CERTIFICATION

CLASSROOM TEACHER CERTIFICATION STANDARDS

19 TAC §235.115.....1421

CERTIFICATION AS PRINCIPAL

19 TAC §241.41.....1424

DEPARTMENT OF STATE HEALTH SERVICES

MENTAL HEALTH COMMUNITY-BASED SERVICES

25 TAC §§416.51 - 416.58.....1426

HEALTH AND HUMAN SERVICES COMMISSION

MENTAL HEALTH COMMUNITY-BASED SERVICES

26 TAC §§307.51 - 307.57.....1427

TEXAS FORENSIC SCIENCE COMMISSION

DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

37 TAC §651.217.....1431

WITHDRAWN RULES

TEXAS DEPARTMENT OF AGRICULTURE

TEXAS OFFICE OF PRODUCE SAFETY

4 TAC §§11.1 - 11.4.....1435

4 TAC §§11.20 - 11.23.....1435

4 TAC §§11.40 - 11.43.....1435

TEXAS DEPARTMENT OF LICENSING AND REGULATION

REGISTRATION OF PROPERTY TAX CONSULTANTS

16 TAC §§66.10, 66.20, 66.21, 66.25, 66.70, 66.80.....1435

ADOPTED RULES

TEXAS DEPARTMENT OF AGRICULTURE

PESTICIDES

4 TAC §7.30.....1437

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

TALKING BOOK PROGRAM

13 TAC §§9.1 - 9.4, 9.7, 9.8, 9.11.....1437

RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

16 TAC §3.37, §3.38.....1438

STATE BOARD OF DENTAL EXAMINERS

DENTAL LICENSURE

22 TAC §101.11.....1438

DENTAL BOARD PROCEDURES

22 TAC §107.206.....1439

SEDATION AND ANESTHESIA

22 TAC §110.13.....1440

22 TAC §110.14.....1441

22 TAC §110.15.....1442

TEXAS DEPARTMENT OF INSURANCE

PROPERTY AND CASUALTY INSURANCE

28 TAC §5.4021.....1443

TEXAS WATER DEVELOPMENT BOARD

DRINKING WATER STATE REVOLVING FUND

31 TAC §371.2.....1445

31 TAC §371.14.....1445

31 TAC §371.70, §371.71.....1445

31 TAC §371.85.....1445

CLEAN WATER STATE REVOLVING FUND

31 TAC §375.15, §375.18.....1447

31 TAC §375.91, §375.92.....1447

31 TAC §375.106.....1447

TEXAS DEPARTMENT OF TRANSPORTATION

ENVIRONMENTAL REVIEW OF TRANSPORTATION PROJECTS

43 TAC §§2.301 - 2.308.....1448

43 TAC §§2.301 - 2.308.....1448

RULE REVIEW

Proposed Rule Reviews

Credit Union Department.....1449

State Board for Educator Certification.....1449

Texas Commission on Environmental Quality.....1449

Texas State Library and Archives Commission.....1451

TABLES AND GRAPHICS

.....1453

IN ADDITION

Central Texas Regional Mobility Authority

Notice of Availability of Request for Qualifications for the 183 North Mobility Project.....1455

Office of Consumer Credit Commissioner

Notice of Rate Ceilings.....1455

Texas State Board of Examiners of Professional Counselors

Correction of Error1455

Texas Education Agency

Notice of Correction: Request for Applications Concerning the 2019-2020 School Action Fund - Planning Grant Program.....1455

Notice of Correction: Request for Applications Concerning the 2019-2021 School Action Fund - Implementation Grant Program.....1456

Public Notice Announcing the Availability of the Proposed Texas Individuals with Disabilities Education Improvement Act of 2004 (IDEA) Eligibility Document: State Policies and Procedures.....1456

Texas Commission on Environmental Quality

Agreed Orders.....1456

Enforcement Orders.....1460

Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls: Proposed Air Quality Registration Number 155598.....1460

Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of R & K LLC dba Discount Self Serve 2: SOAH Docket No. 582-19-3136; TCEQ Docket No. 2018-0796-PST-E.....1461

Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Security AirPark, Incorporated: SOAH Docket No. 582-19-3135; TCEQ Docket No. 2017-1164-PST-E1462

Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Amendment Proposed Limited Scope Amendment to Permit No. 2382.....1463

Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit Limited Scope Amendment Permit No. 358B1464

Notice of Water Quality Application1464

Notice of Water Rights Application Notices Issued March 1, 2019 1465

General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program1465

Texas Health and Human Services Commission

Public Notice: Waiver Amendment of the Medically Dependent Children Program.....1467

Department of State Health Services

Order Removing Hemp, as Defined by the Agricultural Marketing Act of 1946, From Schedule I.....1467

Texas Department of Housing and Community Affairs

Notice of Public Hearing: Multifamily Housing Revenue Bonds (Lago de Plata Apartments).....1469

Notice of Public Hearing: Multifamily Housing Revenue Bonds (Northgate Village Apartments).....1470

Texas Department of Insurance

Notice of Hearing.....1470

Texas Lottery Commission

Scratch Ticket Game Number 2134 "\$500 Frenzy"1470

Scratch Ticket Game Number 2139 "Triple Play"1476

Texas State Board of Examiners of Marriage and Family Therapists

Correction of Error.....1480

North Central Texas Council of Governments

Industry Forum for Private Sector Carpooling Solutions for the North Texas (DFW) Region1481

Public Utility Commission of Texas

Request for Comments.....1481

University of Houston System

Notice of Procurement1482

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.

Proclamation 41-3622

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the January 4th, 2019, declination of office by Representative Justin Rodriguez has caused a vacancy to exist in Texas State House of Representatives District 125, which is wholly contained within Bexar County; and

WHEREAS, a special election to fill the vacancy in House District No. 125 was held on Tuesday, February 12, 2019, and the results of that special election have been officially declared; and

WHEREAS, no candidate in the special election received a majority of the votes cast, as required by Section 203.003 of the Texas Election Code; and

WHEREAS, Section 2.021 of the Texas Election Code requires that a runoff election be held if no candidate receives the votes necessary to be elected; and

WHEREAS, Section 203.013(e) of the Texas Election Code provides that the runoff election must be held on a Tuesday or Saturday not earlier than the 12th day or later than the 25th day after the date the special runoff election is ordered; and

WHEREAS, Section 3.003(a)(3) of the Texas Election Code requires the special runoff election to be ordered by proclamation of the governor;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State

of Texas, do hereby order a special runoff election to be held in Texas State House of Representatives District No. 125 on Tuesday, March 12, 2019, for the purpose of electing a state representative to serve out the remainder of the full term of office declined by Representative Justin Rodriguez.

Early voting by personal appearance shall begin on Monday, March 4, 2019, in accordance with Sections 85.001(a) and (c) of the Texas Election Code.

A copy of this order shall be mailed immediately to the Bexar County Judge which is the county within which Texas State House of Representative District No. 125 is wholly contained, and all appropriate writs shall be issued and all proper proceedings shall be followed to the end that said special runoff election may be held to fill the vacancy in Texas State House of Representative District No. 125 and its result proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 22nd day of February, 2019.

Greg Abbott, Governor

TRD-201900703





THE ATTORNEY GENERAL

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

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

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

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

Opinions

Opinion No. KP-0242

The Honorable David Whitley

Texas Secretary of State

Post Office Box 12697

Austin, Texas 78711-2697

Re: Whether the Secretary of State is the "returning officer" under article III, subsection 13(a) of the Texas Constitution, and, if not, which officer serves in that role in a single-county legislative district (RQ-0247-KP)

S U M M A R Y

Article III, subsection 13(a) of the Texas Constitution provides that when vacancies occur in the Legislature, the returning officer of the district in which such vacancy occurred possesses authority to order a special election if the Governor does not do so within a set time. Pursuant to section 67.007 of the Election Code, the county clerk prepares and submits election returns for a single-county legislative district and is therefore the returning officer for purposes of article III, subsection 13(a).

Opinion No. KP-0243

Sherif Zaafran, M.D.

President

Texas Medical Board

Post Office Box 2018

Austin, Texas 78768-2018

Re: Whether members of the Physician Health and Rehabilitation Advisory Committee are entitled to legal representation by the Office of the Attorney General and indemnification under the Civil Practice and Remedies Code (RQ-0248-KP)

S U M M A R Y

Members of the Physician Health and Rehabilitation Advisory Committee serve in an advisory capacity and thus are not public officers. Accordingly, a court would likely conclude that the members are not entitled to legal representation by the Office of the Attorney General and indemnification under Civil Practice and Remedies Code chapter 104.

Chapter 108 of the Civil Practice and Remedies Code establishes limits on the liability of public officials appointed to serve a governmental unit. Under rules of statutory construction, a court would likely conclude that the Physician Health and Rehabilitation Advisory Committee members are public officials for purposes of the liability limits under chapter 108.

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

TRD-201900747

Ryan L. Bangert

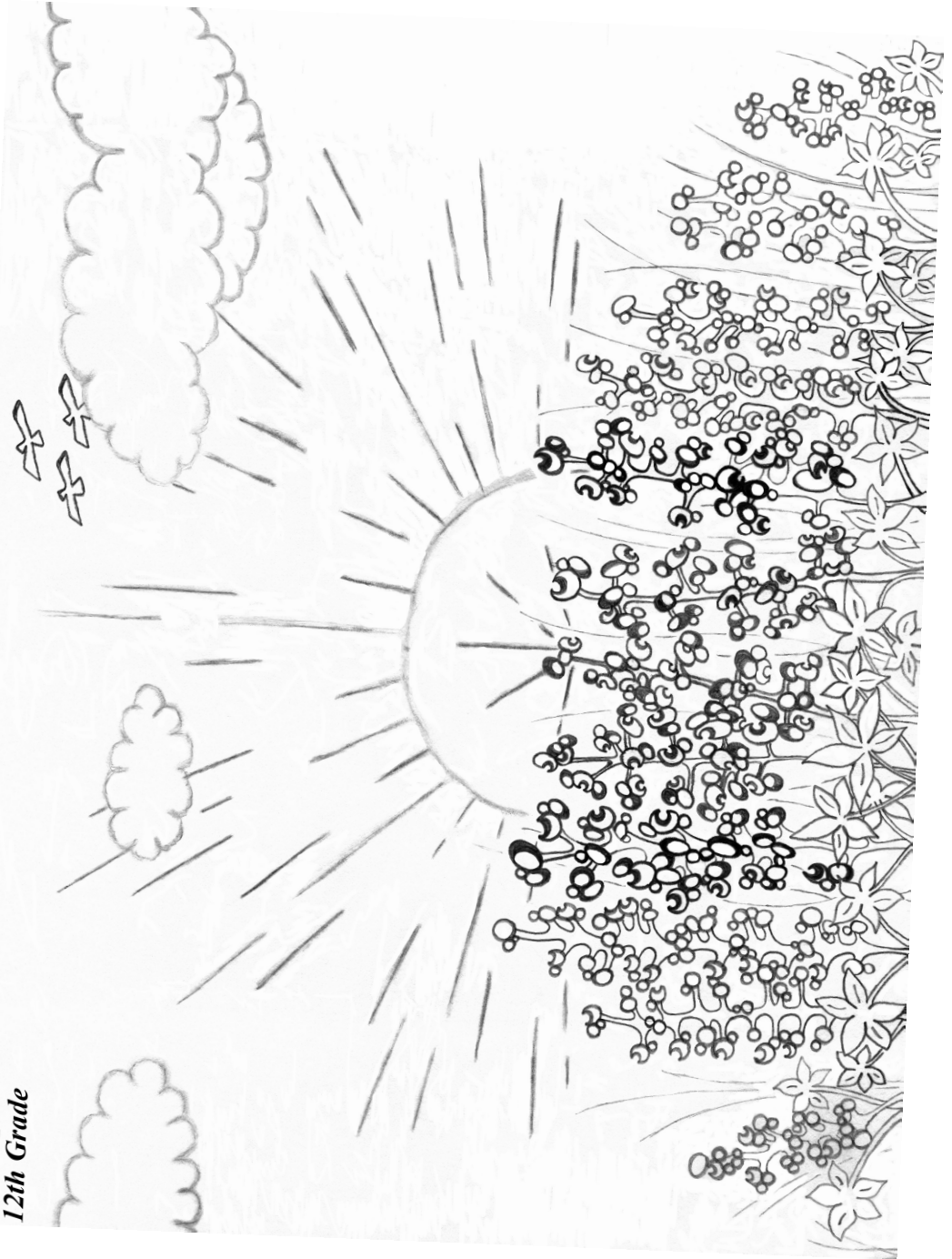
Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: March 5, 2019



*Jace Alphin
12th Grade*



TEXAS ETHICS COMMISSION

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

Advisory Opinion Request/Question

Whether the secretary of state is a statewide officeholder for purposes of Title 15 of the Election Code. (SP-16)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

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

TRD-201900742

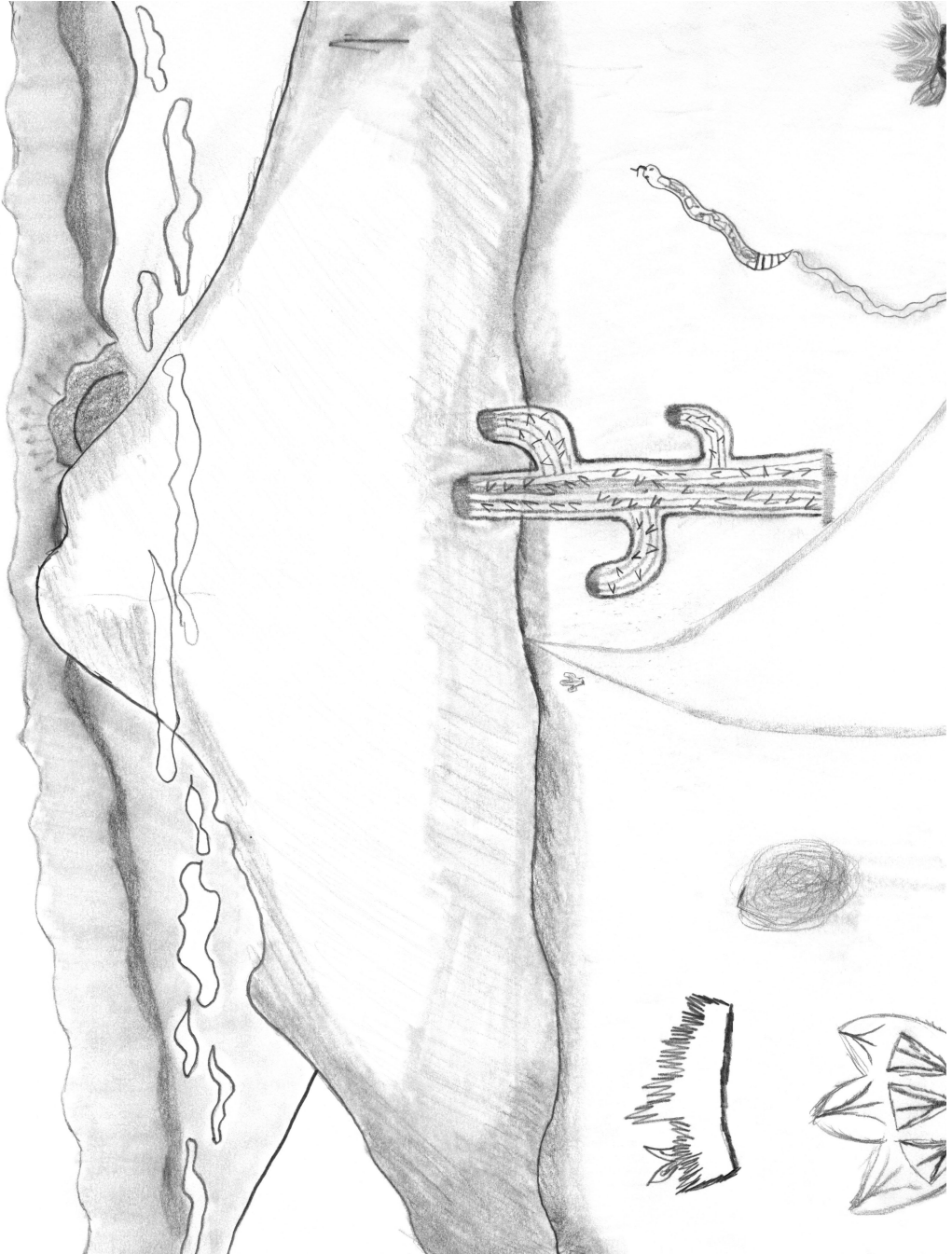
Ian Steusloff

Interim Executive Director/General Counsel

Texas Ethics Commission

Filed: March 5, 2019





PROPOSED RULES

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

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

TITLE 19. EDUCATION

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 235. CLASSROOM TEACHER CERTIFICATION STANDARDS SUBCHAPTER F. SUPPLEMENTAL CERTIFICATE STANDARDS

19 TAC §235.115

The State Board for Educator Certification (SBEC) proposes new §235.115, concerning supplemental certificate standards. The proposed new rule would specify the certification standards for the English as Second Language (ESL) Supplemental Certificate.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC is statutorily authorized to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse population of this state. The SBEC is also statutorily required to appoint advisory committee members to recommend standards for each class of certificate. The standards are the basis for the certification examinations and set the requirements for educator preparation program (EPP) curriculum and delivery. The development committees include practicing educators, school district personnel, experts, and EPP faculty. These individuals collaborate to draft or review existing educator standards to ensure that the educator standards reflect best practices, align with the commissioner's educator standards, and where applicable, align with the current versions of the Texas Essential Knowledge and Skills that are adopted by the State Board of Education.

English as a Second Language Standards

§235.115. *English as a Second Language Standards.*

The proposed educator standards for the classroom teacher class would update the standards for ESL. Given the student demographics of our state and the datedness of the current ESL exam, Texas Education Agency (TEA) staff have engaged in a process with stakeholders to draft educator standards for ESL. TEA staff provided a summary of the process and list of committee members to the SBEC. The standards would be a part of proposed new Subchapter F, which is where all rules for supplemental certificate standards will be codified. The appropriate placement for the ESL standards would be in the supplemental certificate standards to best match the certificate name found in §230.21(e).

FISCAL NOTE. Ryan Franklin, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposed new section is in effect, there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.002.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

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

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposed standards would be more rigorous, relevant, and reliable requirements for the preparation, certification, and testing of classroom teachers upon entry into the profession and retention of these qualified professionals for years to come. There is no anticipated cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA staff has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 15, 2019 and ends April 15, 2019. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposed new section at the April 26, 2019 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposed new section submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 15, 2019.

STATUTORY AUTHORITY. The new section is proposed under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators, and states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state;

TEC, §21.040(4), which states that the SBEC shall, for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the board;

TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and TEC, §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

CROSS REFERENCE TO STATUTE. The new section implements the Texas Education Code, §§21.003(a), 21.031, 21.040(4), and 21.041(b)(1), (2), and (4).

§235.115. English as a Second Language Standards.

(a) English as a Second Language (ESL) standards. The standards identified in this section are targeted for classroom teachers of English learners (ELs). The standards address the discipline associated with the theory and practice of teaching students who have a primary language other than English. The standards inform appropriate teaching techniques, methods, and teacher actions, judgments, and decisions by taking into consideration theories and research of language acquisition, second language learning, understandings of the needs and strengths of ELs, and the backgrounds and interests of individual students.

(b) Foundations of Language Acquisition. ESL teachers know, understand, and use the major theories and research related to

the structure and language acquisition process to help ELs develop language and literacy and achieve in the content areas. The ESL teacher must:

(1) demonstrate and apply basic linguistic concepts, such as structure, patterns, and conventions of written and spoken English, that relate to instruction for ELs as they acquire the English language and literacy to achieve in the content areas;

(2) apply a conscious knowledge of language as a system to develop and accommodate instructional materials and to build understanding of the foundations of English needed for content-based instruction fostered through the English Language Proficiency Standards (ELPS) in §74.4 of Part II of this title (relating to English Language Proficiency Standards);

(3) use knowledge of interrelated aspects of listening, speaking, reading, and writing as they support ELs' acquisition of language and content knowledge;

(4) understand the ways in which languages are similar and different by identifying linguistic structures that distinguish written and spoken language forms as well as those representing social and academic uses of language;

(5) build on similarities between English and the students' primary language (L1) and anticipate common challenges that ELs may have with English language concepts;

(6) apply knowledge of sociolinguistic concepts (e.g., dialect diversity in English; factors affecting language variation, register, and style; language change);

(7) understand and apply theories, concepts, and research in language acquisition in L1 and secondary language (L2) to support ELs' language, literacy, and content area development;

(8) recognize and apply knowledge of the interrelatedness of L1 and L2 acquisition, including similarities and differences between L1 and L2 acquisition and L1 influence on L2;

(9) apply understanding of characteristics of various stages of first- and second-language acquisition to select effective and appropriate instructional methods that promote English language development at various stages of language proficiency;

(10) apply understanding of cognitive processes involved in internalizing language rules and learning vocabulary in a second language (e.g., generalization, categorization, metacognition);

(11) apply understanding of the ELPS Proficiency Level Descriptors (PLDs) and the relationship of the ELPS PLDs to the stages of second language acquisition; and

(12) apply understanding of the interconnected development of linguistic, cognitive, and academic processes through the interdependence on social and cultural processes (affective variables).

(c) Culturally Responsive Teaching. ESL teachers know, understand, and use major concepts, principles, theories, and research related to the nature and role of culture and cultural groups to construct mutually adaptive learning environments for ELs. The ESL teacher must:

(1) use knowledge of major theories and research related to the nature and role of culture to design and select instructional materials, methods, and delivery techniques that facilitate learning for a multicultural, linguistically diverse classroom;

(2) build upon ELs' prior knowledge, experiences, and academic background to connect new learning through effective culturally responsive techniques;

(3) seek to understand and to value the surface and deep aspects of culture, including values, beliefs, customs, and traditions;

(4) use knowledge of the stages of acculturation to create a mutually adaptive learning environment;

(5) recognize that language and culture interact in the formation of the students' cultural identities;

(6) apply the understanding that academic achievement is positively impacted by valuing the cultural assets that ELs bring to the classroom and integrating the students' cultural aspects into classroom materials;

(7) recognize factors that contribute to cultural bias (e.g., stereotyping, prejudice, ethnocentrism), demonstrate sensitivity to students' diverse cultural and socioeconomic backgrounds, and apply this knowledge to create a culturally responsive learning environment;

(8) understand that cultural and linguistic diversity are not the only factors that may affect students' learning of academic content (e.g., age, developmental characteristics, academic strengths and needs, preferred learning styles, personality, sociocultural factors, home environment, motivation, exceptionalities); and

(9) create an effective learning environment that addresses the affective, linguistic, and cognitive needs of ELs through second language acquisition methods.

(d) Effective Instruction and Assessment Across All Content Areas and Disciplines. ESL teachers know, understand, and use evidence-based practices and strategies related to planning and implementing all content and language instruction. ESL teachers are skilled in instructional methods for developing and integrating language skills. ESL teachers purposefully and appropriately select, integrate, and utilize technology and resources for their ELs. The ESL teacher must:

(1) use knowledge of the required Texas Essential Knowledge and Skills (TEKS) and the ELPS as the foundational curriculum;

(2) design and implement instruction that addresses all language domains (listening, speaking, reading, and writing) through authentic, meaningful practice with content material;

(3) know, adjust, and implement research-validated instructional methods for ELs that make the content comprehensible while supporting English language development (e.g., sheltered instruction, content-based instruction);

(4) choose, adapt, and use a wide range of instructional materials, resources, and technologies for the diverse needs of ELs to support language and content knowledge acquisition while maintaining rigor;

(5) integrate and foster critical thinking by providing scaffolds needed for ELs to demonstrate their higher-order thinking skills in English;

(6) establish safe, positive, supportive, interactive, and empowering learning environments for ELs;

(7) implement effective classroom management methods that support a culturally and linguistically diverse classroom;

(8) address the needs of ELs at all English language proficiency levels as described in the ELPS PLDs through targeted language instruction within content material;

(9) create multiple opportunities for authentic, meaningful use of social and academic language;

(10) recognize the background factors that can affect literacy development, such as students with interrupted formal education (SIFE);

(11) understand and apply the interrelatedness of language domains (listening, speaking, reading, and writing) for oral language and literacy development;

(12) utilize a communicative approach that focuses on meaning and communicative practice over error correction;

(13) recognize and apply the transfer of oral language and literacy skills from L1 to L2;

(14) recognize the individual factors that require focused, targeted, systematic language instruction in accordance with the ELPS for ELs in Grade 3 and higher at beginning and intermediate levels of English language proficiency, including recognizing the specific needs and assets of newcomer ELs at various levels of English language proficiency;

(15) provide appropriate feedback for ELs at all English language proficiency levels;

(16) recognize and address the various factors that affect reading comprehension and implement applicable methods of reading instruction;

(17) utilize content-based instruction that is linguistically accommodated using sheltered methods that are communicated, sequenced, and scaffolded;

(18) ensure access to full content curriculum for all ELs through the use of comprehensible input techniques and research-validated learning strategies across content areas;

(19) recognize the individual factors that affect cognitive academic language development (e.g., developmental characteristics, cultural and linguistic background, academic strengths, learning styles);

(20) promote receptive and expressive language acquisition by embedding content-related opportunities for ELs to interact using social and academic vocabulary;

(21) embed language teaching through content instructional materials and academic text features;

(22) use ongoing quantitative and qualitative data to demonstrate content and language development, inform planning, and adjust instruction;

(23) understand the different purposes of assessment (e.g., pre-assessment, formal, informal) and limitations of each type in order to select, develop, and adapt assessments for specific purposes of language and content;

(24) utilize and adapt assessments to allow students flexibility in demonstrating content knowledge through varied outputs;

(25) know and use a variety of performance-based assessment tools with appropriate rubrics to inform and guide instruction in the classroom;

(26) understand the interdependent relationship between teaching and assessment and develop instructional tasks and assessment tools that promote and measure student growth in language and content;

(27) develop classroom assessments using a variety of item types and elicitation and response formats to assess ELs' receptive (listening and reading) and expressive (speaking and writing) language skills; and

(28) understand and apply the uses and limitations of formal and informal assessments for ELs.

(e) Language Proficiency Assessment, Program Placement, and Reclassification. ESL teachers demonstrate understanding of how to use language proficiency assessments in their role in the identification, placement, and reclassification of English learners. The ESL teacher must:

(1) understand federal- and state-mandated policies and statute related to ELs, including Language Proficiency Assessment Committee (LPAC) guidelines for identification and classification as English Learner in Texas;

(2) use state-approved identification assessments for ELs in Texas and understand how to interpret the results;

(3) understand the value and use of primary language assessments;

(4) use knowledge of the connection between the ELPS in §74.4 of Part II of this title and the Texas English Language Proficiency Assessment System (TELPAS) to evaluate and monitor the progress of ELs in English language proficiency;

(5) understand federal- and state-mandated policies and statute related to programs for ELs, including LPAC guidelines for program placement, reclassification, and monitoring in Texas;

(6) understand the similarities and differences between state-approved ESL and bilingual program models in Texas;

(7) apply the state-mandated requirements for English learners with parental denial, including assessment, monitoring, and usage of the ELPS in all content instruction;

(8) understand and apply the similarities and differences of linguistic accommodations for instructional purposes and allowable accommodations for served ELs on state assessments;

(9) apply the appropriate state-mandated criteria and LPAC procedures for reclassification, monitoring, and exit; and

(10) understand the role of the LPAC in coordinating with other special programs (e.g., special education, Section 504, dyslexia, gifted and talented) as applicable.

(f) Professional Learning, Partnerships, and Advocacy. ESL teachers keep current with new instructional techniques, research, advances in the ESL field, and education policy issues related to ELs and demonstrate knowledge of the history of programs and services for ELs. ESL teachers work collaboratively with school staff, parents, and the community to improve the learning environment, provide support, and advocate for ELs and their families. The ESL teacher must:

(1) demonstrate knowledge of theory, research, and current practice and methodologies in the field of bilingual and ESL programming to inform teaching and learning;

(2) understand the history of programming and services for ELs, including key court cases, legal mandates, and federal and state policies that impact current bilingual and ESL programs;

(3) know and understand public issues and educational policy that impact effective programming and equitable opportunities related to the education of ELs;

(4) take advantage of and actively participate in professional growth opportunities to create equitable learning environments;

(5) demonstrate reflective practices through the process of setting and revisiting specific goals for professional learning related to

culturally and linguistically diverse student populations and developing a personal philosophy of ESL education;

(6) be accountable to goals for growth in supporting ELs through self-reflection, peer evaluation, and coordinated leadership monitoring of implementation;

(7) advocate for appropriate instruction and assessment by sharing their knowledge of ELs with their general-education and content-area colleagues and the school community;

(8) promote EL success by playing an active role in the campus LPAC, including coordination of services for ELs in other special programs for which they qualify;

(9) actively advocate and serve as a resource for ELs and their families through partnerships with colleagues and the community by enlisting the support and involvement of community partners and resources that enhance the education of ELs;

(10) consider ESL families as vital partners who enrich the classroom and school environment and facilitate parent/guardian involvement in their child(ren)'s linguistic, academic, and personal development;

(11) provide effective communication that is accessible, consistent, and targeted to the needs of ELs and their parents/families in a variety of educational and social contexts; and

(12) apply knowledge of effective strategies for advocating educational and social equity for ELs by staying current on public issues regarding ELs (e.g., participating in LPAC meetings; serving on Site-Based Decision Making (SBDM) committees; participating in Admission, Review, and Dismissal (ARD) committee meetings as appropriate; serving as a resource for teachers).

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 March 1, 2019.

TRD-201900720

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: April 14, 2019

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



CHAPTER 241. CERTIFICATION AS PRINCIPAL

SUBCHAPTER B. PRINCIPAL CERTIFICATE

19 TAC §241.41

The State Board for Educator Certification (SBEC) proposes an amendment to §241.41, concerning general provisions of the Principal certificate. The proposed amendment would provide a deadline for candidates to qualify and apply for the current principal certification and to take the corresponding certification examination, after which time the Principal as Instructional Leader certificate will become the only principal certification available to candidates.

BACKGROUND INFORMATION AND JUSTIFICATION: The SBEC is statutorily authorized to regulate and oversee all aspects of the certification of public school educators. The SBEC

is also statutorily authorized to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse population of this state.

The SBEC rules in 19 Texas Administrative Code (TAC) Chapter 241, Certification as Principal, establish all of the requirements for certification and EPP minimum standards for issuance of a principal certificate.

At the April 2016 SBEC meeting, the SBEC adopted new principal standards that better align with contemporary principal practices, principal appraisal, and professional development standards. With the adoption of new standards that reflect the knowledge and skills necessary for today's principal, there was careful consideration of the changes to the essential role of a principal to schools, students, communities, and teachers from 2002 (when the standards began to be used for assessment purposes) to the current role in 2018, as illustrated below.

Figure: 19 TAC Chapter 241 - Preamble

At the March 2018 SBEC meeting, Texas Education Agency (TEA) staff presented the SBEC with a comprehensive approach to a principal certification redesign that includes 1) a new certificate name that better reflects current reality along with a new principal certification assessment; 2) an optional tiered process for obtaining standard certification; and 3) an endorsement for currently certified principals and assistant principals.

At the October 5, 2018 SBEC meeting, the SBEC adopted the new principal certificate program. The proposed amendment to §241.41(e) would formally end issuance of the Principal certificate on October 30, 2019. This date has been communicated to the field consistently since Fall 2017. This amendment would allow sufficient time for current candidates to finish out their applications, while ensuring that the transition to the Principal as Instructional Leader certification is complete by November 1, 2019.

To insure programs are aligned to the new standards and assessments, programs had to provide evidence of alignment with key knowledge, skills, and mindsets to the Principal as Instructional Leader (268) required standards that were organized around nine pillars for principal preparation, including: (1) Communication with Stakeholders, (2) Curriculum Alignment, (3) Diversity and Equity, (4) Data-Driven Instruction, (5) Hiring, Selection, and Retention, (6) Observation and Feedback, (7) Professional Development, (8) School Vision and Culture, and (9) Strategic Problem-Solving.

Sixty-five EPPs that offer principal preparation have applied for the new certification, and currently there are 52 EPPs that have been approved.

FISCAL NOTE. Ryan Franklin, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposed amendment is in effect, there is no additional fiscal impact on state or local governments and that there are no additional costs to entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.002.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communi-

ties; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

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

PUBLIC BENEFIT AND COST TO PERSONS: The public benefit anticipated as a result of the proposal is that clarity would be provided for candidates and programs regarding the final date for candidates to complete their program and be recommended for their principal certificate. There is no anticipated cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA staff has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 15, 2019 and ends April 15, 2019. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/Proposed_State_Board_for_Educator_Certification_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/Proposed_State_Board_for_Educator_Certification_Rules/). The SBEC will take registered oral and written comments on the proposed amendment at the April 26, 2019 meeting in accordance with the SBEC board operating policies and procedures. All requests for a public hearing on the proposed amendments submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Mr. Ryan Franklin, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 15, 2019.

STATUTORY AUTHORITY. The amendment is proposed under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.040(4), which states that the State Board for Educator

Certification (SBEC) shall, for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the SBEC; TEC, §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which require the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.046(d), which states that the SBEC shall consider competencies developed by relevant national organizations and the State Board of Education; and TEC, §21.054(a), (e), and (e-2), as amended by Senate Bills 7, 179, and 1839, 85th Texas Legislature, Regular Session, 2017, which require the SBEC to propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements, including particular continuing education requirements for principals.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §§21.003(a), 21.040(4), 21.041(b)(1)-(4), 21.046(b)-(d), and 21.054(a), (e), and (e-2), as amended by Senate Bills 7, 179, and 1839, 85th Texas Legislature, Regular Session, 2017.

§241.41. General Provisions.

(a) Due to the critical role the principal plays in campus effectiveness and student achievement, and consistent with the Texas Education Code (TEC), §21.046(c), the rules adopted by the State Board for Educator Certification ensure that each candidate for the Principal Certificate is of the highest caliber and possesses the knowledge and skills necessary for success.

(b) As required by the TEC, §21.046(b)(1)-(6), the standards identified in §241.55 of this title (relating to Standards Required for the Principal Certificate) emphasize instructional leadership; administration, supervision, and communication skills; curriculum and instruction management; performance evaluation; organization; and fiscal management.

(c) An individual serving as a principal or assistant principal is expected to actively participate in professional development activities to continually update his or her knowledge and skills. Currency in best practices and research as related to both campus leadership and student learning is essential.

(d) The holder of the Principal Certificate issued under the provisions of this chapter may serve as a principal or assistant principal in a Texas public school.

(e) A candidate must meet the requirements for the Principal Certificate by August 31, 2019. All applications must be complete and received by the Texas Education Agency by October 30, 2019.

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 March 1, 2019.

TRD-201900721

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: April 14, 2019

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 416. MENTAL HEALTH COMMUNITY-BASED SERVICES

SUBCHAPTER B. HOME AND COMMUNITY-BASED SERVICES--ADULT MENTAL HEALTH PROGRAM

25 TAC §§416.51 - 416.58

As required by Texas Government Code §531.0201(a)(2)(C), client services functions previously performed by the Department of State Health Services (DSHS) were transferred to the Texas Health and Human Services Commission (HHSC) on September 1, 2016, in accordance with the transition plan required by Texas Government Code, §531.0204.

Rules related to the client services functions previously performed by DSHS, codified in the Texas Administrative Code (TAC) Title 25, Part 1, Chapter 416, govern functions that have transferred to HHSC. To consolidate the rules of HHSC in one title of the TAC, some of the rules in Title 25, Part 1, will be repealed, and new rules that are substantially similar will be adopted in Title 26, Part 1. Therefore, as part of the consolidation, HHSC proposes the repeal of §§416.51 - 416.58 in Chapter 416, Subchapter B of Title 25, Part 1, concerning Home and Community-Based Services--Adult Mental Health Program.

BACKGROUND AND PURPOSE

HHSC proposes to repeal the rules in Title 25, Part 1, Chapter 416, Subchapter B, Home and Community-Based Services--Adult Mental Health Program. New rules in Title 26, Part 1, Chapter 307, Home and Community-Based Services--Adult Mental Health Program are proposed elsewhere in this issue of the *Texas Register* and are substantially similar as the rules proposed for repeal.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§416.51 - 416.58 allows similar rules to be proposed as new rules in Title 26, Chapter 307.

FISCAL NOTE

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has determined that for each year of the first five years that the repeals will be in effect, there is no anticipated impact to costs and revenues of state or local governments as a result.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the repeals will be in effect:

- (1) the proposed repeals will not create or eliminate a government program;
- (2) implementation of the proposed repeals will not affect the number of employee positions;
- (3) implementation of the proposed repeals will not require an increase or decrease in future legislative appropriations;
- (4) the proposed repeals will not affect fees paid to the agency;
- (5) the proposed repeals will not create new rules;
- (6) the proposed repeals will expand existing rules;
- (7) the proposed repeals will not change the number of individuals subject to the rules; and
- (8) the proposed repeals will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There is no requirement to alter current business practices.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

There is no anticipated negative impact on a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to these repeals because the repeals are necessary to protect the health, safety, and welfare of the residents of Texas.

PUBLIC BENEFIT

Enrique Marquez, HHSC Chief Program and Services Officer, has determined that for each year of the first five years the repeals are in effect, the public benefit will be the consolidation of all HHSC rules in new Title 26, Part 1 of the Texas Administrative Code.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247 or 4900 North Lamar Boulevard, Austin, Texas 78751-2316, or e-mailed to HHSRulesCoordinationOffice@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day

of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) e-mailed by midnight on the last day of the comment period. When e-mailing comments, please indicate "Comments on Proposed Rule 25R019" in the subject line.

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code, §531.0055, which requires the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services; Texas Human Resources Code, §32.021(c), which requires HHSC's Executive Commissioner to adopt rules as necessary to properly and efficiently operate the Medicaid program; and Texas Health and Safety Code, §1001.075, which authorizes the Executive Commissioner to adopt rules necessary for the administration of Chapter 1001.

The repealed rules affect Texas Government Code, §531.0055; Texas Human Resources Code, §32.021(c); and Texas Health and Safety Code, §1001.075.

§416.51. *Purpose and Application.*

§416.52. *Definitions.*

§416.53. *Eligibility Criteria.*

§416.54. *Co-payments.*

§416.55. *Uniform Assessment.*

§416.56. *Individual Recovery Plan.*

§416.57. *Provider Qualifications and Contracting.*

§416.58. *Fair Hearings and Appeal Processes.*

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 February 28, 2019.

TRD-201900712

Karen Ray

Chief Counsel

Department of State Health Services

Earliest possible date of adoption: April 14, 2019

For further information, please call: (512) 838-4367



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 307. MENTAL HEALTH COMMUNITY-BASED SERVICES

SUBCHAPTER B. HOME AND COMMUNITY-BASED SERVICES--ADULT MENTAL HEALTH PROGRAM

26 TAC §§307.51 - 307.57

The Texas Health and Human Services Commission (HHSC) proposes new Chapter 307, Subchapter B, comprised of §307.51, concerning Purpose and Application; §307.52, concerning Definitions; §307.53, concerning Eligibility Criteria and HCBS-AMH Assessment; §307.54, concerning Individual Recovery Plan; §307.55, concerning Co-payments; §307.56, concerning Provider Qualifications and Contracting; and §307.57, concerning Fair Hearings Process.

BACKGROUND AND PURPOSE

HHSC proposes these new rules in Chapter 307 to replace rules in Title 25, Chapter 416, Subchapter B, concerning Home and Community-Based Services--Adult Mental Health Program. The rules in Chapter 416 are proposed for repeal elsewhere in this issue of the *Texas Register*. The purpose of repealing and replacing these rules is to ensure continued operation of the HCBS-AMH program established by applicable state legislative direction in the 2016-2017 General Appropriations Act, H.B. 1, 84th Legislature, Regular Session, 2015 (Article II, Department of State Health Services, Rider 61). The state legislative direction ensures access to services for individuals meeting established eligibility criteria who are eligible for or currently receiving Medicaid to incorporate legislatively directed broadened populations of individuals served by the program.

These proposed new rules describe the Home and Community-Based Services--Adult Mental Health (HCBS-AMH) program designed to support the recovery of adults with serious mental illness who are eligible for or currently receiving Medicaid through the provision of home and community-based services. The proposed rules also define and designate "HHSC" as the agency responsible for administering the HCBS-AMH program.

SECTION-BY-SECTION SUMMARY

The proposed new §307.51 establishes the purpose of the rule and to whom it applies.

The proposed new §307.52 sets forth definitions used in the subchapter.

The proposed new §307.53 sets forth eligibility criteria and HCBS-AMH assessment requirements to determine if an adult meets the needs-based eligibility criteria to participate in the HCBS-AMH program. The proposed rule identifies with whom the assessor must consult to conduct the HCBS-AMH assessment and how it must be conducted. For HHSC to determine if an individual is eligible to participate in this program, the individual must meet criteria in accordance with applicable state legislative direction and eligibility requirements as set forth in the Medicaid state plan, which include having three years or more consecutive or cumulative inpatient psychiatric hospitalizations during the five years before initial enrollment in the HCBS-AMH program; having two or more psychiatric crises and four or more discharges from correctional facilities during the three years before initial enrollment in HCBS-AMH; or having two or more psychiatric crises and fifteen or more total emergency department documented contacts in which services are delivered during the three years before initial enrollment in HCBS-AMH. HHSC must approve each HCBS-AMH initial eligibility assessment, annual assessment, and assessments conducted due to changes in circumstances.

The proposed new §307.54 sets forth Individual Recovery Plan (IRP) requirements including IRP parameters and HHSC's IRP review and approval before a provider delivers HCBS-AMH program services to individuals. The section also establishes that

HHSC may conduct an IRP utilization review and review supporting documentation at any time. The proposed rule outlines actions HHSC may take if one or more of the services specified in the IRP do not meet the requirements.

The proposed new §307.55 sets forth requirements for assessing co-payments for HCBS-AMH as described in 25 TAC §412.108, concerning Billing Procedures.

The proposed new §307.56 sets forth certain contracting processes.

The proposed new §307.57 sets forth requirements regarding rights of individuals to request a fair hearing.

FISCAL NOTE

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that for each year of the first five years that the sections will be in effect, there is no anticipated impact to costs and revenues of state or local governments as a result.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the sections will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of employee positions;
- (3) implementation of the proposed rules will not require an increase or decrease in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to the agency;
- (5) the proposed rules will create new rules in Texas Administrative Code, Title 26, which will replace rules being repealed contemporaneously from Title 25;
- (6) the proposed rules will expand existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Greta Rymal, Deputy Executive Commissioner for Financial Services, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The sections clarify existing program requirements.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

There is no anticipated negative impact on a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045, does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas; do not impose a cost on regulated persons; relate to a state agency procurement; and are necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT

Enrique Marquez, HHSC Chief Program and Services Officer, has determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections will be the continued operation of the program to provide home and community-based services to individuals with a serious mental illness who are eligible for or currently receiving Medicaid in accordance with applicable state legislative direction. Furthermore, including a definition of "HHSC" to align with Chapter 531 of the Texas Government Code effectively shifts responsibility of administering these rules from the Department of State Health Services to HHSC, aligning with organizational changes to the HHS system.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247 or 4900 North Lamar Boulevard, Austin, Texas 78751-2316, or e-mailed to HHSRulesCoordinationOffice@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) e-mailed by midnight on the last day of the comment period. When e-mailing comments, please indicate "Comments on Proposed Rule 25R019" in the subject line.

STATUTORY AUTHORITY

The proposed new rules are authorized by Texas Government Code, §531.0055, which requires HHSC's Executive Commissioner to adopt rules and policies necessary for the operation and provision of health and human services; and Texas Human Resources Code §32.021(c), which requires HHSC's Executive Commissioner to adopt rules as necessary to properly and efficiently operate the Medicaid program.

The proposed new rules affect Texas Government Code §531.0055 and Texas Human Resources Code, §32.021(c).

§307.51. Purpose and Application.

(a) The purpose of this subchapter is to implement the Home and Community-Based Services--Adult Mental Health (HCBS-AMH) program, providing home and community-based services to individuals with a serious mental illness who are eligible for or currently receiving Medicaid in accordance with the Medicaid state plan and applicable state legislative direction.

(b) The subchapter applies to:

(1) a person or entity contracting with HHSC to provide HCBS-AMH services, as described in this subchapter;

(2) an entity having administrative responsibilities under this program; and

(3) an individual applying for or enrolled in the HCBS-AMH program.

§307.52. Definitions.

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

(1) Activities of daily living--Routine daily activities.
These activities include:

(A) performing personal hygiene activities;

(B) dressing;

(C) meal planning and preparation;

(D) managing finances;

(E) shopping for food, clothing, and other essential items;

(F) performing essential household chores;

(G) communicating by phone or other media;

(H) navigating public transportation;

(I) participating in the community; and

(J) other activities as defined by HHSC.

(2) Adult--An individual 18 years of age or older.

(3) Assessor--A qualified mental health professional-community services as defined in 25 TAC Chapter 412, Subchapter G (relating to Mental Health Community Services Standards) who conducts the HCBS-AMH assessment evaluating an individual's need for HCBS-AMH.

(4) Designee--A person or entity named by HHSC to act on its behalf.

(5) HCBS--Home and community-based services.

(6) HCBS-AMH--Home and community-based services-adult mental health.

(7) HCBS-AMH assessment--A set of HHSC-defined standardized assessment measures used by HHSC to determine an individual's level of need based on an individual's strengths and needs. The HCBS-AMH assessment serves as the basis for the IRP.

(8) HHSC--Texas Health and Human Services Commission, or its designee.

(9) Individual--A person seeking or receiving services under this subchapter.

(10) IRP--Individual recovery plan. A written, individualized plan, developed in accordance with 25 TAC Chapter 412, Subchapter D (relating to Mental Health Services--Admission, Continuity, and Discharge) and 25 TAC §412.322 (relating to Provider Responsibilities for Treatment Planning and Service Authorization) in consultation with the individual and LAR, if applicable, identifying necessary HCBS-AMH services the provider will deliver to the individual and which serves as the treatment plan or recovery plan.

(11) LAR--Legally authorized representative. A person authorized by law to act on behalf of an individual as defined in Texas Health and Safety Code §241.151.

(12) Ombudsman--The Ombudsman for Behavioral Health Access to Care established by Texas Government Code §531.02251, which serves as a neutral party to help consumers, including consumers who are uninsured or have public or private health benefit coverage, and behavioral health care providers navigate and resolve issues related to consumer access to behavioral health care, including care for mental health conditions and substance use disorders.

(13) Provider--A person or entity that contracts with HHSC to provide services under this subchapter.

(14) Serious mental illness--An illness, disease, or condition (other than a sole diagnosis of epilepsy, neurocognitive disorders, substance use disorder, or intellectual disability) that:

(A) substantially impairs thought, perception of reality, emotional process, development, or judgment; or

(B) grossly impairs an individual's behavior as demonstrated by recent disturbed behavior.

§307.53. Eligibility Criteria and HCBS-AMH Assessment.

(a) To participate in the HCBS-AMH program, an assessor must conduct an HCBS-AMH assessment on each individual for HHSC to determine that the individual meets the needs-based eligibility criteria for HCBS-AMH.

(1) The assessor must consult with the individual, the individual's LAR, if applicable, treatment team, providers, and other persons according to the needs and desire of the individual to conduct the HCBS-AMH assessment.

(2) The HCBS-AMH assessment must:

(A) be conducted face-to-face as permitted under Medicaid guidelines;

(B) take into account the ability of the individual to perform two or more activities of daily living; and

(C) assess the individual's need for HCBS-AMH.

(b) For HHSC to determine an individual eligible to participate in HCBS-AMH, the individual must meet criteria in accordance with applicable state legislative direction and eligibility requirements as set forth in the Medicaid state plan, including:

(1) having three years or more of consecutive or cumulative inpatient psychiatric hospitalizations during the five years before initial enrollment in the HCBS-AMH program;

(2) having two or more psychiatric crises and four or more discharges from correctional facilities during the three years before initial enrollment in HCBS-AMH; or

(3) having two or more psychiatric crises and fifteen or more total emergency department documented contacts in which services are delivered during the three years before initial enrollment in HCBS-AMH.

(c) The HCBS-AMH assessment must be repeated at least annually for each individual, and when circumstances necessitate a re-assessment, using the same requirements outlined in subsections (a) and (b) of this section.

(d) HHSC approves each HCBS-AMH initial eligibility assessment, annual assessment, and assessment conducted based on a change in circumstances.

§307.54. Individual Recovery Plan.

(a) An IRP must:

(1) prepare for the individual's effective transition to the community;

(2) promote the individual's inclusion into the community;

(3) protect the individual's health and welfare in the community;

(4) supplement, rather than replace, the individual's natural support systems and resources;

(5) be designed to prevent or reduce the individual's likelihood of:

(A) an inpatient psychiatric facility admission;

(B) a correctional facility admission; and

(C) an emergency department visit in which services are delivered;

(6) include the most appropriate type and amount of services to meet the individual's needs;

(7) prevent the provision of unnecessary or inappropriate care;

(8) be based on the individual's preferences, needs, and goals; and

(9) be developed with the individual, LAR, individual's treatment team and providers, and other persons according to the needs and desire of the individual.

(b) An HHSC-approved designee must review the IRP and submit it to HHSC for its approval.

(c) An HHSC-approved designee must submit to HHSC, with the IRP:

(1) an HCBS-AMH assessment of the individual identifying the individual's needs and supporting the HCBS-AMH included in the IRP; and

(2) documentation that non-HCBS-AMH support systems and resources are unavailable or are insufficient to meet the goals specified in the IRP.

(d) A provider must obtain HHSC's approval of the IRP before the provider may deliver HCBS-AMH program services.

(e) HHSC may conduct a utilization review of an IRP and supporting documentation at any time to determine if the services specified in the IRP meet the requirements described in subsection (a) of this section.

(f) If HHSC determines one or more of the services specified in the IRP do not meet the requirements described in subsection (a) of this section, HHSC may:

(1) deny, reduce, or terminate the service; or modify the IRP; and

(2) send written notification to the individual, LAR, and the provider according to §307.57 of this subchapter (relating to Fair Hearings Process).

(g) The cost of the IRP must be reasonable as determined by HHSC.

§307.55. Co-payments.

A co-payment for HCBS-AMH services may be assessed as described in 25 TAC §412.108 (relating to Billing Procedures).

§307.56. Provider Qualifications and Contracting.

(a) A prospective provider may request and submit an application to HHSC to provide HCBS-AMH at any time. The application sets forth the qualifications to be a provider.

(b) HHSC must approve the provider and enter into a contract with the provider before the provider serves any individual.

(c) HCBS providers must comply with any applicable federal or state law or rule.

§307.57. Fair Hearings Process.

(a) Right of an individual to request a fair hearing. Any individual whose request for eligibility to receive HCBS-AMH is denied or is not acted upon with reasonable promptness, or whose services have been terminated, suspended, or reduced by HHSC, is entitled to a fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules).

(b) At any time, an individual may contact the Ombudsman for additional information and resources by calling toll-free (1-800-252-8154) or online at hhs.texas.gov/ombudsman.

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 February 28, 2019.

TRD-201900714

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: April 14, 2019

For further information, please call: (512) 838-4367



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.217

The Texas Forensic Science Commission ("Commission") proposes an amendment to 37 Texas Administrative Code §651.217, related to its Forensic Analyst Licensing Program, to provide clarification that the Commission's Presiding Officer or Designee may unilaterally approve license applications where an applicant has a misdemeanor conviction older than ten (10) years and the Presiding Officer or Designee has determined the person is eligible for a forensic analyst license. The amendment is necessary to reflect adoptions made by the Commission at its January 25, 2019, quarterly meeting. The adoptions were made in accordance with the Commission's authority under Article 38.01 §4-a(d), Code of Criminal Procedure which requires the Commission to create a forensic analyst licensing program that establishes the qualifications and term for a license and sets fees for the issuance and renewal of a license.

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

Designee to approve applications where there is a criminal conviction older than ten (10) years to avoid unnecessary delay in processing applications.

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

Public Benefit/Cost Note. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission has also determined that for each year of the first five years the proposed amendments are in effect, the anticipated public benefit will be sufficient and accurate notification regarding the consideration of criminal convictions with regard to forensic analyst license eligibility.

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

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

Government Growth Impact Statement. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that for the first five-year period, implementation of the proposed amendments will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. The proposal clarifies the authority of the Commission's Presiding Officer or Designee to approve applications where there is a criminal conviction older than ten (10) years to avoid unnecessary delay in processing applications and does not expand the regulatory authority of the Commission, but allows staff to ensure efficiency in processing approved applications.

Requirement for Rule Increasing Costs to Regulated Persons. Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined the proposed rule imposes no cost on regulated persons.

Request for Public Comment. The Texas Forensic Science Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Savage, 1700 North Congress Avenue, Suite 445, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by April 15, 2019, to be considered by the Commission.

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

Cross reference to statute. The proposal affects 37 Texas Administrative Code §651.217.

§651.217. Ineligibility for License Based on Criminal Conviction.

(a) A proceeding before the Commission to establish factors required to be considered under this section is governed by Chapter 2001, Government Code.

(b) Guidelines for consideration of criminal convictions. If an applicant has a criminal conviction above a Class C misdemeanor, the applicant may not be qualified to hold a forensic analyst license.

(1) Convictions that may trigger a denial. The Commission may suspend or revoke a forensic analyst license, disqualify a person from receiving a license, refuse to renew a person's license or deny to a person the opportunity to take the general forensic licensing examination on the grounds the person has been convicted of:

(A) an offense that directly relates to the duties and responsibilities associated with an analyst's license;

(B) an offense that does not directly relate to the duties and responsibilities associated with an analyst's license and that was committed less than five years before the date the person applies for a license;

(C) an offense listed in Article 42A.054, Code of Criminal Procedure; or

(D) a sexually violent offense as defined by Article 62.001, Code of Criminal Procedure.

(2) A forensic analyst license holder's license may be revoked on the license holder's imprisonment following a felony conviction, felony community supervision, revocation of parole, or revocation of mandatory supervision.

(3) An offense from another state containing elements substantially similar to the enumerated offenses under the Texas Penal Code shall be considered under this section the same way as the offense would have been considered had it been committed in Texas.

(4) Offenses that apply to category paragraph (1)(A) of this subsection because they directly relate to the duties and responsibilities associated with an analyst's license may include, but are not limited to:

(A) Misrepresentation (e.g., fraud, extortion, bribery, theft by check, and deceptive business practices);

(B) Failure to register as a sex offender (as required by the Texas Code of Criminal Procedure, Chapter 62);

(C) Property Crimes, such as theft or burglary;

(D) Crimes against persons, such as homicide, kidnapping, and assault;

(E) Drug crimes, such as possession;

(F) Multiple DWI and DUI crimes;

(G) all felony convictions; and

(H) Misdemeanors above a Class C misdemeanor and felony convictions considered by Texas courts to be crimes of moral turpitude.

(5) Consequences. In the event of a criminal conviction, the Commission may take one of the following courses of action:

(A) Declare a prospective applicant unsuitable for a license;

(B) Deny a renewal application for an existing license;

(C) Revoke or suspend an existing license; or

(D) Deny a person the opportunity to take the general forensic analyst licensing examination.

(6) Determining whether there are grounds to deny. There are four general factors the Commission considers in determining

whether a particular criminal conviction should be grounds to deny, revoke or suspend a license:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license to engage in the analyst's occupation;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharges the responsibilities of the analyst's work.

(7) Determining an applicant's fitness to perform the duties. In determining an applicant's fitness to perform the duties and discharge the responsibilities of a forensic analyst who has been convicted of a crime, the Commission considers, in addition to the factors listed in paragraph (5) of this subsection:

(A) the extent and nature of the person's past criminal activity;

(B) the age of the person when the crime was committed;

(C) the amount of time that has elapsed since the person's last criminal activity;

(D) the conduct and work activity of the person before and after the criminal activity;

(E) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and

(F) other evidence of the person's fitness, including letters or recommendations from:

(i) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility to the person;

(ii) the sheriff or chief of police in the community where the person resides; and

(iii) any other person in contact with the convicted person.

(8) An applicant has the responsibility, to the extent possible, to obtain and provide to the Commission the recommendations of the prosecution, law enforcement, and correctional authorities as required by paragraph (7)(F)(i) - (iii) of this subsection.

(9) In addition to fulfilling the requirements of paragraph (8) of this subsection, the applicant shall furnish proof in the form required by the Commission that the applicant has:

(A) maintained a record of steady employment;

(B) supported the applicant's dependents;

(C) maintained a record of good conduct; and

(D) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

(c) Notice and Review of Suspension, Revocation or Denial of License. If the Commission suspends or revokes a license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of a crime and the relationship of the crime to the license, the Commission shall notify the person in writing of:

(1) the reason for the suspension, revocation, denial, or disqualification;

(2) the review procedure provided by §651.216(d) - (g) of this title (relating to Disciplinary Action); and

(3) the earliest date the person may appeal the action of the Commission.

(d) Judicial Review. A person whose license has been suspended or revoked or who has been denied a license or the opportunity to take the general examination as set forth in this subchapter and who has exhausted the person's administrative appeals may file an action in district court in Travis County for review of the evidence presented to the Commission and the decision of the Commission.

(e) Petition for Judicial Review. A petition for judicial review must be filed not later than the 30th day after the date the Commission's decision is final and appealable.

(f) Presiding Officer or Designee Authority to Approve Applications. The Commission's Presiding Officer or Designee may unilaterally approve an application where a criminal background check

returns a misdemeanor conviction or convictions older than ten (10) years from the date the application is submitted and the Presiding Officer or Designee has determined the individual is eligible for a license notwithstanding the misdemeanor conviction or convictions.

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 February 26, 2019.

TRD-201900672

Leigh Savage

Associate General Counsel

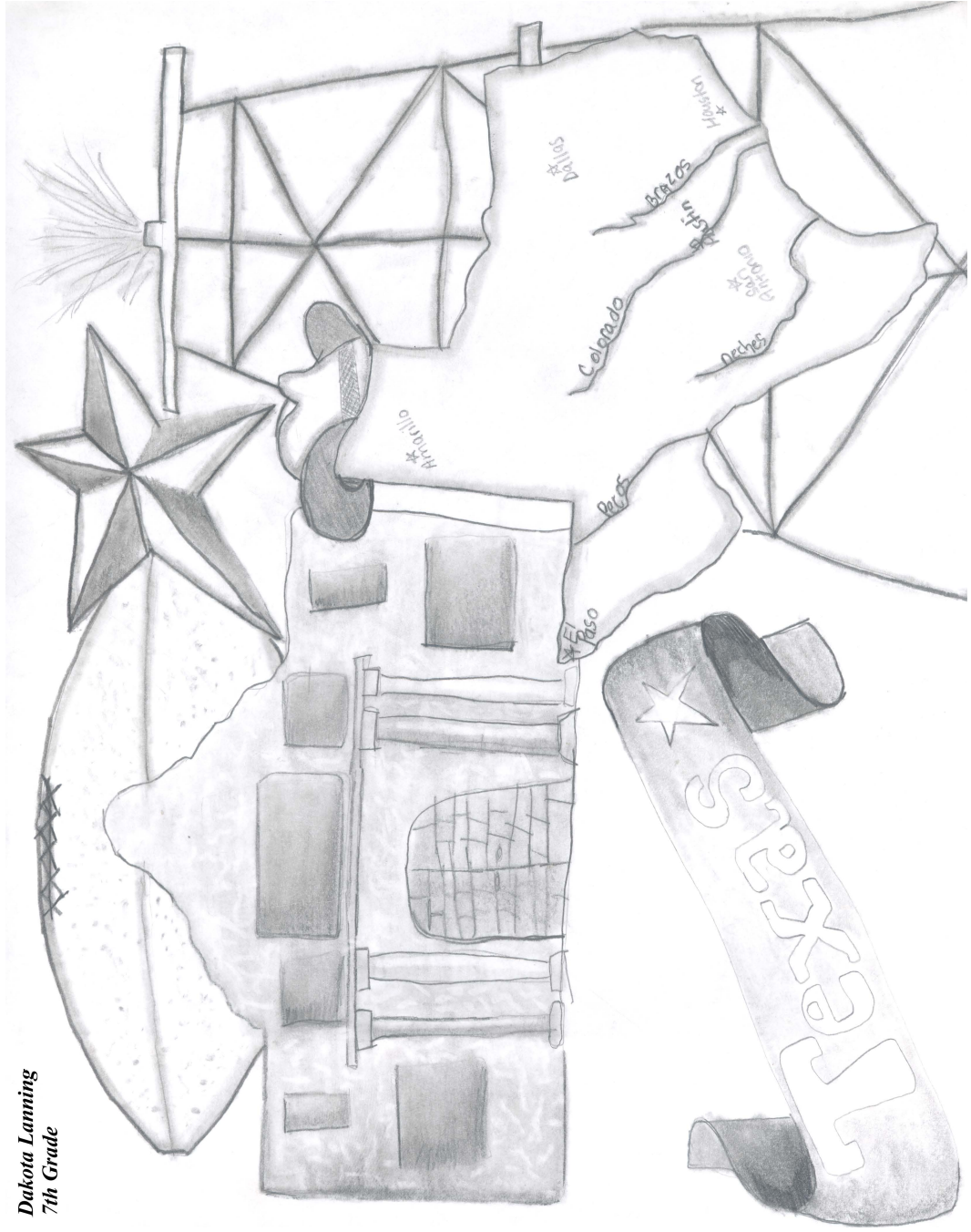
Texas Forensic Science Commission

Earliest possible date of adoption: April 14, 2019

For further information, please call: (512) 784-0037

◆ ◆ ◆

Dakota Lanning
7th Grade



WITHDRAWN RULES

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

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 11. TEXAS OFFICE OF PRODUCE SAFETY

SUBCHAPTER A. GENERAL PROVISIONS

4 TAC §§11.1 - 11.4

The Texas Department of Agriculture withdraws the proposed new §§11.1 - 11.4, which appeared in the December 14, 2018, issue of the *Texas Register* (43 TexReg 7987).

Filed with the Office of the Secretary of State on March 4, 2019.

TRD-201900724

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Effective date: March 4, 2019

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



SUBCHAPTER B. COVERAGE AND EXEMPTIONS

4 TAC §§11.20 - 11.23

The Texas Department of Agriculture withdraws the proposed new §§11.20 - 11.23, which appeared in the December 14, 2018, issue of the *Texas Register* (43 TexReg 7989).

Filed with the Office of the Secretary of State on March 4, 2019.

TRD-201900725

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Effective date: March 4, 2019

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



SUBCHAPTER C. COMPLIANCE AND ENFORCEMENT

4 TAC §§11.40 - 11.43

The Texas Department of Agriculture withdraws the proposed new §§11.40 - 11.43, which appeared in the December 14, 2018, issue of the *Texas Register* (43 TexReg 7987).

Filed with the Office of the Secretary of State on March 4, 2019.

TRD-201900726

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Effective date: March 4, 2019

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



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 66. REGISTRATION OF PROPERTY TAX CONSULTANTS

16 TAC §§66.10, 66.20, 66.21, 66.25, 66.70, 66.80

The Texas Department of Licensing and Regulation withdraws the proposed amended §§66.10, 66.20, 66.21, 66.25, 66.70, 66.80, which appeared in the November 16, 2018, issue of the *Texas Register* (43 TexReg 7509).

Filed with the Office of the Secretary of State on March 4, 2019.

TRD-201900728

Brad Bowman

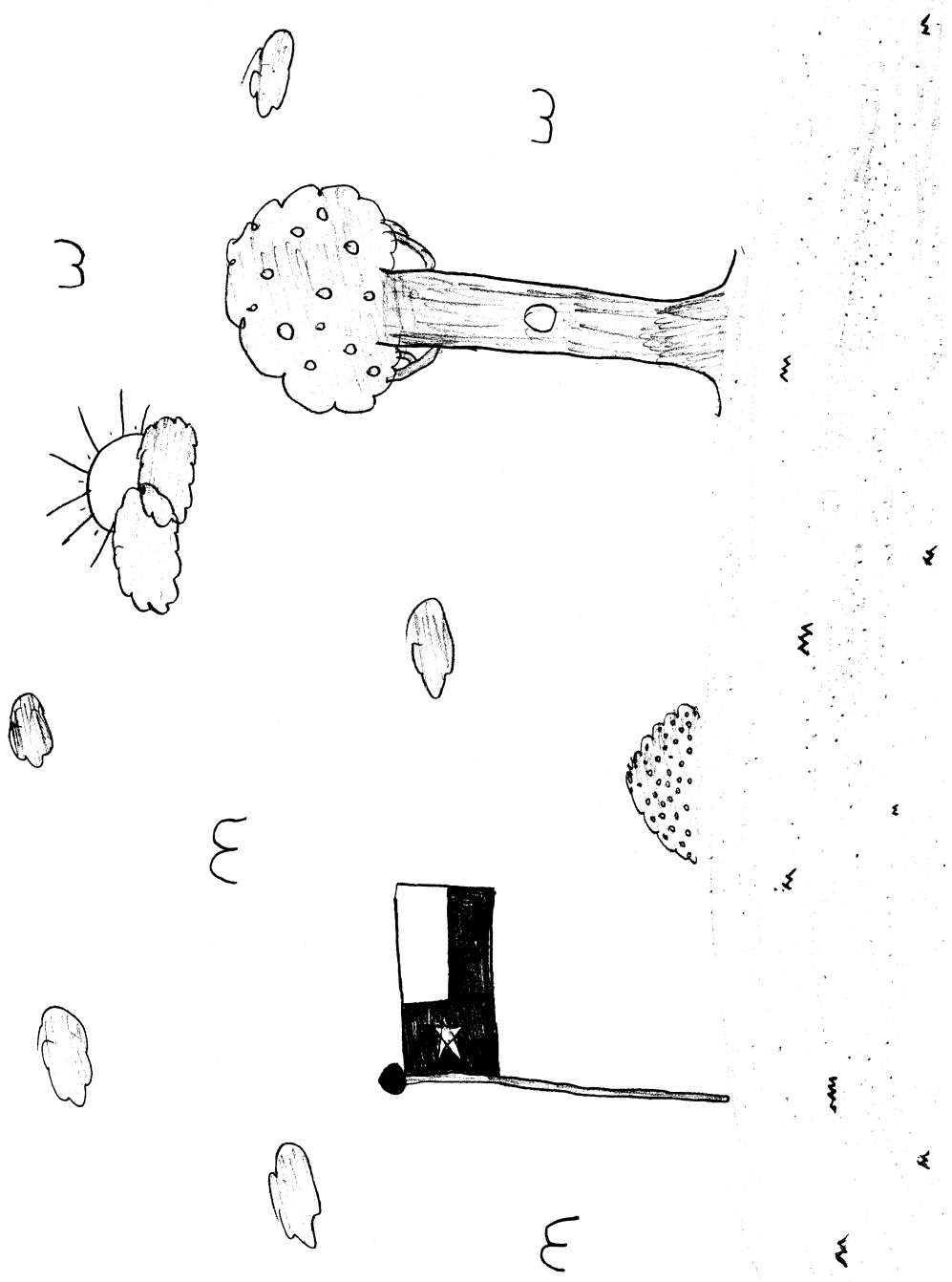
General Counsel

Texas Department of Licensing and Regulation

Effective date: March 4, 2019

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





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 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 7. PESTICIDES

SUBCHAPTER D. USE AND APPLICATION

4 TAC §7.30

The Texas Department of Agriculture (Department) adopts amendments to Title 4, Part 1, Chapter 7, Subchapter D, §7.30, relating to Classification of Pesticides, without changes to the proposal published in the January 4, 2019, issue of the *Texas Register* (44 TexReg 12). The amendments will not be republished. The adoption is made in order to add mandatory training prior to the application of 3,6-Dichloro-o-anisic acid (dicamba), as required by the Environmental Protection Agency (EPA), and 2,4-dichlorophenoxyacetic acid (2,4-D), in order to reduce the potential for misapplication of the products which could cause damage to sensitive crops which may be exposed to the pesticides.

The Department received one comment in favor of the proposal from Steve Verett, acting as Executive Vice President on behalf of Plains Cotton Growers, Inc. Mr. Verett stated that the training would work to mitigate the risks associated with applications.

The amendments are adopted under §76.004 of the Texas Agriculture Code, which provides the Department with the authority to adopt rules related to the labeling requirements for pesticides required to be registered under Chapter 76.

The code affected by the adoption is the Texas Agriculture Code, Chapter 76.

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 March 4, 2019.

TRD-201900729

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Effective date: March 24, 2019

Proposal publication date: January 4, 2019

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



TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 9. TALKING BOOK PROGRAM

13 TAC §§9.1 - 9.4, 9.7, 9.8, 9.11

The Texas State Library and Archives Commission (Commission) adopts amendments to 13 Texas Administrative Code (TAC) §§9.1 - 9.4, 9.7, 9.8, and 9.11, relating to Talking Book Program. The amended rules are adopted without changes to the text as published in the September 21, 2018, issue of the *Texas Register* (43 TexReg 6169). The amended rules will not be republished.

No comments were received regarding the amended rules.

The amendments are adopted to keep the rules up-to-date, to clarify current terminology, and to delete references to obsolete technology that is no longer in use by the program. The adopted amendments include removal of references to cassette technology no longer in use, providing links to further information on certifying authorities, updating information on how applications may be submitted, putting more emphasis on digital services, and updating terminology in reference to specific types of disabilities.

The amended rules are adopted in accordance with Texas Government Code §2001.039, which provides the Commission with the authority to adopt rules as necessary for its own procedures.

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 February 28, 2019.

TRD-201900713

Ava M. Smith

Director

Texas State Library and Archives Commission

Effective date: March 20, 2019

Proposal publication date: September 21, 2018

For further information, please call: (512) 463-5474



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 3. OIL AND GAS DIVISION

16 TAC §3.37, §3.38

The Railroad Commission of Texas adopts amendments to 16 TAC §3.37, relating to Statewide Spacing Rule, and §3.38, relating to Well Densities, without changes from the proposed text as published in the December 28, 2018, issue of the *Texas Register* (43 TexReg 8523) and will not be republished. The amendments incorporate a specific timeline for notice by publication when an operator seeks an exception to §3.37 or §3.38.

The Commission received three comments on the proposal, one from BPX Energy (BPX) and two from associations, the Permian Basin Petroleum Association (PBPA) and the Texas Oil and Gas Association (TXOGA).

PBPA and TXOGA support the proposed amendments, which require an operator to publish notice of an application once each week for two consecutive weeks, rather than once each week for four consecutive weeks, when an operator applies for an exception to §3.37 or §3.38. The Commission appreciates this support.

BPX supports the proposed change. However, to address concerns regarding the reduction in public notice requirements, BPX would also support a requirement to publish notice twice each week for two consecutive weeks.

Regarding BPX's suggestion to require publication of notice twice each week for two consecutive weeks, PBPA notes some areas of the state are served only by weekly community newspapers. The requirement to publish twice per week in these areas could be problematic. The Commission agrees. Further, the notice requirements applicable to spacing and density exceptions focus on operators and unleased mineral interest owners of offset tracts. Most of these individuals will be notified directly by mail, as specified in §3.37(a) and §3.38(h). The notice by publication procedure will only be used when an operator is unable, after due diligence, to identify the address of any person who is required to be notified. The Commission has no evidence that in these instances reducing the frequency of published notices from once each week for four consecutive weeks to once each week for two consecutive weeks will harm operators' or unleased mineral interest owners' rights. In addition, the Commission received no comments from operators, mineral interest owners, or associations representing those persons that express concern over the reduction in published notice.

Therefore, the Commission adopts the amendments as proposed, such that a specific notice by publication provision is added in §3.37 and §3.38 and the Commission's general publication rule, §1.43, will no longer apply. The adopted notice by publication provisions in §3.37(a)(4) and §3.38(h)(2) state that if, after diligent efforts, an applicant for an exception is unable to ascertain the name and address of one or more persons required to be notified, then the applicant shall notify such persons by publishing notice of the application in a form approved by the Commission. The amendments require that the notice be published once each week for two consecutive weeks in a newspaper of general circulation in the county where the well will be located, with the first publication taking place at least 14 days before the protest deadline in the notice of application. The amendments also require that the applicant file a publisher's affidavit or other evidence of publication. As with other Commission notice by publication processes, the Commission may request additional information to show the applicant engaged in diligent efforts to locate persons to be notified.

The Commission also adopts other nonsubstantive amendments to correct outdated language.

The Commission adopts the amendments to §3.37 and §3.38 pursuant to Texas Natural Resources Code §§81.051 and §81.052, which provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission; and Texas Natural Resources Code §§85.201 and §85.202, which require the Commission to adopt and enforce rules and orders for the conservation and prevention of waste of oil and gas, and specifically for drilling of wells, preserving a record of the drilling of wells, and requiring records to be kept and reports to be made.

Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 85.201, and 85.202.

Cross reference to statute: Texas Natural Resources Code Chapters 81 and 85.

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 February 26, 2019.

TRD-201900680

Haley Cochran

Rules Attorney, Office of General Counsel

Railroad Commission of Texas

Effective date: March 18, 2019

Proposal publication date: December 28, 2018

For further information, please call: (512) 475-1295



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.11

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §101.11, concerning the temporary or permanent appointment of a custodian of records for a dentist's records. This amendment to the existing rule requires dentists to designate a custodian and provides for the Board to appoint a custodian if needed. This amendment is adopted with no changes to the proposed text as published in the January 18, 2019, issue of the *Texas Register* (44 TexReg 311), and the rule amendment will not be republished.

One comment was received after publication of the proposed rule amendment during the official comment period. Bresnen Associates provided a written comment on behalf of the Association of Dental Support Organizations supporting the adoption of the rule as proposed. The Board agreed with this comment, and no changes to the proposed rule were made as a result of this comment.

This rule is adopted under Texas Occupations Code §258.0511(c), requiring the Board to adopt rules regarding the designation and duties of a dental custodian of records.

This rule amendment implements the requirements of Texas Occupations Code §258.0511(c).

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 February 28, 2019.

TRD-201900704

Alex Phipps

General Counsel

State Board of Dental Examiners

Effective date: March 20, 2019

Proposal publication date: January 18, 2019

For further information, please call: (512) 305-9380



CHAPTER 107. DENTAL BOARD PROCEDURES

SUBCHAPTER C. DISPOSITION OF COMPLAINTS

22 TAC §107.206

The State Board of Dental Examiners (Board) adopts new rule 22 TAC §107.206, concerning public disciplinary and non-disciplinary actions of the Board. This rule incorporates portions of the Board's existing disciplinary matrix into rule format. The purpose of this rule is to clarify the structure of the Board's public actions and enable greater transparency for the Board's disciplinary process. This new rule is adopted with changes to the proposed text as published in the January 18, 2019, issue of the *Texas Register* (44 TexReg 312) and will be republished.

After publication in the *Texas Register*, Board staff has changed the proposed text of the rule to reflect updated references to Board rules in subsections (c)(1) and (c)(2) of the new rule. No other changes were made to the proposed text.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a)-(b), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and permits the Board to adopt rules regarding its proceedings.

§107.206. *Public Actions of the Board.*

(a) Purpose. The purpose of this section is to outline the Board's disciplinary and non-disciplinary actions issued under Chapter 263 of the Texas Occupations Code.

(b) Definitions. In this rule section, the following terms shall apply:

(1) "Administrative Fine" is a monetary fine assessed pursuant to Texas Occupations Code §263.002(a) in connection with the issuance of a disciplinary action by the Board that is not an administrative penalty. Administrative fines shall not be assessed when issuing a Remedial Plan. The Board shall not assess an administrative fine

without the issuance of a Warning, Reprimand, Probated Suspension, or Enforced Suspension.

(2) "Administrative Penalty" is a monetary penalty assessed as a disciplinary action pursuant to Texas Occupations Code §263.002(a). An administrative penalty is a public disciplinary action of the Board. An administrative penalty shall not be issued in conjunction with the issuance of a Warning, Reprimand, Probated Suspension, Enforced Suspension, or Remedial Plan. An administrative penalty that is issued subject to an agreement between the parties during informal settlement shall be referred to as an "agreed administrative penalty."

(3) "License" means a license, certificate, or registration that is issued by the Board.

(4) "Licensee" means a person who holds a license, certificate, or registration that is issued by the Board.

(c) Public Actions. The Board shall utilize the public actions identified in this subsection to resolve the investigation of a complaint against a Licensee. The public actions of the Board listed in subsection (c)(1) through (c)(7) of this section are listed in order of increasing severity. These public actions shall be imposed by agreed settlement or final order of the Board against the License held by the Licensee. Nothing in this rule section shall be construed to prohibit or restrict the Board from dismissing a complaint or imposing an injunction or cease and desist order under Chapter 264, Subchapter B, of the Texas Occupations Code, where appropriate.

(1) Remedial Plan. The Board may issue a non-disciplinary Remedial Plan pursuant to Texas Occupations Code §263.007 and Board rule in §107.204 of this title (relating to Remedial Plans).

(2) Administrative Penalty. The Board may issue an Administrative Penalty pursuant to the procedures of Chapter 264, Subchapter A of the Texas Occupations Code, and Board rule in §107.201 of this title (relating to Procedures for Assessment of Administrative Penalties in Informal Complaint Resolution). An administrative penalty is a disciplinary action.

(3) Warning. A Warning is a disciplinary action and may be accompanied by the imposition of an Administrative Fine.

(4) Reprimand. A Reprimand is a disciplinary action and may be accompanied by the imposition of an Administrative Fine.

(5) Probated Suspension. A Probated Suspension is a heightened level of disciplinary action issued for a period of years as identified in the Board's order; however, a Licensee under a Probated Suspension may continue to practice. A Probated Suspension may be accompanied by the imposition of an Administrative Fine.

(6) Enforced Suspension. An Enforced Suspension is a heightened level of disciplinary action. An Enforced Suspension may be issued for a period of days or years as identified in the Board's order. A Licensee may not practice while under an Enforced Suspension. An Enforced Suspension may be accompanied by the imposition of an Administrative Fine.

(7) Revocation. Revocation is the highest level of disciplinary action taken by the Board. After the Board imposes an order of Revocation upon a Licensee, the Licensee must cease the practice authorized under the License that has been revoked. A person whose License has been revoked by Board order must apply for the issuance of a new License pursuant to Board requirements.

(d) Imposition of Conditions and Restrictions on Practice. The Board may impose other conditions or restrictions on the practice of a Licensee through an agreed order between the Board and the Licensee

resulting in a disciplinary action, or through a final order of disciplinary action issued by the Board after a contested case hearing at the State Office of Administrative Hearings. These conditions may include, but are not limited to, surrender, suspension, or revocation of a Licensee's sedation/anesthesia permits or other authorizations issued by the Board.

(e) Restitution. The Board may order a Licensee to pay restitution to a patient as provided in an agreed settlement or final order of the Board, instead of or in addition to any administrative fine or administrative penalty. The Board may reduce the amount assessed as an administrative fine or administrative penalty upon a showing that the Licensee has paid, or by agreed settlement will pay, an amount of restitution to the patient. The amount of restitution ordered may not exceed the amount the patient paid to the Licensee for the service or services from which the complaint arose. The Board shall not require payment of other damages or make an estimation of harm in any order for restitution.

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 February 28, 2019.

TRD-201900705

Alex Phipps

General Counsel

State Board of Dental Examiners

Effective date: March 20, 2018

Proposal publication date: January 18, 2019

For further information, please call: (512) 305-9380



CHAPTER 110. SEDATION AND ANESTHESIA

22 TAC §110.13

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §110.13, concerning the Board's requirements for a checklist to be completed by dentists administering nitrous oxide and levels 1 through 4 of sedation/anesthesia. This amendment to the existing rule clarifies the responsibilities and obligations for licensees completing the checklist, and the applicable requirements for each level of sedation/anesthesia permit. This amendment is adopted with changes to the proposed text as published in the January 18, 2019, issue of the *Texas Register* (44 TexReg 313) and will be republished.

After publication in the *Texas Register*, Board staff changed the proposed text of the rule to reflect updated references to Texas Occupations Code §258.001(4) in subsection (b), Board rule 22 TAC §108.8 in subsections (a) and (b), and Board rules 22 TAC §§110.3 - 6 in subsection (c) of the amended rule. No other changes were made to the proposed text.

Two comments were received after publication of the proposed rule amendment during the official comment period.

The Texas Dental Association offered a comment in support of the rule as proposed, and notes in part that auscultation is not required to be performed on every patient prior to administering nitrous oxide, and the anesthesia-specific physical examination is specific to the level of sedation/anesthesia being administered, permitting dentists to exercise their judgement when documenting the adequate patient evaluation prior to the delivery of sedation/anesthesia. The Board agrees with this comment and has

made no changes to the proposed text as a result of this comment.

The Texas Academy of General Dentistry offered a comment requesting clarification that changes to the rule by the proposed amendment would no longer require providers administering nitrous oxide/oxygen inhalation sedation to auscultate patients. The Board notes that subsection (c)(5) of the rule text as proposed states that a provider must conduct an "anesthesia-specific physical examination including documentation of the following as necessary for the level of sedation/anesthesia administered," but does not require auscultation of all patients. As a result, the Board feels that the text as proposed is clear in permitting patient observation if appropriate under the level of sedation/anesthesia administered, and has made no changes to the proposed text as a result of this comment.

This rule is adopted under Texas Occupations Code §258.153(b)(7) which requires the Board to adopt rules to establish the minimum components required to be included in a preoperative checklist to be used before administering sedation/anesthesia to a patient.

This rule implements the requirements of Texas Occupations Code §258.153(b)(7).

§110.13. *Required Preoperative Checklist for Administration of Nitrous Oxide and Levels 1, 2, 3, and 4 Sedation/Anesthesia.*

(a) A dentist administering nitrous oxide or Level 1, 2, 3, or 4 sedation/anesthesia must create, maintain, and include in the patient's dental records required by §108.8 of this title (relating to Records of the Dentist) a document titled "preoperative sedation/anesthesia checklist." The checklist must be completed prior to commencing a procedure for which the dentist will administer nitrous oxide or Level 1, 2, 3, or 4 sedation/anesthesia. The checklist may be paper or electronic.

(b) A dentist delegating the administration of sedation/anesthesia to another provider in accordance with Texas Occupations Code §258.001(4), must maintain in the patient's dental records required by §108.8 of this title (relating to Records of the Dentist), a document titled "preoperative sedation/anesthesia checklist." The checklist must be completed by the sedation/anesthesia provider, or by the dentist delegating the procedure with information provided by the sedation/anesthesia provider as necessary, prior to commencing a procedure for which the dentist has delegated another provider to administer the sedation/anesthesia. The checklist may be paper or electronic.

(c) At a minimum, the preoperative checklist must include documentation of the following as applicable for each level of sedation/anesthesia administered, consistent with the requirements of §§110.3 - 110.6 of this chapter (relating to Sedation and Anesthesia):

(1) Medical history, including documentation of the following:

- (A) review of patient medical history;
 - (B) review of patient allergies;
 - (C) review of patient surgical and/or anesthesia history;
 - (D) review of family surgical and/or anesthesia history;
- and
- (E) review of patient medications and any modifications;

(2) Confirmation that written and verbal preoperative and post-operative instructions were delivered to the patient, parent, legal guardian, or care-giver;

- (3) Medical consults, as needed;
 - (4) Physical examination, including documentation of the following:
 - (A) American Society of Anesthesiologists Physical Status Classification (ASA) classification;
 - (B) NPO status; and
 - (C) Preoperative vitals, including height, weight, blood pressure, pulse rate, and respiration rate;
 - (5) Anesthesia-specific physical examination including documentation of the following as necessary for the level of sedation/anesthesia administered:
 - (A) Airway assessment, including Mallampati score and/or Brodsky score as necessary for adequate patient evaluation; and
 - (B) Ventilation and respiratory rate obtained through patient observation, auscultation, or capnography;
 - (6) Confirmation of pre-procedure equipment readiness check;
 - (7) Confirmation of pre-procedure treatment review (correct patient and procedure); and
 - (8) Special preoperative considerations as indicated for sedation/anesthesia administered to pediatric or high risk patients.
- (d) The preoperative checklist must include documentation of the reason for omission of any items required by subsection (c) of this section.

(e) The information required in subsection (c) of this section may be gathered at any time, but the dentist administering or delegating the administration of sedation/anesthesia must verify that the information is current and correct prior to the administration of sedation/anesthesia.

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 February 28, 2019.

TRD-201900708

Alex Phipps

General Counsel

State Board of Dental Examiners

Effective date: March 20, 2019

Proposal publication date: January 18, 2019

For further information, please call: (512) 305-9380



22 TAC §110.14

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §110.14, concerning the Board's requirements for dentists administering nitrous oxide or levels 1 through 4 of sedation/anesthesia to create, maintain, and annually update emergency preparedness policies and procedures. This amendment to the existing rule clarifies that licensees must annually review and update the relevant emergency policies and must keep a copy of these policies and procedures for two years to be available for inspection by the Board when necessary. This amendment is adopted with changes to the proposed text as published

in the January 18, 2019, issue of the *Texas Register* (44 TexReg 315) and will be republished.

After publication in the *Texas Register*, Board staff changed the proposed text of the rule to reflect an updated reference to Texas Occupations Code §258.1557 in subsection (a). No other changes were made to the proposed text.

Two comments were received after publication of the proposed rule amendment during the official comment period.

The Texas Dental Association offered a comment in support of the rule as proposed. The Board agrees with this comment and has made no changes to the proposed text as a result of this comment.

The Texas Academy of General Dentistry offered a comment noting concern that requiring dentists to keep outdated policies and procedures for two years may create confusion regarding which policies are implemented at any given time. The Board notes that retention of the policies for two years is necessary for enforcement through the Board's inspection program as well as during investigation of complaints filed with the Board. Additionally, during discussion of this requirement and the comment, the Board noted that the two-year requirement was necessary to differentiate these records from the regular retention period required for records of the dentist under 22 TAC §108.8. As a result, the Board disagrees with this comment and feels that the risk of confusion does not present an issue for implementation of the rule as proposed, and has made no changes to the proposed text as a result of this comment.

This rule is adopted under Texas Occupations Code §258.153(b)(4) and (6), directing the Board to promulgate rules related to emergency procedures, drugs, and equipment, including education, training, and certification of personnel, as appropriate, and including protocols for transfers to a hospital and the period in which protocols or procedures covered by rules of the board shall be reviewed, updated, or amended. This rule is also adopted under Texas Occupations Code §258.1556, directing the Board to adopt rules establishing minimum emergency preparedness standards, and Texas Occupations Code §258.1557(b), directing the Board to adopt rules prescribing the content of emergency preparedness protocols.

This rule implements the requirements of Texas Occupations Code §§258.153(b)(4), (6), 258.1556, and 258.1557(b).

§110.14. *Emergency Preparedness Policies and Procedures.*

(a) Pursuant to Texas Occupations Code §258.1557, all permit holders, including nitrous oxide/oxygen inhalation sedation permit holders, must develop written emergency preparedness policies and procedures specific to the permit holder's practice setting that establish a plan for the management of medical emergencies in each practice setting in which the dentist administers sedation/anesthesia.

(b) The emergency preparedness policies and procedures must include written protocols, policies, procedures, and training requirements specific to the permit holder's equipment and drugs for responding to emergency situations involving sedation/anesthesia, including information specific to respiratory emergencies.

(c) The permit holder must annually review the emergency preparedness policies and procedures to determine whether an update is necessary. The permit holder must maintain documentation of the dates of the emergency preparedness policies and procedures' creation, the most recent update, and the most recent annual review.

(d) Policies and procedures developed by all permit holders must include basic life support protocols, advanced cardiac life support rescue protocols, and/or pediatric advanced cardiac life support rescue protocols if treating pediatric patients, consistent with the requirements of §§110.3 - 110.6 of this chapter (relating to Sedation and Anesthesia), as applied to the permit holder.

(e) Policies and procedures developed by all permit holders must include, at a minimum, the following documents:

(1) Specific protocols for response to a sedation/anesthesia emergency, including specific protocols for advanced airway management techniques;

(2) Staff training log, documenting staff training in emergency prevention, recognition, and response on at least an annual basis;

(3) Emergency drug log documenting annual reviews for assurance of unexpired supply;

(4) Equipment readiness log indicating annual reviews for assurance of function of the equipment required by §110.15 of this chapter (relating to Prevention of and Response to Sedation/Anesthesia Emergencies); and

(5) Individual office staff roles and responsibilities in response to an emergency, including roles and responsibilities specific to a response to a respiratory emergency.

(f) All policies and procedures described in subsections (c), (d), and (e) of this section must be reviewed and updated at least annually, and must be reviewed and updated as soon as possible after the permit holder obtains a higher permit level. Permit holders must maintain versions of the policies and procedures described in subsections (c), (d), and (e) of this section for at least two years after the creation or update of the policies and procedures.

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 February 28, 2019.

TRD-201900709

Alex Phipps

General Counsel

State Board of Dental Examiners

Effective date: March 20, 2019

Proposal publication date: January 18, 2019

For further information, please call: (512) 305-9380



22 TAC §110.15

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §110.15, concerning establishment of the Board's minimum emergency preparedness standards and requirements for the administration of sedation/anesthesia, including determining what patient monitoring equipment must be maintained and inspected according to each level of sedation/anesthesia being administered. This amendment to the existing rule clarifies to licensees what equipment licensees must maintain according to their administration of nitrous oxide and/or levels 1 through 4 of sedation/anesthesia. This amendment is adopted with changes to the proposed text as published in the January 18, 2019, issue of the *Texas Register* (44 TexReg 316) and will be republished.

After publication in the *Texas Register*, Board staff has changed the proposed text of the rule to reflect an updated reference to Texas Occupations Code §258.1556 in subsection (a), an updated reference to Texas Occupations Code §258.1555 in subsection (c), and updated references to 22 TAC §§110.3 - 110.6 in subsections (b), (d), and (e). No other changes were made to the proposed text.

Two comments were received after publication of the proposed rule amendment during the official comment period.

The Texas Dental Association offered a comment in support of the rule as proposed. The Board agrees with this comment and has made no changes to the proposed text as a result of this comment.

The Texas Academy of General Dentistry offered a comment requesting clarification that the addition of "capnograph" and the deletion of "precordial/pretracheal stethoscope" only applies to Level 4 permit providers. The Board notes that, per a review of Texas Occupations Code §258.1555 and 22 TAC §§110.3 - 110.6, capnography is only required for Level 4 deep sedation or general anesthesia. As a result, the Board agrees with the comment that the requirement for a capnograph only applies to Level 4 providers, and has made no changes to the proposed text as a result of this comment.

This rule is adopted under Texas Occupations Code §258.153(b)(3), directing the Board to promulgate rules related to the minimum standards for administering anesthesia by a dentist including what dental patient monitoring is to be performed and what equipment to be used during a procedure and during post-procedure monitoring. This rule is also adopted under Texas Occupations Code §258.1556, directing the Board to adopt rules establishing minimum emergency preparedness standards and requirements.

This rule implements the requirements of Texas Occupations Code §§258.153(b)(3) and 258.1556.

§110.15. Prevention of and Response to Sedation/Anesthesia Emergencies.

(a) Pursuant to Texas Occupations Code §258.1556, the Board establishes minimum emergency preparedness standards and requirements for the administration of sedation/anesthesia.

(b) Consistent with the requirements of §§110.3 - 110.6 of this chapter (relating to Sedation and Anesthesia), as applicable to the procedure, at any time a permit holder administers sedation/anesthesia the permit holder must have immediately available:

(1) an adequate and unexpired supply of drugs and anesthetic agents, including but not limited to pharmacologic antagonists and resuscitative drugs appropriate for the type of sedation/anesthesia administered;

(2) an automated external defibrillator, as defined by Section 779.001 of the Texas Health and Safety Code;

(3) a positive pressure ventilation device;

(4) supplemental oxygen; and

(5) appropriate monitors and equipment for the type of sedation/anesthesia administered, including but not limited to:

(A) stethoscope;

(B) sphygmomanometer or automatic blood pressure monitor;

(C) pulse oximeter when required by §§110.4, 110.5, or 110.6 of this chapter (relating to Sedation and Anesthesia);

(D) an oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(E) suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(F) a lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure; and

(G) capnograph, size-and-shape appropriate advanced airway device, intravenous fluid administration equipment, and/or electrocardiogram, when required by §§110.3, 110.4, 110.5, or 110.6 of this chapter (relating to Sedation and Anesthesia).

(c) A permit holder who is administering sedation/anesthesia for which a Level 4 permit is required must use capnography during the administration of the sedation/anesthesia, as required by Texas Occupations Code §258.1555.

(d) Each permit holder must conduct an emergency drug inspection for assurance of unexpired supply at least annually. Documentation of emergency drug inspections must be maintained in the permit holder's emergency drug log, required by §110.14 of this chapter (relating to Emergency Preparedness Policies and Procedures).

(e) Each permit holder must conduct an equipment inspection for assurance of function at least annually. Documentation of equipment inspections must be maintained in the permit holder's equipment readiness log, required by §110.14 of this chapter.

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 February 28, 2019.

TRD-201900711
Alex Phipps
General Counsel
State Board of Dental Examiners
Effective date: March 20, 2019
Proposal publication date: January 18, 2019
For further information, please call: (512) 305-9380



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

DIVISION 1. PLAN OF OPERATION

28 TAC §5.4021

The Commissioner of Insurance adopts new 28 TAC §5.4021, relating to Texas Windstorm Insurance Association (TWIA) agent requirements. The new section is adopted without changes to the proposed text published in the January 4, 2019, issue of the *Texas Register* (44 TexReg 58) and will not be republished.

REASONED JUSTIFICATION. The new section is necessary to implement House Bill 3018, 85th Legislature, Regular Session (2017). HB 3018 added Insurance Code §2210.152(a)(2)(G), mandating that TWIA's plan of operation include "a requirement that a nonresident agent... may not offer or sell a Texas windstorm and hail insurance policy under Chapter 2210 unless the nonresident agent's state of residence authorizes a resident agent licensed in Texas to act in the nonresident agent's state as an agent for that state's residual insurer of last resort for windstorm and hail insurance."

SUMMARY OF COMMENTS. The Texas Department of Insurance (TDI) did not receive any comments on the new section, nor any requests for a public hearing.

STATUTORY AUTHORITY. The Commissioner adopts new §5.4021 under Insurance Code §§2210.008, 2210.151, and 36.001.

Section 2210.008(b) authorizes the Commissioner to adopt reasonable and necessary rules to implement Chapter 2210.

Section 2210.151 authorizes the Commissioner to adopt TWIA's plan of operation.

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

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 March 1, 2019.

TRD-201900718
Norma Garcia
General Counsel
Texas Department of Insurance
Effective date: March 21, 2019
Proposal publication date: January 4, 2019
For further information, please call: (512) 676-6584



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 10. TEXAS WATER DEVELOPMENT BOARD

CHAPTER 371. DRINKING WATER STATE REVOLVING FUND

The Texas Water Development Board ("TWDB" or "board") adopts, with no changes from the proposal published in the January 4, 2019, issue of the *Texas Register* (44 TexReg 61), amendments to 31 Texas Administrative Code (TAC) §371.2, relating to projects and activities eligible for assistance; §371.14,

relating to lending rates; §371.70, relating to financial assistance secured by bonds or other authorized securities; §371.71, relating to financial assistance secured by promissory notes and deeds of trust; and §371.85, relating to final accounting. The adopted amendments will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENTS.

The TWDB adopts amendments to various provisions in 31 TAC Chapter 371 to provide clarity on the TWDB's procedures to those seeking and receiving financial assistance from the board. The specific adopted amendments and the reasons for those adopted amendments are addressed in more detail below.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

31 TAC §371.2. Projects and Activities Eligible for Assistance.

Section 371.2 is amended to correct the heading of the subsection concerning what applicants are ineligible for assistance.

31 TAC §371.14. Lending Rates.

Section 371.14 is amended to streamline the procedure for setting fixed interest rates for loans with the TWDB's procedure for setting interest rates for entities adopting bond ordinances or resolutions. Currently, the procedure for loans states that interest rates may not be set earlier than five business days before both the TWDB and the borrower execute the loan agreement. The amendment will change the procedure for loans to clarify that interest rates may be set no earlier than five business days before the borrower's execution of the loan agreement.

31 TAC §371.70. Financial Assistance Secured by Bonds or Other Authorized Securities.

Section 371.70 is amended to remove the requirement that the partial redemption of bonds or other authorized securities be made in inverse order of maturity.

31 TAC §371.71. Financial Assistance Secured by Promissory Notes and Deeds of Trust.

Section 371.71 is amended to clarify that before closing financial assistance secured by promissory notes and deeds of trust that applicants must establish a dedicated source of revenue for repayment of the financial assistance. This is already a closing requirement for loans and bonds, but the procedure was not in the TWDB rules. This is required by 42 U.S.C.A §300j-12(f)(1)(C).

31 TAC §371.85. Final Accounting.

Section 371.85 is amended to streamline the final accounting provision with the TWDB's other financial assistance programs. Currently, 31 TAC §363.42 provides that after final accounting any surplus loan funds may be used in a manner as approved by the executive administrator. Section 371.85 is amended to match this procedure.

REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the

economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to streamline the procedures for those seeking and receiving financial assistance from the board.

Even if the adopted rules were major environmental rules, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather is adopted under the authority of Texas Water Code §§15.604, 15.605, and 16.093. Therefore, the adopted amendments do not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

The board evaluated the adopted rules and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the rules is to provide clarity to those seeking and receiving financial assistance from the board. The adopted rules would substantially advance this stated purpose by updating internal references regarding TWDB financial assistance programs and streamlining the procedures across the financial assistance programs.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to the adopted rules because this is an action that is reasonably taken to fulfill an obligation mandated by state and federal law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that provides financial assistance for the construction of water, wastewater, flood control, and other related projects.

Nevertheless, the board further evaluated the adopted rules and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of the adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the adopted regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, these rules require compliance with state and federal laws regarding financial assistance under the state revolving funds without burdening or restricting or limiting an owner's right to property and reducing its value by 25% or more. Therefore, the adopted rules do not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS

No comments were received.

SUBCHAPTER A. GENERAL PROGRAM REQUIREMENTS

31 TAC §371.2

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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 February 26, 2019.

TRD-201900679
Todd Chenoweth
General Counsel
Texas Water Development Board
Effective date: March 18, 2019
Proposal publication date: January 4, 2019
For further information, please call: (512) 463-7686



SUBCHAPTER B. FINANCIAL ASSISTANCE

31 TAC §371.14

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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 February 26, 2019.

TRD-201900682
Todd Chenoweth
General Counsel
Texas Water Development Board
Effective date: March 18, 2019
Proposal publication date: January 4, 2019
For further information, please call: (512) 463-7686



SUBCHAPTER G. LOAN CLOSINGS AND AVAILABILITY OF FUNDS

31 TAC §371.70, §371.71

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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 February 26, 2019.

TRD-201900683
Todd Chenoweth
General Counsel
Texas Water Development Board
Effective date: March 18, 2019
Proposal publication date: January 4, 2019
For further information, please call: (512) 463-7686



SUBCHAPTER H. CONSTRUCTION AND POST-CONSTRUCTION REQUIREMENTS

31 TAC §371.85

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

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 February 26, 2019.

TRD-201900685
Todd Chenoweth
General Counsel
Texas Water Development Board
Effective date: March 18, 2019
Proposal publication date: January 4, 2019
For further information, please call: (512) 463-7686



CHAPTER 375. CLEAN WATER STATE REVOLVING FUND

The Texas Water Development Board ("TWDB" or "board") adopts the proposed amendments published in the January 4, 2019, issue of the *Texas Register* (44 TexReg 65). The amendments to 31 Texas Administrative Code (TAC) §375.15, relating to lending rates, §375.18, relating to principal forgive-

ness, §375.91, relating to financial assistance secured by bonds or other authorized securities, §375.92, relating to financial assistance secured by promissory notes and deeds of trust, and §375.106, relating to final accounting, are adopted without changes and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The TWDB adopts amendments to various provisions in 31 TAC Chapter 375 to provide clarity on the TWDB's procedures to those seeking and receiving financial assistance from the board. The specific adopted amendments and the reasons for those adopted amendments are addressed in more detail below.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

31 TAC §375.15. Lending Rates.

Section 375.15 is amended to streamline the procedure for setting fixed interest rates for loans with the TWDB's procedure for setting interest rates for entities adopting bond ordinances or resolutions. Currently, the procedure for loans states that interest rates may not be set earlier than five business days before both the TWDB and the borrower execute the loan agreement. The amendment will change the procedure for loans to clarify that interest rates may be set no earlier than five business days before the borrower's execution of the loan agreement.

31 TAC §375.18. Principal Forgiveness.

Section 375.18 is amended to clarify that the board may provide principal forgiveness for financial assistance in accordance with the federal appropriations acts and for eligible activities as detailed in the TWDB's Intended Use Plan.

31 TAC §375.91. Financial Assistance Secured by Bonds or Other Authorized Securities

Section 375.91 is amended to remove the requirement that the partial redemption of bonds or other authorized securities be made in inverse order of maturity.

31 TAC §375.92. Financial Assistance Secured by Promissory Notes and Deeds of Trust.

Section 375.92 is amended to clarify that before closing financial assistance secured by promissory notes and deeds of trust, applicants must establish a dedicated source of revenue for repayment of the financial assistance. This is already a closing requirement for loans and bonds, but the procedure was not in the TWDB rules. This is required by 33 U.S.C.A §1383(d)(1)(C).

31 TAC §375.106. Final Accounting.

Section 375.106 is amended to streamline the final accounting provision with the TWDB's other financial assistance programs. Currently, 31 TAC §363.42 provides that after final accounting, any surplus loan funds may be used in a manner as approved by the executive administrator. Section 375.106 is amended to match this procedure.

REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the envi-

ronment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to streamline the procedures for those seeking and receiving financial assistance from the board.

Even if the adopted rules were major environmental rules, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather is adopted under the authority of Texas Water Code §§15.604, 15.605, and 16.093. Therefore, the adopted amendments do not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

The board evaluated the adopted rules and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the rules is to provide clarity to those seeking and receiving financial assistance from the board. The adopted rules would substantially advance this stated purpose by updating internal references regarding TWDB financial assistance programs and streamlining the procedures across the financial assistance programs.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to the adopted rules because this is an action that is reasonably taken to fulfill an obligation mandated by state and federal law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that provides financial assistance for the construction of water, wastewater, flood control, and other related projects.

Nevertheless, the board further evaluated the adopted rules and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of the adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the adopted regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, these rules require compliance with state and federal laws regarding financial assistance under the state revolving funds without burdening or restricting or limiting an owner's right to property and reducing its value by 25% or more. Therefore, the adopted rules do not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS

No comments were received.

SUBCHAPTER B. FINANCIAL ASSISTANCE

31 TAC §375.15, §375.18

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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 February 26, 2019.

TRD-201900686

Todd Chenoweth

General Counsel

Texas Water Development Board

Effective date: March 18, 2019

Proposal publication date: January 4, 2019

For further information, please call: (512) 463-7686



SUBCHAPTER G. LOAN CLOSINGS AND AVAILABILITY OF FUNDS

31 TAC §375.91, §375.92

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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 February 26, 2019.

TRD-201900687

Todd Chenoweth

General Counsel

Texas Water Development Board

Effective date: March 18, 2019

Proposal publication date: January 4, 2019

For further information, please call: (512) 463-7686



SUBCHAPTER H. CONSTRUCTION AND POST CONSTRUCTION REQUIREMENTS

31 TAC §375.106

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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 February 26, 2019.

TRD-201900688

Todd Chenoweth

General Counsel

Texas Water Development Board

Effective date: March 18, 2019

Proposal publication date: January 4, 2019

For further information, please call: (512) 463-7686



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 2. ENVIRONMENTAL REVIEW OF TRANSPORTATION PROJECTS

SUBCHAPTER I. MEMORANDUM OF UNDERSTANDING WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

The Texas Department of Transportation (department) adopts the repeal of §§2.301 - 2.308, concerning Memorandum of Understanding with the Texas Commission on Environmental Quality, and its simultaneous replacement with new §§2.301 - 2.308. The repeal of §§2.301 - 2.308 and the simultaneous adoption of new §§2.301 - 2.308 are adopted without changes to the proposed text as published in the November 30, 2019, issue of the *Texas Register* (43 TexReg 7756) and will not be republished.

EXPLANATION OF ADOPTED REPEAL AND NEW SECTIONS

Transportation Code, §201.607 requires the department to adopt a memorandum of understanding (MOU) with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historic or archeological resources. Transportation Code, §201.607 also requires the department to adopt the MOU and all revisions to it by rule, and to periodically evaluate and revise the MOU. In order to meet the legislative intent and to ensure that the protection of the natural environment is given full consideration in accomplishing the

department's activities, the department has evaluated its MOU with the Texas Commission on Environmental Quality (TCEQ), adopted in 2013, and finds it necessary to repeal existing 43 TAC Chapter 2, Subchapter I and simultaneously replace it with a new Subchapter I, §§2.301 - 2.308.

The provisions of Chapter 2, new Subchapter I have been agreed on by the TCEQ and the department in order to update the current MOU. This replacement is adopted to better explain both agencies' responsibilities. The changes include modifications to the triggers for coordination, the methods of coordination, and the required content for environmental review documents. The changes simplify and clarify both agencies' obligations under the coordination process.

COMMENTS

No comments on the proposed repeal and new sections were received.

43 TAC §§2.301 - 2.308

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.607, which directs the department and the Texas Commission on Environmental Quality to examine and revise their memorandum of understanding.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.607.

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 February 28, 2019.

TRD-201900706

Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Effective date: March 20, 2019
Proposal publication date: November 30, 2019
For further information, please call: (512) 463-8630



43 TAC §§2.301 - 2.308

STATUTORY AUTHORITY

The new sections are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.607, which directs the department and the Texas Commission on Environmental Quality to examine and revise their memorandum of understanding.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.607.

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 February 28, 2019.

TRD-201900707
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Effective date: March 20, 2019
Proposal publication date: November 30, 2018
For further information, please call: (512) 463-8630



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

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

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

Proposed Rule Reviews

Credit Union Department

Title 7, Part 6

The Texas Credit Union Commission will review and consider for re-adoption, revision, or repeal Chapter 91, §91.801 (Investments in Credit Union Service Organizations), §91.802 (Other Investments), §91.803 (Investment Limits and Prohibitions), §91.804 (Custody and Safekeeping), §91.805 (Loan Participation Investments), §91.808 (Reporting Investment Activities to the Board of Directors), §91.901 (Reserve Requirements), and §91.902 (Dividends).

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission believes that the reasons for adopting the rules contained in this chapter continue to exist. The commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist. The commission also invites comments on how to make these rules easier to understand. For example:

- Does the rule organize the material to suit your needs? If not, how could the material be better organized?
- Does the rule clearly state the requirements? If not, how could the rule be more clearly stated?
- Does the rule contain technical language or jargon that is not clear? If so, what language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- Would more (but shorter) sections be better in any of the rules? If so, what sections should be changed?

Each rule will also be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Credit Union Department.

Any questions or written comments pertaining to this notice should be directed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699, or by email to [cudmail@cud.texas.gov](mailto:cudmail@ cud.texas.gov). Any proposed amendments as a result of the review will be published in the *Texas Register* in compliance with Texas Government Code, Chapter 2001, and will be open for an additional 31-day public comment period prior to final adoption or repeal by the commission.

TRD-201900702

John J. Kolhoff
Commissioner
Credit Union Department
Filed: February 27, 2019



State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) proposes the review of Title 19, Texas Administrative Code (TAC), Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, pursuant to the Texas Government Code (TGC), §2001.039.

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

The comment period on the review of 19 TAC Chapter 249 begins March 15, 2019, and ends April 15, 2019. A form for submitting public comments on proposed rule reviews is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_\(TAC\)/State_Board_for_Educator_Certification_Rules_Currently_Under_Review/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBEC_Rules_(TAC)/State_Board_for_Educator_Certification_Rules_Currently_Under_Review/). Comments on the proposed review may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The SBEC will take registered oral and written comments on the review of 19 TAC Chapter 249 at the April 26, 2019, meeting in accordance with the SBEC board operating policies and procedures.

TRD-201900719
Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Filed: March 1, 2019



Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 5, Advisory Committees and Groups.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the com-

mission will assess whether the reasons for initially adopting the rules in Chapter 5 continue to exist.

Comments regarding suggested changes to the rules in Chapter 5 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 5. Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-016-005-AD. Comments must be received by April 15, 2019. For further information, please contact Rebekah Stanush, Project Manager, Program Support and Environmental Assistance Division, at (512) 239-5834.

TRD-201900736

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 5, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 118, Control of Air Pollution Episodes.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 118 continue to exist.

Comments regarding suggested changes to the rules in Chapter 118 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 118. Written comments may be submitted to Paige Bond, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-055-118-AI. Comments must be received by April 15, 2019. For further information, please contact Graham Bates, Air Quality Division, at (512) 239-2606.

TRD-201900740

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 5, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 291, Utility Regulations.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 291 continue to exist.

Comments regarding suggested changes to the rules in Chapter 291 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 291. Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-044-291-OW. Comments must be received by April 15, 2019. For further information, please contact Brian Dickey, Water Supply Division, at (512) 239-0963.

TRD-201900744

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 5, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 304, Watermaster Operations.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re adoption, re adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 304 continue to exist.

Comments regarding suggested changes to the rules in Chapter 304 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 304. Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-048-304-OW. Comments must be received by April 15, 2019. For further information, please contact Kathy Ramirez, Water Availability Division, at (512) 239-6757.

TRD-201900745

Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: March 5, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 315, Pretreatment Regulations for Existing and New Sources of Pollution.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re-adoption, re-adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 315 continue to exist.

Comments regarding suggested changes to the rules in Chapter 315 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 315. Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-023-315-OW. Comments must be received by April 15, 2019. For further information, please contact Laurie Fleet, Water Quality Division, at (512) 239-5445.

TRD-201900737
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: March 5, 2019



Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission (TSLAC) files this notice of intent to review and consider for re-adoption, revision, or repeal the rules in Chapter 7 of the Texas Administrative Code, Title 13, relating to Local Records. This includes review of the following rules:

SUBCHAPTER A: REGIONAL HISTORICAL RESOURCE DEPOSITORIES AND REGIONAL RESEARCH CENTERS

- §7.1 Definitions
- §7.2 Designation of Depositories
- §7.3 Minimum Requirements for Depositories
- §7.4 Management of Depositories and Regional Research Centers
- §7.5 Commission Staff at Depositories
- §7.6 Financial Responsibilities
- §7.7 Title to Materials
- §7.8 Termination of Depositories
- §7.9 Depositories Designated under Prior Law

SUBCHAPTER B: MICROFILMING STANDARDS FOR LOCAL GOVERNMENTS

- §7.21 Definitions
- §7.22 Adopted National Standards
- §7.23 General
- §7.24 Microfilm Production Procedures
- §7.25 Microfilm Production Tests and Inspections
- §7.26 Storage of Original Microfilm
- §7.27 Inspection of Stored Original Microfilm
- §7.28 Computer Output Microfilm (COM)
- §7.29 Jacketing
- §7.30 Aperture Card/CAD Systems
- §7.31 Step-and-Repeat Systems
- §7.32 Expungement
- §7.33 Destruction of Microfilmed Records
- §7.34 Documentation and Recordkeeping
- §7.35 Public Access to Information on Microfilm

SUBCHAPTER C: STANDARDS AND PROCEDURES FOR MANAGEMENT OF ELECTRONIC RECORDS

- §7.71 Definitions
- §7.72 General
- §7.73 Creation and Use of Data Files
- §7.74 Creation and Use of Text Documents
- §7.75 Security of Electronic Records
- §7.76 Maintenance of Electronic Records Storage Media
- §7.77 Retention of Electronic Records
- §7.78 Destruction of Electronic Records
- §7.79 Public Access to Electronic Records

SUBCHAPTER D: RECORDS RETENTION SCHEDULES

- §7.121 Definitions
- §7.122 Applicability and Scope
- §7.123 General
- §7.124 Procedures
- §7.125 Records Retention Schedules

SUBCHAPTER E: ELECTRONIC FILING AND RECORDING

- §7.141 Definitions
- §7.142 General
- §7.143 Form and Method of Transmission
- §7.144 Method of Recording
- §7.145 System Security Procedures

SUBCHAPTER F: RECORDS STORAGE STANDARDS

- §7.161 Definitions
- §7.162 General

§7.163 Required Minimum Storage Conditions for Certain Non-Permanent Court Records

§7.164 Required Minimum Storage Conditions for Permanent Records

§7.165 Optional Enhanced Storage Conditions for Permanent Records

This review is conducted pursuant to Texas Government Code §2001.039, which requires rule review every four years.

Comments should be directed to Joshua Clark, Program Planning and Research Specialist, TSLAC, P.O. Box 12927, Austin, Texas 78711, or jclark@tsl.texas.gov. Written comments from the general public must

be received within 30 days of the publication of this notice in the *Texas Register*.

TRD-201900739

Craig Kelso

Director

Texas State Library and Archives Commission

Filed: March 5, 2019



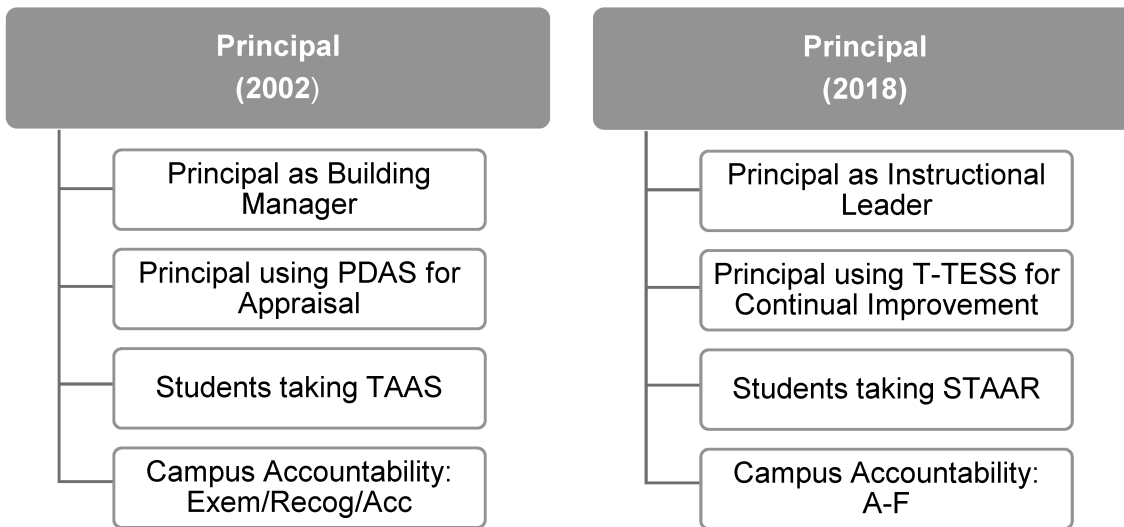
TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

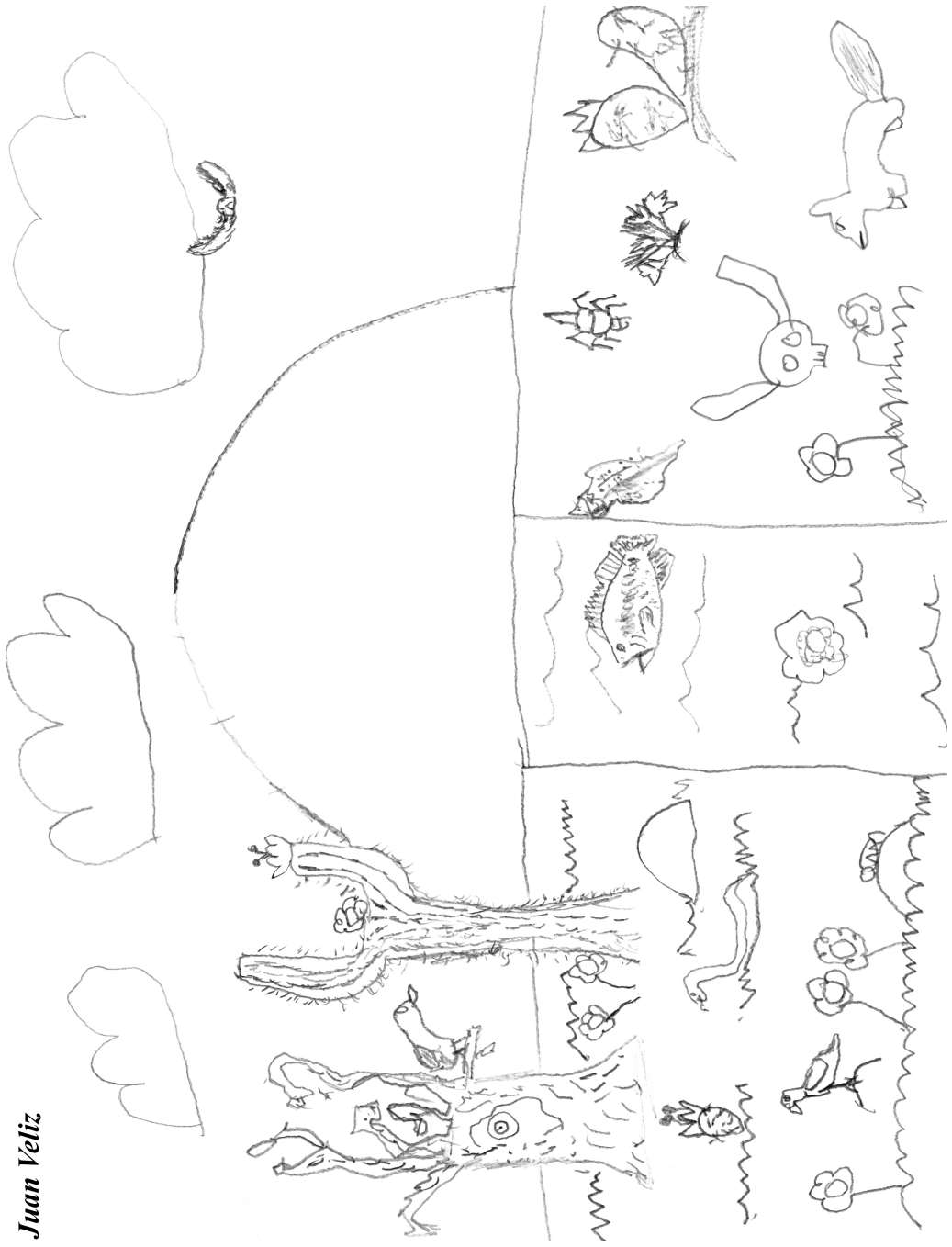
Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 19 TAC Chapter 241 - Preamble

THE CHANGING ROLE OF THE PRINCIPAL FROM 2002-2018



Juan Veliz



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.

Central Texas Regional Mobility Authority

Notice of Availability of Request for Qualifications for the 183 North Mobility Project

The Central Texas Regional Mobility Authority ("Mobility Authority"), a political subdivision of the State of Texas, is soliciting statements of qualifications from entities interested in pursuing the development of the 183 North Mobility Project ("the Project"), through a design-build agreement ("DB Agreement"). The Project extends from State Highway (SH) 45 North/Ranch-to-Market (RM) 620 to State Loop 1 (MoPac), a distance of approximately nine miles and generally consists of the construction of four express lanes (two in each direction) and widening of the existing United States Highway (US) 183 as required to bring the total number of general purpose lanes to four in each direction. Other improvements include the addition of direct connector ramps providing access between the existing express lanes on MoPac and the proposed express lanes on US 183, a new shared-use path, new sidewalks, cross-street connections for bicycles/pedestrians, and other improvements and widening necessary for the aforementioned improvements. The entity selected for the Project, if any, will be responsible for the design and construction and other identified requirements for development of the Project through a DB Agreement.

The request for qualifications ("RFQ") will be available on March 15, 2019. Copies may be obtained from the Business Opportunities section of the Mobility Authority website, or the CivCast website at <https://www.civcastusa.com>. Periodic updates, addenda, and clarifications will be posted on the CivCast website, and interested parties are responsible for monitoring the website accordingly. Final responses to the RFQ must be received in the offices of the Mobility Authority by or before 12:00 p.m. Central Time, June 3, 2019, to be eligible for consideration.

It is the policy of the Mobility Authority to encourage the participation of minorities and women in all facets of its activities. The commitment of the proposing entity to utilization of DBEs will be considered in the RFQ evaluation process. Each proposing entity will be evaluated based on the criteria and process set forth in the RFQ.

TRD-201900770

Geoff Petrov

General Counsel

Central Texas Regional Mobility Authority

Filed: March 6, 2019

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/11/19 - 03/17/19 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 03/11/19 - 03/17/19 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009³ for the period of 03/01/19 - 03/31/19 is 18% or Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 03/01/19 - 03/31/19 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

³ For variable rate commercial transactions only.

TRD-201900738

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: March 5, 2019

Texas State Board of Examiners of Professional Counselors

Correction of Error

The Texas State Board of Examiners of Professional Counselors (board) adopted amendments, repeals and new rules for 22 TAC Chapter 681 in the February 22, 2019, issue of the *Texas Register* (44 TexReg 844). Due to an error as submitted by the board, the preamble included three references to the "Health Insurance Accountability and Portability Act" on pages 848 and 849. The correct reference is the "Health Insurance Portability and Accountability Act."

TRD-201900722

Texas Education Agency

Notice of Correction: Request for Applications Concerning the 2019-2020 School Action Fund - Planning Grant Program

Filing Date: March 6, 2019

Filing Authority. The availability of grant funds under Request for Applications #701-19-107 is authorized by P.L. 114-95, Every Student Succeeds Act, Title I, Part A, Section 1003, School Improvement.

The Texas Education Agency (TEA) published Request for Applications Concerning the 2019-2020 School Action Fund - Planning Grant Program in the March 1, 2019, issue of the *Texas Register* (44 TexReg 1173).

TEA is amending the applicant eligibility and the due date for submission of applications. In the Eligible Applicants section, the criteria is amended to read, "LEAs currently receiving a Texas Title I Priority School (TTIPS) Cycle 4 or 5 grant, a School Redesign grant, a School Transformation Fund grant, or a Transformation Zone grant for an eligible campus may not apply for or receive an award from this grant program." The new grant submission due date is May 2, 2019.

TRD-201900760
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: March 6, 2019



Notice of Correction: Request for Applications Concerning the 2019-2021 School Action Fund - Implementation Grant Program

Filing Date. March 6, 2019

Filing Authority. The availability of grant funds under Request for Applications #701-19-106 is authorized by P.L. 107-110, Elementary and Secondary Education Act of 1965, as amended by No Child Left Behind Act of 2001, Section 1003(g).

The Texas Education Agency (TEA) published Request for Applications Concerning the 2019-2021 School Action Fund - Implementation Grant Program in the March 1, 2019, issue of the *Texas Register* (44 TexReg 1174).

TEA is amending the applicant eligibility and the due date for submission of applications. In the Eligible Applicants section, the criteria is amended to read, "LEAs currently receiving a Texas Title I Priority School (TTIPS) Cycle 4 or 5 grant, a School Redesign grant, a School Transformation Fund grant, or a Transformation Zone grant for an eligible campus may not apply for or receive an award from this grant program." The new grant submission due date is May 2, 2019.

TRD-201900759
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: March 6, 2019



Public Notice Announcing the Availability of the Proposed Texas Individuals with Disabilities Education Improvement Act of 2004 (IDEA) Eligibility Document: State Policies and Procedures

Filing Date. March 6, 2019

Purpose and Scope of the Part B Federal Fiscal Year (FFY) 2019 State Application and its Relation to Part B of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA Part B). The Texas Education Agency (TEA) is inviting public comment on its Proposed State Application under IDEA Part B. The annual grant application provides assurances that the state's policies and procedures in effect are consistent with the federal requirements to ensure that a free appropriate public education is made available to all children with a disability from 3 to 21 years of age, including children who have been suspended or expelled from school. 34 Code of Federal Regulations, §300.165, requires that states conduct public hearings, ensure adequate notice of those hearings, and provide an opportunity for public comment, including comment from individuals with disabilities and parents of children with disabilities, before adopting policies and procedures.

Availability of the State Application. The Proposed State Application is available on the TEA website at http://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/Annual_State_Application_under_IDEA_Part_B_and_IDEA_Eligibility_Documentation/. Instructions for submitting public comments are available from the same site. The Proposed State Application will also be available

at the 20 regional education service centers and at the TEA Library (Ground Floor, Room G-102), William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Parties interested in reviewing the Proposed State Application at the William B. Travis location should contact the TEA Division of Special Education at (512) 463-9414.

Procedures for Submitting Written Comments. The TEA will accept written comments pertaining to the Proposed State Application by mail to the TEA, Division of Special Education, 1701 North Congress Avenue, Austin, Texas 78701-1494 or by email to spedrule@tea.texas.gov.

Participation in Public Hearings. The TEA will provide individuals with opportunities to testify on the Proposed State Application and the state's policies and procedures for implementing IDEA Part B on March 27, 2019, and March 28, 2018, between 1:00 p.m. and 4:00 p.m. at the TEA (1st floor, Room 1-111), William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Parties interested in testifying are encouraged to also include written testimony. Public hearing information is available on the TEA website at <http://www.tea.state.tx.us/index2.aspx?id=2147493812>.

Timetable for Submitting the State Application. After review and consideration of all public comments, the TEA will make necessary or appropriate modifications and will submit the State Application to the U.S. Department of Education on or before May 17, 2019.

For more information, contact the TEA Division of Special Education by mail at 1701 North Congress Avenue, Austin, Texas 78701; by telephone at (512) 463-9414; by fax at (512) 463-9560; or by email at spedrule@tea.texas.gov.

TRD-201900758
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: March 6, 2019



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 **April 15, 2019**. 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 **April 15, 2019**. 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: Active Deployment Systems, Incorporated; DOCKET NUMBER: 2018-1613-EAQ-E; IDENTIFIER: RN110488012; LOCATION: Wimberly, Hays County; TYPE OF FACILITY: property; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(2) COMPANY: Alfonso's Tire and Wheels, LLC and Alfonso R. Martinez dba Alfonso's Tire Shop; DOCKET NUMBER: 2018-1602-MLM-E; IDENTIFIER: RN101831717; LOCATION: Schertz, Guadalupe County; TYPE OF FACILITY: out-of-service underground storage tank (UST) system at a new and used tire shop; RULES VIOLATED: 30 TAC §324.1 and 40 Code of Federal Regulations §279.22(c)(1), by failing to mark or clearly label used oil storage containers with the words "Used Oil"; 30 TAC §328.56(c), by failing to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated at the facility; and 30 TAC §334.55(a), by failing to permanently remove petroleum USTs in accordance with accepted industry practices or codes; PENALTY: \$5,500; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Joseph D. Buerkle; DOCKET NUMBER: 2019-0233-WOC-E; IDENTIFIER: RN110233616; LOCATION: Jayton, Kent County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(4) COMPANY: City of Baytown; DOCKET NUMBER: 2018-1556-MWD-E; IDENTIFIER: RN101611572; LOCATION: Baytown, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010395002, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, by failing to comply with permitted effluent limitations; PENALTY: \$19,050; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$15,240; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: City of Del Rio; DOCKET NUMBER: 2018-1711-AIR-E; IDENTIFIER: RN102143294; LOCATION: Del Rio, Val Verde County; TYPE OF FACILITY: landfill; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(C), Federal Operating Permit Number O3803/General Operating Permit Number 518, Terms and Conditions Number (b)(3)(C)(ii)(III), and Texas Health and Safety Code, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; PENALTY: \$1,837; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601;

REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(6) COMPANY: City of Eldorado; DOCKET NUMBER: 2018-1195-MSW-E; IDENTIFIER: RN102142999; LOCATION: Eldorado, Schleicher County; TYPE OF FACILITY: type I-arid exempt landfill; RULES VIOLATED: 30 TAC §330.15(a) and (c) and TWC, §26.121(a)(1), by failing to not cause, suffer, allow, or permit the unauthorized discharge of municipal solid waste (MSW); 30 TAC §330.121(a) and MSW Permit Number 2264, Site Operating Plan (SOP) Section 4 Site Operations, Table IV-5: Site Inspection Maintenance List, by failing to not deviate from the incorporated SOP; 30 TAC §330.121(a) and §330.125(a) and MSW Permit Number 2264, SOP Section 3 Record-Keeping Requirements, Item a.ii. Additional Copies of Landfill Records, by failing to maintain copies of the permit, Site Development Plan, Final Closure Plan, Post-Closure Maintenance Plan, and Landfill Gas Management Plan at the facility; 30 TAC §330.121(a) and §330.129 and MSW Permit Number 2264, SOP Section 5 Fire Protection Plan, Item 5.f.i. Fire Equipment, by failing to not deviate from the incorporated SOP; 30 TAC §330.121(a) and §330.133(a) and MSW Permit Number 2264, SOP Section 7 Unloading of Waste, Item a.i. Working Face Control, by failing to not deviate from the incorporated SOP; 30 TAC §330.121(a) and §335.586(c) and MSW Permit Number 2264, SOP Section 4 Site Operations, Item e.vii. Full Time and Part Time Personnel Training, by failing to not deviate from the incorporated SOP; 30 TAC §330.131 and MSW Permit Number 2264, SOP Section 6 Access Control, Item b.i. Barrier Materials and item b.ii. Fencing, by failing to control public access to the facility by means of artificial barriers, natural barriers, or a combination of both, appropriate to protect human health and safety and the environment; 30 TAC §330.139(1) and (2) and MSW Permit Number 2264, SOP Section 10 Control of Windblown Waste and Litter, Item a.i. Windblown Litter and item a.ii. Control of Scattered Litter, by failing to control windblown waste and litter at the active working face of the facility; 30 TAC §330.165(a) and (c) and MSW Permit Number 2264, SOP Section 24 Landfill Cover, Item a. Daily Cover and item b. Intermediate Cover, by failing to provide timely and adequate landfill cover; and 30 TAC §330.165(g) and MSW Permit Number 2264, SOP Section 24 Landfill Cover, Item f. Erosion of Cover, by failing to repair erosion of final or intermediate cover within five days of detection; PENALTY: \$15,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,100; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(7) COMPANY: City of Emory; DOCKET NUMBER: 2018-1466-MWD-E; IDENTIFIER: RN102916822; LOCATION: Emory, Rains County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010082001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$10,062; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$8,050; ENFORCEMENT COORDINATOR: Chase Davenport, (512) 239-2615; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(8) COMPANY: City of Junction; DOCKET NUMBER: 2018-1480-PWS-E; IDENTIFIER: RN101383990; LOCATION: Junction, Kimble County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average; PENALTY: \$417; ENFORCEMENT COORDINATOR: Drew Gartman, (512) 239-1437;

REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(9) COMPANY: CONNERS CONSTRUCTION, INCORPORATED dba Dippel Quarry; DOCKET NUMBER: 2018-1705-PST-E; IDENTIFIER: RN108890617; LOCATION: Oglesby, Coryell County; TYPE OF FACILITY: aggregate extraction facility; RULES VIOLATED: 30 TAC §334.127(a)(1) and TWC, §26.346(a), by failing to obtain a petroleum storage tank registration for an aboveground storage tank larger than 1,100 gallons; PENALTY: \$813; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(10) COMPANY: Cynthia Anne Young dba Whispering Oaks Water Coop; DOCKET NUMBER: 2018-1301-MLM-E; IDENTIFIER: RN101212181; LOCATION: Quinlan, Hunt County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §288.20(a) and §288.30(5)(B) and TWC, §11.1272(c), by failing to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier; 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement that covers the land within 150 feet of the facility's Well Numbers 1 and 2; 30 TAC §290.41(c)(3)(K), by failing to ensure that wellheads are properly vented with a well casing vent that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated, and located so as to minimize the drawing of contaminants into the well; 30 TAC §290.41(c)(3)(N), by failing to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data; 30 TAC §290.42(j), by failing to use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation Standard 60; 30 TAC §290.43(c)(8), by failing to ensure that the facility's clearwells, ground storage tanks, standpipes, and elevated tanks are painted, disinfected, and maintained in strict accordance with current American Water Works Association standards; 30 TAC §290.45(b)(1)(B)(iv) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a minimum pressure tank capacity of 20 gallons per connection; 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and THSC, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the facility under the direct supervision of a licensed water works operator who holds a Class D or higher license; 30 TAC §290.46(f)(2) and (3)(A)(i)(III), (ii)(III), and (iv), by failing to maintain water works operation and maintenance records and make them readily available for review by commission personnel during the investigation; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.46(m)(1)(A), by failing to conduct an annual inspection of the facility's four ground storage tanks; 30 TAC §290.46(m)(1)(B), by failing to conduct the annual inspection of the facility's two pressure tanks; 30 TAC §290.46(n)(2), by failing to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meters at least once every three years; 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; 30 TAC §290.46(t), by failing to post a legible sign at the facility's

production, treatment, and storage facilities that contains the name of the facility and an emergency telephone number where a responsible official can be contacted; 30 TAC §290.110(c)(4)(A), by failing to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days; 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 and maintain a copy at each plant site; PENALTY: \$4,274; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: David Johnson; DOCKET NUMBER: 2018-1222-MSW-E; IDENTIFIER: RN109859033; LOCATION: Buna, Jasper County; TYPE OF FACILITY: unauthorized municipal solid waste disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the collection, storage, processing, or disposal of municipal solid waste; PENALTY: \$1,312; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(12) COMPANY: Equistar Chemicals, LP and LyondellBasell Acetyls, LLC; DOCKET NUMBER: 2018-0544-IWD-E; IDENTIFIER: RN100210319; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0004013000, Outfall Numbers 001 - Interim Phase, 003, 004, 005, 104, 105, 207, 307, and 407, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; 30 TAC §§305.125(1), 307.6(e)(2)(B), and 319.5(b) and TPDES Permit Number WQ0004013000, Attachment C, 24-Hour Biomonitoring Requirements: Marine, Number 1, by failing to collect and analyze effluent samples at the intervals specified in the permit; and 30 TAC §305.125(1) and §319.5(b) and TPDES Permit Number WQ0004013000, Outfall Number 003, Effluent Limitations and Monitoring Requirements Number 1, by failing to collect and analyze effluent samples at the intervals specified in the permit; PENALTY: \$113,403; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$45,361; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Gypsy River LLC; DOCKET NUMBER: 2018-0952-PWS-E; IDENTIFIER: RN102319399; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the well; 30 TAC §290.45(c)(1)(A)(i), by failing to provide a well capacity of 1.0 gallon per minute per unit; 30 TAC §290.46(f)(2) and (3)(A)(i)(I) and (ii)(I), (B)(iii), and (D)(i), by failing to properly maintain water works operation and maintenance records and make them available for review to the executive director (ED) during the investigation; 30 TAC §290.46(n)(1), by failing to maintain accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank at the public water system until the facility is decommissioned; 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; 30 TAC §290.121(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 facility will use to comply with

the monitoring requirements; and 30 TAC §290.122(c)(2)(A) and (f), by failing to issue public notification and submit a copy of the public notification to the ED regarding the failure to collect nitrate samples during the third quarter of 2016; PENALTY: \$427; ENFORCEMENT COORDINATOR: Michaelle Garza, (512) 239-4728; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(14) COMPANY: J. Ferg Development, L.L.C.; DOCKET NUMBER: 2019-0249-WQ-E; IDENTIFIER: RN109742965; LOCATION: New Home, Lynn County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(15) COMPANY: Jerry Bransom; DOCKET NUMBER: 2018-1438-WR-E; IDENTIFIER: RN100737139; LOCATION: Kennedale, Tarrant County; TYPE OF FACILITY: racetrack, facilities, and associated parking lots; RULES VIOLATED: 30 TAC §297.11 and TWC, §11.081 and §11.121, by failing to obtain authorization prior to diverting, impounding, storing, taking, or using state water; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Alejandro Laje, (512) 239-2547; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(16) COMPANY: Liberty Utilities (Woodmark Sewer) Corp.; DOCKET NUMBER: 2018-1276-MWD-E; IDENTIFIER: RN101511400; LOCATION: Flint, Smith County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0013168001, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state; PENALTY: \$12,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,187; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: Matthew Road Water Supply Corporation; DOCKET NUMBER: 2018-1566-PWS-E; IDENTIFIER: RN101455053; LOCATION: Arlington, Dallas County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement for all land within 150 feet of the facility's Well Number 2; 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code, §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute per connection; 30 TAC §290.46(f)(2) and (3)(A)(i)(III) and (ii)(III), (B)(iii), and (E)(ix), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.46(m)(1)(B), by failing to conduct an inspection of the interior of the facility's pressure tank with an inspection port at least once every five years; and 30 TAC §290.46(s)(1), by failing to calibrate the facility's Well Number 2 meter at least once every three years; PENALTY: \$412; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: John H. McDonald; DOCKET NUMBER: 2019-0234-WOC-E; IDENTIFIER: RN110600608; LOCATION: Jayton, Kent County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(19) COMPANY: Nathan A. Miller; DOCKET NUMBER: 2019-0101-WOC-E; IDENTIFIER: RN110442332; LOCATION: Splendora, Montgomery County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(20) COMPANY: Natgasoline LLC; DOCKET NUMBER: 2018-1465-AIR-E; IDENTIFIER: RN106586795; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: gasoline production plant; RULES VIOLATED: 30 TAC §101.20(3) and §116.115(c), New Source Review Permit Numbers 107764 and PSDTX1340, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$3,975; ENFORCEMENT COORDINATOR: Richard Garza, (512) 239-2697; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(21) COMPANY: PALO ALTO SILICA SAND, INCORPORATED; DOCKET NUMBER: 2018-1651-WQ-E; IDENTIFIER: RN107251324; LOCATION: Poteet, Atascosa County; TYPE OF FACILITY: aggregate production operation; RULES VIOLATED: 30 TAC §281.25(a)(4), TWC, §26.121, and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater under a Texas Pollutant Discharge Elimination System General Permit associated with industrial activities; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(22) COMPANY: John C. Pope; DOCKET NUMBER: 2019-0252-WOC-E; IDENTIFIER: RN110408044; LOCATION: Lott, Falls 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: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(23) COMPANY: Richard C. Sanders, Jr. dba Sanders Motor; DOCKET NUMBER: 2018-1596-AIR-E; IDENTIFIER: RN101976306; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: commercial motor vehicle sales facility; RULES VIOLATED: 30 TAC §114.20(c)(1) and Texas Health and Safety Code (THSC), §382.085(b), by failing to ensure a motor vehicle is equipped with either the emission control system or devices that were originally part of the motor vehicle or motor vehicle engine, or an alternate emission control system or device prior to selling the motor vehicle; and 30 TAC §114.20(c)(3) and THSC, §382.085(b), by failing to display a notice of the prohibitions and requirements of 30 TAC §114.20 at a commercial motor vehicle sales facility in a conspicuous and prominent location; PENALTY: \$2,750; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(24) COMPANY: Shell Oil Company; DOCKET NUMBER: 2017-1450-AIR-E; IDENTIFIER: RN100211879; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §117.310(c)(1)(A) and §122.143(4), Federal Operating Permit (FOP) Number O1669, Special Terms and Conditions Number I.A, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the concentration limit; and 30 TAC §122.142(b)(2)(B) and §122.210(a) and THSC, §382.085(b), by failing to include the correct detailed applicability determinations in the FOP; PENALTY: \$14,063; SUPPLEMENTAL ENVIRON-

MENTAL PROJECT OFFSET AMOUNT: \$7,031; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3424; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(25) COMPANY: Solidwood Forest Ltd.; DOCKET NUMBER: 2018-1501-PWS-E; IDENTIFIER: RN105074736; LOCATION: Waller, Waller County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the executive director by the tenth day of the month following the end of the quarter for the fourth quarter of 2017 through the second quarter of 2018; PENALTY: \$243; ENFORCEMENT COORDINATOR: Julianne Dewar, (512) 239-1001; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(26) COMPANY: TX Energy Services, LLC; DOCKET NUMBER: 2018-1508-PWS-E; IDENTIFIER: RN106621253; LOCATION: Big Lake, Reagan County; TYPE OF FACILITY: public water supply (PWS); RULES VIOLATED: 30 TAC §290.39(h)(1) and Texas Health and Safety Code, §341.035(a), by failing to receive approval of plans and specifications from the executive director prior to the construction of a new PWS; 30 TAC §290.39(m), by failing to provide written notification to the commission of the startup of a new PWS system immediately upon meeting the definition of a PWS as defined in 30 TAC §290.38; and 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; PENALTY: \$595; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(27) COMPANY: Jason W. West; DOCKET NUMBER: 2019-0217-WQ-E; IDENTIFIER: RN110451077; LOCATION: Nocona, Montague 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: Chase Davenport, (512) 239-2615; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(28) COMPANY: Dan Wilson; DOCKET NUMBER: 2019-0162-WQ-E; IDENTIFIER: RN110554284; LOCATION: New Home, Lynn County; TYPE OF FACILITY: residential construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Chase Davenport, (512) 239-2615; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(29) COMPANY: Woodlake Josserand Water Supply Corporation; DOCKET NUMBER: 2018-1552-PWS-E; IDENTIFIER: RN101452621; LOCATION: Groveton, Trinity County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the executive director (ED) prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement that covers the land within 150 feet of Well Number 1; 30 TAC §290.42(f)(1)(E)(ii), by failing to provide adequate containment facilities for all liquid chemical storage tanks; 30 TAC §290.45(b)(1)(D)(iii) and THSC, §341.0315(c), by failing to provide two or more pumps having a total capacity of 2.0 gallons per minute per connection at each pump station or pressure plane; 30 TAC §290.45(b)(1)(D)(iv) and THSC, §341.0315(c), by failing to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of

20 gallons per connection; 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account Number 92280010 for Fiscal Year 2018; 30 TAC §290.121(a), by failing to maintain an up-to-date chemical and microbiological monitoring plan that is subject to the review and approval of the ED, and a copy of which is maintained at each water treatment plant and at a central location; and 30 TAC §291.76 and TWC, §5.702, by failing to pay Regulatory Assessment Fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 10936 for calendar year 2016; PENALTY: \$535; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(30) COMPANY: WTG Gas Processing, L.P.; DOCKET NUMBER: 2018-1320-AIR-E; IDENTIFIER: RN100211473; LOCATION: Coahoma, Howard County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 20137, Special Conditions Numbers 17.C and 21, Federal Operating Permit Number O3180, General Terms and Conditions and Special Terms and Conditions Number 9, and Texas Health and Safety Code, §382.085(b), by failing to prevent the loss of quality-assured data due to periods of monitor downtime that exceeded 5% of the time that the tail gas incinerator operated over the previous rolling 12-month period, and failing to measure the in-stack sulfur dioxide (SO₂) concentration to determine the SO₂ hourly emissions rate; PENALTY: \$21,562; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3424; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

TRD-201900731

Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 5, 2019



Enforcement Orders

An agreed order was adopted regarding Green Mobile Home Park, Inc., Docket No. 2016-0652-MLM-E on March 5, 2019, assessing \$2,398 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 Jerrie L. Hinostroza dba Three Rivers RV Park, Docket No. 2018-0582-PWS-E on March 5, 2019, assessing \$224 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Logan Harrell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201900749

Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 5, 2019



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls: Proposed Air Quality Registration Number 155598

APPLICATION. BURNCO Texas LLC, 8505 Freeport Parkway Suite 190, Irving, Texas 75063-2532, has applied to the Texas Commission

on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 155598 to authorize the operation of two concrete batch plants. The facility is proposed to be located on the east side of Austin Road approximately 0.27 mile south of its intersection with Midway Road, Fort Worth, Tarrant County, Texas 76118. 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=32.790451&lng=-97.229312&zoom=13&type=r>. This application was submitted to the TCEQ on February 8, 2019. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on February 21, 2019.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Tuesday, April 16, 2019, at 6:00 p.m.

La Quinta Inn & Suites Fort Worth Northeast Mall

653 Northeast Loop 820

Hurst, Texas 76053

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Dr., Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m.,

Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from BURNCO Texas LLC, 8505 Freeport Parkway Suite 190, Irving, Texas 75063-2532, or by calling Mrs. Melissa Fitts, Vice President, Westward Environmental, Inc. at (830) 249-8284.

Notice Issuance Date: March 1, 2019

TRD-201900752

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 5, 2019



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of R & K LLC dba Discount Self Serve 2: SOAH Docket No. 582-19-3136; TCEQ Docket No. 2018-0796-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - April 4, 2019

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed October 23, 2018, concerning assessing administrative penalties against and requiring certain actions of R & K LLC dba Discount Self Serve 2, for violations in Tarrant County, Texas, of: Tex. Water Code §26.3475(a), (c)(1), and (d) and 30 Texas Administrative Code §334.49(a)(1) and §334.50(b)(1)(A) and (b)(2).

The hearing will allow R & K LLC dba Discount Self Serve 2, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford R & K LLC dba Discount Self Serve 2, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of R & K LLC dba Discount Self Serve 2 to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** R & K LLC dba Discount Self Serve 2, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 334; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §§70.108 and 70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: March 5, 2019

TRD-201900751

Bridget C. Bohac
Chief Clerk

Texas Commission on Environmental Quality

Filed: March 5, 2019



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Security AirPark, Incorporated: SOAH Docket No. 582-19-3135; TCEQ Docket No. 2017-1164-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. - April 4, 2019

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed August 10, 2018 concerning assessing administrative penalties against and requiring certain actions

of SECURITY AIRPARK, INCORPORATED, for violations in Bexar County, Texas, of: Texas Water Code §26.3475(c)(1) and 30 Texas Administrative Code §§334.10(b)(2), 334.50(b)(1)(A), and 334.602(a).

The hearing will allow SECURITY AIRPARK, INCORPORATED, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford SECURITY AIRPARK, INCORPORATED, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of SECURITY AIRPARK, INCORPORATED to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** SECURITY AIRPARK, INCORPORATED, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Texas Water Code §7.054 and chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 334; Texas Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: March 5, 2019

TRD-201900750



Notice of Receipt of Application and Intent to Obtain
Municipal Solid Waste Permit Amendment Proposed Limited
Scope Amendment to Permit No. 2382

Application. NETEX Composting, Inc., P.O. Box 2008, Sulphur Springs, Hopkins County, Texas 75483-2008, a composting facility, has applied to the Texas Commission on Environmental Quality (TCEQ) for a limited scope permit amendment to authorize an expansion of the dryer building, an additional in-vessel compost unit, additional compost curing area; acceptance of water treatment plant residuals, an increase in compost production and increase in closure costs. The facility is located at 1000 County Road 3372, Pickton, in Hopkins County, Texas 75471. The TCEQ received this application on December 14, 2018. The permit application is available for viewing and copying at the Sulphur Springs Public Library, 611 N. Davis Street, Sulphur Springs, in Hopkins County, Texas 75482, and may be viewed online at <https://login.filesanywhere.com/fs/v.aspx?v=8c69658c5e637279b298>. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=33.116388&lng=-95.368055&zoom=13&type=r>. For exact location, refer to application.

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include The Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your prop-

erty/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "(I/we) request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

Mailing List. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

Information Available Online. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/ or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from NETEX Composting, Inc., at the address stated above or by calling the project manager, Ms. Kathleen J. Bell, with Bell Environment Engineering, at (903) 967-2478.

TRD-201900754
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 5, 2019



Notice of Receipt of Application and Intent to Obtain
Municipal Solid Waste Permit Limited Scope Amendment
Permit No. 358B

Application. The City of Arlington, 101 W. Abram St., Mail Stop 01-220, Arlington, Texas 76010, owner of the City of Arlington Landfill, a Type I municipal solid waste disposal facility, has applied to the Texas Commission on Environmental Quality (TCEQ) for a limited scope permit amendment to authorize the following changes: revisions to the surface water drainage plan and the addition of final cover aesthetic enhancements for the East Disposal Area; revisions to the sequence of development for the West Disposal Area; and the addition of an alternative containment system design option which includes the addition of an alternative liner system, a leachate removal plan and removal of a slurry wall for the West Disposal Area. The facility is located at 800 Mosier Valley Road, Arlington 76040 in Tarrant County, Texas. The TCEQ received this application on January 2, 2019. The permit application is available for viewing and copying at the Arlington Public Library-Northeast Branch, 1905 Brown Blvd., Arlington, Tarrant County, Texas 76006, and may be viewed online at <https://www.ftwweaverboos.com>. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <https://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.8075&lng=-97.101388&zoom=13&type=r>. For exact location, refer to application.

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include the Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit dur-

ing the comment period, and the statement "(I/we) request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

Mailing List. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

Information Available Online. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

Agency Contacts and Information. All public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/ or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address, will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, toll free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from the City of Arlington at the address stated above or by calling Mr. Bob Weber, Environmental Administrator at (817) 459-6220.

TRD-201900755
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 5, 2019



Notice of Water Quality Application

The following notice was issued on February 28, 2019.

The following does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS OF THE ISSUED DATE OF THE NOTICE.

INFORMATION SECTION

FORT BEND COUNTY WCID NO. 2 has applied for a minor amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0010086002 to authorize an update in the discharge of treated domestic wastewater from an annual average flow not to exceed 4,000,000 gallons per day. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1.5 million gallons per day (MGD) in Interim I phase and 4.0 MGD in the Final phase. The minor amendment authorizes the facility to be constructed in three phases. The proposed permit will include three operational phases to discharge in Interim I phase 2.0 MGD, Interim II phase 3.0 MGD and Final phase 4.0 MGD. The facility is located approximately 3,300 feet southeast of the intersection of Cravens Road and U.S. Highway 90 in Fort Bend, County, Texas 77489.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. General information about the TCEQ can be found at our website at www.TCEQ.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201900753

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 5, 2019



Notice of Water Rights Application Notices Issued March 1, 2019

APPLICATION NO. 4044B; North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098, Applicant, has applied for an amendment to Water Use Permit No. 4044 to add a diversion reach along the Red River, add additional acreage to the current place of use in Fannin and Lamar Counties, and add instream use to the permit. The application and partial fees were received on May 2, 2017. Additional information and fees were received on June 22 and June 26, 2017. The application was declared administratively complete and filed with the Office of the Chief Clerk on July 24, 2017. The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, Texas 78753. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by March 20, 2019.

APPLICATION NO. 12618; Red River Authority of Texas, P.O. Box 240, Wichita Falls, Texas 76310, Applicant, seeks authorization to construct and maintain an inflatable weir across the North Wichita River, Red River Basin in Cottle County and impound water during high-saline low-streamflow conditions. Applicant further seeks to divert water from the impoundment and transfer water via pipeline for subsequent discharge into the Truscott Brine Reservoir on Bluff Creek, in Knox County, authorized by Certificate of Adjudication No. 02-5116, for water quality purposes. The application was received on July 30,

2010. Additional information and fees were received October 18, 2010, January 7, 2011, and February 24, 2011. The application was declared administratively complete and filed with the Office of the Chief Clerk on March 24, 2011. Additional information was received on February 14, June 26, and June 27, 2012; March 13, 2014; and October 20, 2015. The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would contain special conditions including, but not limited to, a requirement to account for the quantity diverted. The application and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building F., Austin, Texas 78753. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. A public meeting is intended for the taking of public comment, and is not a contested case hearing. The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement (I/we) request a contested case hearing; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns.

Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below. If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201900748

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 5, 2019



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 February 25, 2019, to March 1, 2019. 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, March 8, 2019. The public comment period for this project will close at 5:00 p.m. on Sunday, April 7, 2019.

FEDERAL AGENCY ACTIONS:

Applicant: Howard Street Condos

Location: The project site is located on the Gulf of Mexico, on the south side of Surf Drive, in Surfside Beach, Brazoria County, Texas. The property is bordered on the north side by Surf Drive, to the west by Starfish Drive, to the south by Surfside Beach, and to the east by Texas State Highway 332.

Latitude & Longitude (NAD 83): 28.95012, -95.2864

Project Description: The applicant proposes to excavate and fill approximately 0.23 acre of waters of the U.S. (palustrine emergent wetlands) in order to construct a mixed-use development consisting of condominiums, roadways, and parking lots on the south side of Surf Drive.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-2018-00945. This application will be reviewed pursuant to Section 404 of the Clean Water Act (CWA).

CMP Project No: 19-1175-F1

Applicant: Hilcorp Energy Company

Location: The project site is located in the Sun Oil Company Canal and East Bay, approximately 2.75 miles northwest of Caplen, in Galveston County, Texas.

Latitude & Longitude (NAD 83): 29.526511, -94.571522

Project Description: The applicant proposes to mechanically and hydraulically dredge approximately 168,000 cubic yards of material within an approximate 21.42-acre area of the Sun Oil Company Canal to a depth of approximately -7.7 feet NAVD88. Dredging of an approximate 0.96-acre area that currently separates the canal from the Gulf Intracoastal Waterway (GIWW) is also proposed in order to provide access to the canal from the GIWW. Dredging of an additional 2.63 acres of tidal marsh located at the northern end of the canal is also proposed in order to provide drill barge access to two oil and gas exploration well drilling locations. Dredged material is proposed for discharge in marsh and open water areas adjacent to the canal. Construction of vinyl sheet piles at various locations along the canal is also proposed in order to prevent discharged fill material from flowing back into the canal. A 2,000-square-foot separator platform north of the two wells and a 160-square-foot well protection structure at each well location is also proposed.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-2018-00733. 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 Railroad Commission as part of its certification under Section 401 of the Clean Water Act.

CMP Project No: 19-1181-F1

Applicant: Richard Agee

Location: The project site is located in Cold Pass (Christmas Bay) on San Luis Island on the Stephen F. Austin Peninsula League (Abstract 29) on the north side of Highway 257, in Brazoria County, Texas.

Latitude & Longitude (NAD 83): 29.067628, -95.137574

Project Description: The applicant proposes to conduct clearing, excavation, and earthwork to construct a 500-foot-long and 8-foot-wide boardwalk, a boardwalk/dock that is 120-foot-long and ranges from 8- to 20-foot-wide, a 25-foot-long by 25-foot-wide boathouse, and an 800-foot-long bulkhead. Approximately 0.131-acre of wetlands will be filled by approximately 810 cubic yards of fill material to construct the bulkhead structure. The pilings for the boathouse and pier will be installed via a barge and a water jet. The boardwalk will be installed with an auger.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-2018-00620. 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: 19-1182-F1

Applicant: Jefferson County

Location: The project site is located in the Gulf of Mexico (GOM), along a 20-mile section of the McFaddin National Wildlife Refuge (NWR). The eastern limit of the project is located approximately 0.35-mile southeast of the McFaddin NWR Headquarters located on Clam Lake Road, in High Island, Jefferson County, Texas.

Latitude & Longitude (NAD 83): 29.648077, -94.138454

Project Description: The applicant proposes to modify the previously authorized work as described below: The applicant proposes to construct the remainder of this project (approximately 17 miles) in summer 2019 with the inclusion of seven permit amendments: (1) To increase the fill density to 50 cubic yards per linear foot; (2) To expand the currently permitted borrow area and add two new borrow areas; (3) To place unsuitable overburden back into the previously determined Area of Potential Effects (APE); (4) To add three new staging areas for construction equipment; (5) To implement updated conservation measures based on recent Section 7 Intra-service coordination; (6) To include modified archaeological surveys; and (7) To modify Special Condition 5 regarding bathymetric survey of the borrow area.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-2015-00444. 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: 19-1188-F1

Applicant: Cargill, Inc.

Location: The project site is located in Buffalo Bayou, adjacent to a portion of the Houston Ship Channel, approximately 15.5 miles east of Houston, in Harris County, Texas.

Latitude & Longitude (NAD 83): 29.740956, -95.113847

Project Description: The applicant requests a 10-year extension on their existing permit to dredge approximately 6.39 acres at their dock facility adjacent to the Houston Ship Channel. In addition to this extension of time, the applicant requests authorization to increase the dredge depth to -46.5 feet mean lower low water with 1-foot overdredge, as needed. This additional work will result in approximately 70,000 cubic yards of dredging material every three years. The applicant proposes to utilize existing and previously authorized dredge material placement areas (DMPAs).

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-1997-02845. 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 Section 401 of the Clean Water Act.

CMP Project No: 19-1189-F1

Applicant: Dutko Family Partnership, LTD

Location: The project site is located in wetlands adjacent to Taylor Bayou and Galveston Bay, on a 107-acre tract, on the southeast corner of State Highway 146 and McCabe Road, in La Porte, Harris County, Texas.

Latitude & Longitude (NAD 83): 29.628270, -95.029684

Project Description: The applicant proposes to discharge fill material into 6.37 acres of palustrine forested wetlands during the construction of a commercial development.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application #SWG-2018-00811. This application will be reviewed pursuant to 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 Section 401 of the Clean Water Act.

CMP Project No: 19-1219-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from Ms. Allison Buchtien, P.O. Box 12873, Austin, Texas 78711-2873, or via email at federal.consistency@glo.texas.gov. Comments should be sent to Ms. Buchtien at the above address or by email.

TRD-201900757

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: March 6, 2019



Texas Health and Human Services Commission

Public Notice: Waiver Amendment of the Medically Dependent Children Program

The Texas Health and Human Services Commission (HHSC) is submitting to the Centers for Medicare & Medicaid Services (CMS) a request to amend the Medically Dependent Children Program (MDCP) waiver, which is implemented under the authority of section 1915(c) of the Social Security Act. CMS has approved this waiver through August 31, 2022. The proposed effective date for this amendment is August 31, 2019, with updates to the cost neutrality.

This amendment request proposes to make the following changes:

--Appendix J: The Cost Neutrality Demonstration information in appendix J will be updated for waiver years two through five as it relates to the projections for the comparison population reflected in G and G'.

--Appendix H.2 will be added to specify whether the state has deployed a patient experience of care or quality of life survey, including the type of survey tool utilized, for its Home and Community Based Services (HCBS) population in the last 12 months based on CMS direction.

--Appendix E will clarify in E-2 a. ii, the state's method to conduct background checks does not vary from Appendix C-2-a based on CMS direction.

The MDCP waiver provides home and community-based services to persons under age 21 who are medically fragile and meet the requirements for nursing facility care. Services include respite, adaptive aids, minor home modifications, employment assistance, supported employment, financial management services, transition assistance services, and flexible family support services. Texas uses the MDCP waiver to provide services to Texans in the least restrictive environment possible. These environments include the individual's or a family member's home, or a Child Protective Services foster care home which can meet the individual's complex medical needs.

An individual may obtain a free copy of the proposed waiver amendment, including the MDCP Home and Community Based Services (HCBS) transition plan, or ask questions, obtain additional information, or submit comments regarding this amendment or the MDCP HCBS transition plan by contacting Courtney Pool by U.S. mail, telephone, fax, or email. The addresses are as follows:

U.S. Mail

Texas Health and Human Services Commission

Attention: Courtney Pool, Waiver Coordinator, Policy Development Support

P.O. Box 13247

Mail Code H-600

Austin, Texas 78711-3247

Telephone

(512) 424-6889

Fax

Attention: Courtney Pool, Waiver Coordinator, at (512) 487-3403

Email

TX_Medicaid_Waivers@hhsc.state.tx.us.

In addition, the HHSC local offices will post this notice for 30 days. The complete waiver amendment request can be found online on the Health and Human Services website at:

<https://hhs.texas.gov/doing-business-hhs/provider-portals/long-term-care-providers/medically-dependent-children-program-mdcp>.

TRD-201900730

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 4, 2019



Department of State Health Services

Order Removing Hemp, as Defined by the Agricultural Marketing Act of 1946, From Schedule I

The United States Congress enacted the Agriculture Improvement Act of 2018 (Public Law No: 115-334) amending the definitions of marijuana and tetrahydrocannabinols in schedule I of the Controlled Substances Act, effective December 20, 2018. The amendments removed hemp, as defined in 297A of the Agricultural Marketing Act of 1946, from the schedules of controlled substances.

Pursuant to Section 481.034(g), as amended by the 75th legislature, of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, at least thirty-one days have expired since notice of the above referenced action was taken. In the capacity as Commissioner of the Texas Department of State Health Services, John Hellerstedt, M.D., does hereby order that the listing for marihuana and tetrahydrocannabinols be amended to align with the amendments in P.L. 115-334.

-Schedule I hallucinogenic substances

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

- (1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; AET);
- (2) alpha-methyltryptamine (AMT), its isomers, salts, and salts of isomers;
- (3) 4-bromo-2,5-dimethoxy-amphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);
- (4) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: Nexus; 2C-B; 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl-DOB);
- (5) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);
- (6) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);
- (7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts, and salts of isomers;
- (8) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts, and salts of isomers;
- (9) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (10) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);
- (11) 1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP);
- (12) 4-methyl-2,5-dimethoxyamphetamine (some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP");
- (13) 3,4-methylenedioxy-amphetamine;
- (14) 3,4-methylenedioxy-methamphetamine (MDMA, MDM);
- (15) 3,4-methylenedioxy-N-ethylamphetamine (some trade or other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-ethyl-MDA; MDE; MDEA);
- (16) 3,4,5-trimethoxy-amphetamine;
- (17) N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy-MDA);
- (18) 5-methoxy-N,N-dimethyltryptamine (Some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT);
- (19) Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl) 5-hydroxyindole; 3-(2 dimethylaminoethyl)-5-indolol;

N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; map-pine);

(20) Diethyltryptamine (some trade and other names: N,N-diethyl-tryptamine; DET);

(21) Dimethyltryptamine (some trade and other names: DMT);

(22) Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)-ethylamine; N-(1-phenylcyclohexyl)-ethylamine; cyclohexamine; PCE);

(23) Ibogaine (some trade or other names: 7-Ethyl-6,6-beta, 7,8,9,10,12,13-octhydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b]-indole; tabernanthe iboga);

(24) Lysergic acid diethylamide;

*(25) Marihuana;

The term marihuana does not include hemp, as defined in section 297A(1) of the Agricultural Marketing Act of 1946.

(26) Mescaline;

(27) N-ethyl-3-piperidyl benzilate;

(28) N-methyl-3-piperidyl benzilate;

(29) Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo-[b,d]-pyran; Synhexyl);

(30) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as Lophophora, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(31) Psilocybin;

(32) Psilocin;

(33) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1 phenyl-cyclohexyl)-pyrrolidine, PCPy, PHP);

*(34) Tetrahydrocannabinols;

meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), except for tetrahydrocannabinols in hemp (as defined under section 297A(1) of the Agricultural Marketing Act of 1946), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

1 cis or trans tetrahydrocannabinol, and their optical isomers;

6 cis or trans tetrahydrocannabinol, and their optical isomers;

3,4 cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.);

(35) Thiophene analog of phencyclidine (some trade or other names: 1 [1 (2 thienyl)cyclohexyl] piperidine; 2 thienyl analog of phencyclidine; TCPy);

(36) 1-[1-(2 thienyl)cyclohexyl]-pyrrolidine (some trade or other names: TCPy);

(37) 4-methylmethcathinone (Other names: 4-methyl-N-methylcathinone; mephedrone);

- (38) 3,4-methylenedioxypropylvalerone (Other names: MDPV);
- (39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (Other names: 2C-E);
- (40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (Other names: 2C-D);
- (41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (Other names: 2C-C);
- (42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (Other names: 2C-I);
- (43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (Other names: 2C-T-2);
- (44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (Other names: 2C-T-4);
- (45) 2-(2,5-Dimethoxyphenyl)ethanamine (Other names: 2C-H);
- (46) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (Other names: 2C-N);
- (47) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (Other names: 2C-P);
- (48) 3,4-Methylenedioxy-N-methylcathinone (Other name: Methy-lone);
- (49) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (Other names: UR-144 and 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole);
- (50) [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (Other names: 5-fluoro-UR-144 and 5-F-UR-144 and XLR11 and 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropyl)indole);
- (51) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide (Other names: APINACA, AKB48);
- (52) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PB-22; QUPIC);
- (53) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);
- (54) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: AB-FUBINACA);
- (55) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA);
- (56) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe; 2CI-NBOMe; 25I; Cimbi-5);
- (57) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);
- (58) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);
- (59) Marihuana Extract
- Meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, other than the separated resin (whether crude or purified) obtained from the plant.
- (60) 4-methyl-N-ethylcathinone (4-MEC);
- (61) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

- (62) alpha-pyrrolidinopentiophenone ([alpha]-PVP);
- (63) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone, bk-MBDB);
- (64) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);
- (65) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP);
- (66) 4-fluoro-N-methylcathinone (4-FMC, flephedrone);
- (67) 3-fluoro-N-methylcathinone (3-FMC);
- (68) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone);
- (69) alpha-pyrrolidinobutiophenone ([alpha]-PBP);
- (70) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (Other names: AB-CHMINACA);
- (71) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (Other names: AB-PINACA);
- (72) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (Other names: THJ-2201).

Changes to the schedules are marked with an asterisk (*).

TRD-201900723

Barbara L. Klein

General Counsel

Department of State Health Services

Filed: March 1, 2019

◆ ◆ ◆

Texas Department of Housing and Community Affairs

Notice of Public Hearing: Multifamily Housing Revenue Bonds (Lago de Plata Apartments)

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Issuer") at the City of Corsicana Public Library, 100 N. 12th Street, Corsicana, Texas 75110, at 6:00 p.m. on April 2, 2019. The hearing is regarding an issue of tax-exempt bonds in an aggregate principal amount not to exceed \$14,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Issuer. The Bonds will be issued as exempt facility bonds for a qualified residential rental project (the "Development") pursuant to section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code"). The Project is known as Lago de Plata Apartments and is located at 1600 East 13th Avenue, Corsicana, Navarro County, Texas 75110. The initial legal owner and principal user of the Development will be LIH Lago de Plata, LP, a Texas limited partnership, or a related person or affiliate thereof.

All interested parties are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Shannon Roth at the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941; (512) 475-3929; and/or shannon.roth@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Shannon Roth in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Shannon Roth prior to the date scheduled for the hearing. Individuals who require a language interpreter for the public hearing should contact Elena Peinado at (512) 475-3814 at least five

days prior to the hearing date so that appropriate arrangements can be made. Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado al siguiente número (512) 475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids in order to attend this hearing should contact Shannon Roth, ADA Responsible Employee, at (512) 475-3929 or Relay Texas at (800) 735-2989 at least five days before the hearing so that appropriate arrangements can be made.

This notice is published and the hearing is to be held in satisfaction of the requirements of section 147(f) of the Code.

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

TRD-201900746

David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

Filed: March 5, 2019



Notice of Public Hearing: Multifamily Housing Revenue Bonds (Northgate Village Apartments)

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Issuer") at the Forest Green Branch of the City of Dallas Public Library, 9015 Forest Lane, Dallas, Texas 75243 at 1:00 p.m. on April 2, 2019. The hearing is regarding an issue of tax-exempt bonds in an aggregate principal amount not to exceed \$20,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Issuer. The Bonds will be issued as exempt facility bonds for a qualified residential rental project (the "Development") pursuant to section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code"). The Project is known as Northgate Village Apartments and is located at 12303 North Plano Road, Dallas, Dallas County, Texas 75243. The initial legal owner and principal user of the Development will be Northgate Preservation, L.P., a New York limited partnership, or a related person or affiliate thereof.

All interested parties are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Shannon Roth at the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941; (512) 475-3929; and/or shannon.roth@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Shannon Roth in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Shannon Roth prior to the date scheduled for the hearing. Individuals who require a language interpreter for the public hearing should contact Elena Peinado at (512) 475-3814 at least five days prior to the hearing date so that appropriate arrangements can be made. Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado al siguiente número (512) 475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids in order to attend this hearing should contact Shannon Roth, ADA Responsible Employee, at (512) 475-3929 or Relay Texas at (800) 735-2989 at least five days before the hearing so that appropriate arrangements can be made.

This notice is published and the hearing is to be held in satisfaction of the requirements of section 147(f) of the Code.

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

TRD-201900756

David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

Filed: March 6, 2019



Texas Department of Insurance

Notice of Hearing

On February 11, 2019, The Texas Land Title Association (TLTA) filed a petition requesting to decrease title insurance premium rates by 4.9 percent. The filing requests changes to Rate Rules R-1, R-5, R-8, and R-20.

Insurance Code Section 2703.202 requires the Commissioner of Insurance hold a public hearing to consider TLTA's request to change the rates.

The Commissioner will accept written and oral comments on the petition in a public hearing under Docket No. 2812 at 1:30 p.m. on Thursday, May 23, 2019, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe St., Austin, Texas. The Commissioner will take all comments into consideration before issuing a final order.

How to request and review copies of the filing and comment on it:

To review or get copies of TLTA's rate petition and supporting documentation:

Online: Go to <http://www.tdi.texas.gov/rules/2019/exrules.html>.

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 Chief-Clerk@tdi.texas.gov or by mail to 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. TDI must receive your comments by 5:00 p.m. on May 23, 2019.

TRD-201900761

Norma Garcia

General Counsel

Texas Department of Insurance

Filed: March 6, 2019



Texas Lottery Commission

Scratch Ticket Game Number 2134 "\$500 Frenzy"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2134 is "\$500 FRENZY". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2134 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2134.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,

21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, DOLLAR BILL SYMBOL, \$500 BURST SYMBOL, STAR SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100 and \$500.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2134 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV

38	TRET
39	TRNI
40	FRTY
DOLLAR BILL SYMBOL	DBL
\$500 BURST SYMBOL	AUTO
STAR SYMBOL	WIN
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2134), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2134-0000001-001.

H. Pack - A Pack of the "\$500 FRENZY" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$500 FRENZY" Scratch Ticket Game No. 2134.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$500 FRENZY" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 67 (sixty-seven) Play Symbols. TICKET FRONT: If a

player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If a player reveals a "DOLLAR BILL" Play Symbol, the player wins DOUBLE the PRIZE for that symbol. If a player reveals a "\$500 BURST" Play Symbol, the player wins \$500 instantly! TICKET BACK: If a player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If a player reveals a "STAR" Play Symbol, the player wins the PRIZE for that symbol instantly! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 67 (sixty-seven) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly 67 (sixty-seven) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 67 (sixty-seven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 67 (sixty-seven) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. GENERAL: The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

C. KEY NUMBER MATCH - TICKET FRONT: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 05 and \$5).

D. KEY NUMBER MATCH - TICKET FRONT: No matching non-winning YOUR NUMBERS Play Symbols in this game.

E. KEY NUMBER MATCH - TICKET FRONT: No matching WINNING NUMBERS Play Symbols in this game.

F. KEY NUMBER MATCH - TICKET FRONT: A non-winning Prize Symbol will never match a winning Prize Symbol in this game.

G. KEY NUMBER MATCH - TICKET FRONT: A Ticket may have up to four (4) matching non-winning Prize Symbols, in this game, unless restricted by other parameters, play action or prize structure.

H. KEY NUMBER MATCH - TICKET FRONT: The "DOLLAR BILL" (DBL) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

I. KEY NUMBER MATCH - TICKET FRONT: The "\$500 BURST" (AUTO) Play Symbol will only appear on intended winning Tickets and will only appear with the \$500 Prize Symbol.

J. KEY NUMBER MATCH - TICKET BACK: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 05 and \$5).

K. KEY NUMBER MATCH - TICKET BACK: No matching non-winning YOUR NUMBERS Play Symbols in this game.

L. KEY NUMBER MATCH - TICKET BACK: No matching WINNING NUMBERS Play Symbols in this game.

M. KEY NUMBER MATCH - TICKET BACK: A non-winning Prize Symbol will never match a winning Prize Symbol in this game.

N. KEY NUMBER MATCH - TICKET BACK: A Ticket may have up to two (2) matching non-winning Prize Symbols, in this game, unless restricted by other parameters, play action or prize structure.

O. KEY NUMBER MATCH - TICKET BACK: The "STAR" (WIN) Play Symbol may appear multiple times on intended winning Tickets in this game, unless restricted by other parameters, play action or prize structure.

P. KEY NUMBER MATCH - TICKET BACK: No win(s) will appear in this game unless there is at least one (1) win in the Key Number Match (ticket front) game.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$500 FRENZY" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. As an alternative method of claiming a "\$500 FRENZY" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

D. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$500

FRENZY" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.7 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,080,000 Scratch Tickets in Scratch Ticket Game No. 2134. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2134 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	731,600	9.68
\$10	495,600	14.29
\$15	141,600	50.00
\$20	70,800	100.00
\$25	70,800	100.00
\$50	94,400	75.00
\$100	18,880	375.00
\$500	7,080	1,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.34. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2134 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2134, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201900715
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: February 28, 2019



Scratch Ticket Game Number 2139 "Triple Play"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2139 is "TRIPLE PLAY". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2139 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2139.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, MONEYBAG SYMBOL, \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$200, \$1,000 and \$30,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2139 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
MONEYBAG SYMBOL	WIN
\$2.00	TWO\$
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$1,000	ONTH
\$30,000	30TH

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2139), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2139-000001-001.

H. Pack - A Pack of the "TRIPLE PLAY" Scratch Ticket Game contains 125 Tickets. One Ticket will be folded over to expose a front and back of one ticket on each pack. Please note the packs will be in an A, B, C, and D configuration.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "TRIPLE PLAY" Scratch Ticket Game No. 2139.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "TRIPLE PLAY" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 22 (twenty-two) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals 3 matching PRIZE amounts, the player wins that amount. If the player reveals a "MONEYBAG" Play Symbol, the player wins the PRIZE for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 22 (twenty-two) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 22 (twenty-two) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$2 and 02).

D. No matching WINNING NUMBERS Play Symbols on a Ticket.

E. A non-winning Prize Symbol will never match a winning Prize Symbol.

F. A Ticket may have up to two (2) matching non-winning Prize Symbols.

G. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

H. The "MONEYBAG" (WIN) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

I. No three (3) or more non-winning Prize Symbols will appear on a Ticket.

J. Three (3) matching Prize Symbols will only appear as dictated by the prize structure.

K. There will be no more than three (3) pairs of matching Prize Symbols on a Non-Winning Ticket.

L. There will be no more than one (1) set of three (3) matching Prize Symbols on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "TRIPLE PLAY" Scratch Ticket Game prize of \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$200, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$200 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TRIPLE PLAY" Scratch Ticket Game prize of \$1,000 or \$30,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TRIPLE PLAY" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the

event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "TRIPLE PLAY" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "TRIPLE PLAY" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the

player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,080,000 Scratch Tickets in Scratch Ticket Game No. 2139. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2139 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	849,600	8.33
\$5	283,200	25.00
\$10	141,600	50.00
\$15	141,600	50.00
\$20	56,640	125.00
\$50	8,850	800.00
\$100	3,599	1,967.21
\$200	1,888	3,750.00
\$1,000	20	354,000.00
\$30,000	8	885,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.76. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2139 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2139, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201900716
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: February 28, 2019

◆ ◆ ◆

Texas State Board of Examiners of Marriage and Family Therapists

Correction of Error

The Texas State Board of Examiners of Marriage and Family Therapists (board) adopted amendments, repeals and new rules for 22 TAC Chapter 801 in the March 1, 2019, issue of the *Texas Register* (44 TexReg 1131). Due to an error by the board, subsections (k) and (j) in §801.143 were lettered incorrectly on page 1151. The TAC was corrected as follows:

§801.143. Supervisor Requirements.

(j) A supervisor whose license status is other than "current, active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date his or her license status changed from "current, active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the board.

(k) A supervisor who becomes subject to a board disciplinary order is no longer an approved supervisor. The person must:

- (1) inform each LMFT Associate of the board disciplinary order;
- (2) refund all supervisory fees received after date the board disciplinary order was signed by the board chair to the LMFT Associate who paid the fees; and
- (3) assist each LMFT Associate in finding alternate supervision.

TRD-201900727

Jennifer Smotherman, MA, LPC, LMFT
Chair

Texas State Board of Examiners of Marriage and Family Therapists
Filed: March 4, 2019



North Central Texas Council of Governments

Industry Forum for Private Sector Carpooling Solutions for the North Texas (DFW) Region

On Friday, March 22, 2019, at 11:00 a.m. Central Time, the North Central Texas Council of Governments (NCTCOG) will hold an industry forum for providers of carpooling services and technologies. The forum will have two purposes: (i) inform the carpooling industry of NCTCOG's plans to access private sector carpooling solutions and (ii) seek industry input on a number of issues such as those described below. The forum will be Web only; no in-person attendance will be required or accepted.

As laid out in Mobility 2045, NCTCOG seeks to make North Texas a region of transportation mode choice. This means building capacity for multiple mobility options to thrive in the region. The purpose of this industry forum is to help NCTCOG assess whether private sector carpooling solutions can make carpooling a viable transportation option at all times of day and throughout all of North Texas. NCTCOG's goal is a carpooling network that is robust enough that North Texans can access their jobs, schools and other destinations on a reliable basis via carpooling. This carpooling network will supplement and extend the current carpooling network established and maintained by NCTCOG, through its TryParkingIt platform.

At the industry forum NCTCOG will lay out its vision for carpooling in the North Texas region and its thoughts on how to best access private sector carpooling solutions.

The industry forum will be open to all interested parties. While all parties are encouraged to participate, no one is required to participate. There will be time for short (5 minutes or less) presentations by up to five parties on a first come first served basis. More information about the Industry Forum is available on our website at www.nctcog.org/rfp, including submittal of questions and agenda topics in advance. Please advise Emily Beckham (TransRFPs@nctcog.org) if you would like to make a presentation. Presentations should focus on answering the basic question of *can private sector carpooling solutions scale to a point that carpooling can become a dependable mode of travel throughout the day (and night) and throughout the North Texas region for people who don't wish to drive or are unable to drive?*

Relevant Dates

March 18, 2019: Deadline for submitting questions, suggested forum topics, and requests to make a presentation at the forum.

March 22, 2019, 11:00 a.m. Central Time: Industry forum. The forum will be scheduled to run for one hour but may run longer at NCTCOG's discretion if the discussion warrants such. In no event will the forum run for more than two hours. Please send your RSVP to Emily Beckham (TransRFPs@nctcog.org) by 6:00 p.m. Central Time

on 3/21/19--include participant's name and organization in the email body.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-201900762

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: March 6, 2019



Public Utility Commission of Texas

Request for Comments

PUC PROJECT NO. 48540

REVIEW OF REAL-TIME CO-OPTIMIZATION IN THE ERCOT MARKET

The staff of the Public Utility Commission of Texas (commission) requests comments on a number of issues relating to the implementation of Real-Time Co-Optimization (RTC) in the ERCOT wholesale electricity market. The commission requests that interested persons file written comments to the questions listed below.

1. Upon implementation of real-time co-optimization (RTC) in the ERCOT region, what value should the commission establish as the system-wide offer cap (SWOC)? Why?
2. Upon implementation of RTC in the ERCOT region, what value should the commission establish as the value of lost load (VOLL)? Why?
3. What parameters, if any, should the commission consider when determining the SWOC and VOLL?
4. Should the values for SWOC and VOLL be codified in the commission's rules, set by commission order, or established through some other method?
5. What set of ancillary services should be used in developing ancillary service demand curves for use in the implementation of RTC? Please consider the implementation of Nodal Protocol Revision Request (NPRR) 863, *Creation of ERCOT Contingency Reserve Service and Revisions to Responsive Reserve*, in your response.
6. Should the demand curves for each of the ancillary services be developed independently, based on the reliability benefit provided by each service for any given level of available operating reserves? Why or why not?
7. If the answer to Question 6 is no, what methodology or parameters should be used to develop the demand curves for each of the ancillary services?
8. Should offers for the provision of ancillary services in the Day-Ahead Market continue to be physically binding after implementation of RTC, or should the trading of ancillary services in the Day-Ahead Market become financial-only? Why or why not?
9. Which market rules established in the commission's rules and in ERCOT protocols, such as prohibitions on withholding of capacity or the "small fish" rule, should apply to the offer of ancillary services in the Real-Time Market? Why or why not?
10. Should other market rules specific to ancillary services be established?

11. Should all online capacity be required to have an offer curve for each ancillary service for which a resource is qualified? Why or why not?
12. How should ancillary service performance be monitored following the adoption of RTC?
13. Are there any other policy issues which the commission should decide before the process of RTC implementation may commence? If so, please describe the issue or issues in detail.

Written comments on the above questions may be filed by submitting 16 copies of such comments to the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 within 21 days of the date of publication of this notice. Comments longer than ten (10) pages or any comments that include color figures or illustrations should also be filed in digital native format via the commission's electronic filer at: <http://interchange.puc.texas.gov/filer>. Reply comments may be filed within 31 days after publication of this notice. All responses should reference Project Number 48540.

Questions concerning this notice should be referred to Mark Bryant at (512) 936-7279 or mark.bryant@puc.texas.gov. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1.

TRD-201900717
 Andrea Gonzalez
 Assistant Rules Coordinator
 Public Utility Commission of Texas
 Filed: February 28, 2019

◆ ◆ ◆

University of Houston System

Notice of Procurement

The University of Houston System announces a Request for Proposal (RFP) for consultant services pursuant to Government Code, Chapter 2254, Subchapter B.

RFP783-19011 Consulting Services - Business and Vision Development for University Auxiliary and Retail Operations

Purpose:

The University of Houston System (UHS) is seeking competitive responses to a Request for Proposal (RFP) for a Consultant to provide an independent assessment of the current retail and other services/businesses (non-Housing) offered to the community by Auxiliary Services and recommendations for additional services based on a study of the University of Houston System's master plans and projections for future growth.

Eligible Applicants:

Consulting firms with related knowledge and experience in:

Firms that have expertise in evaluating University Auxiliary and Retail Operations

Services to be performed:

- 1) A complete strategic plan that includes:
 - (a) An independent assessment of the current retail and other services/businesses (non-Housing) offered to the community by Auxiliary Services and recommendations for additional services based on a study of the University of Houston System's master plans and projections for future growth;

- (b) Business plans and business terms if additional services/business opportunities are recommended;
- (c) Site locations for future business opportunities at each University of Houston System university;
- (d) Development of master plan and five-year vision for enhanced business and retail services for the community;
- (e) Recommended lease rates/ground lease terms if additional services are recommended.

Finding by Chief Executive Officer, Renu Khator:

After reviewing the current status and discussing this matter with the staff, the evaluation of the Auxiliary and Retail Operations can only be conducted by a firm considered an expert in this field. The University believes that using a third-party consultant, who has conducted similar evaluations for universities comparable in context and size to the UH System, will provide the System with best practices that can be used to enhance and improve the service to our customers. The expertise needed for this evaluation is complex and requires a comprehensive knowledge of Auxiliary and Retail Operations.

Currently, the Office of Administration does not have the expertise to complete this evaluation. Thus, it is necessary for the University to engage a consultant to advise it regarding Auxiliary and Retail Operations, and make recommendations, as appropriate for the improvement of this program.

Review and Award Criteria:

All proposals will be evaluated by appointed representatives of the University in accordance with the following procedures:

1. Purchasing will receive and review each RFP proposal to ensure it meets the requirements of the RFP. Qualified proposals will be given to the selection committee.
2. Each member of the selection committee will independently evaluate the qualified proposals according to the criteria in section IX of the RFP, except for price, and send their evaluations to Purchasing. Price will be evaluated by Project Manager.
3. Purchasing will combine the committee's scores to determine which proposal received the highest combined score.
4. Purchasing will notify the respondent with the highest score that the University intends to contract with them.

Deadlines: UH must receive proposals according to instructions in the RFP package on or before Tuesday, April 16, 2019, @ 2:00 p.m. CDT and HUB Subcontracting Plan (HSPs) on or before Wednesday, April 17, 2019, @ 2:00 p.m. CDT.

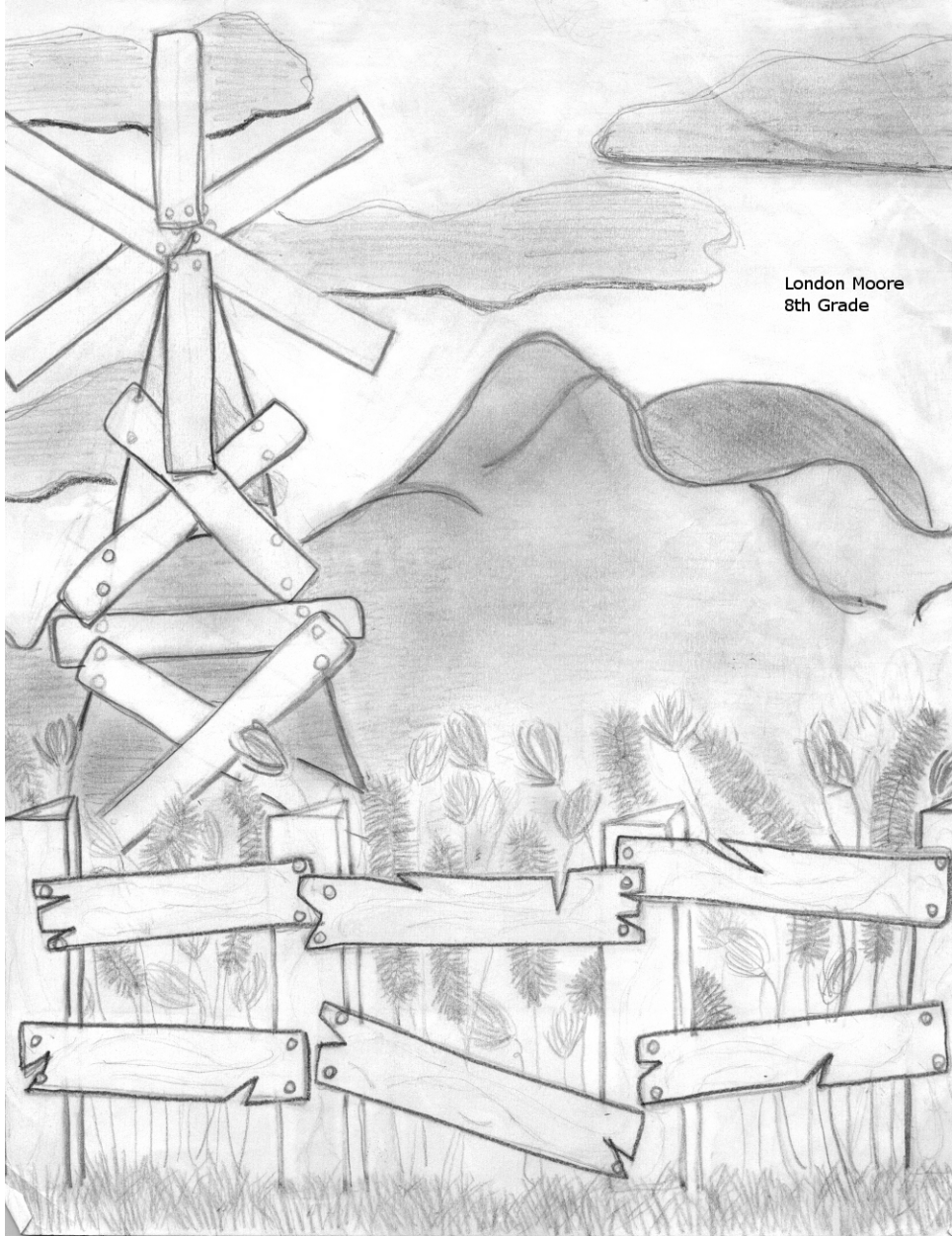
Obtaining a copy of the RFP: Copies will be available on the Electronic State Business Daily (ESBD) at <http://www.txsmart-buy.com/#sp/RFP783-19011>.

Sole point of contact for inquiries concerning RFP is:

Jack Tenner
 UH Purchasing
 5000 Gulf Freeway, Technology Bridge (ERP) - Bldg. 1, Rm. 204
 Houston, Texas 77204-5015
 Phone: (713) 743-5671
 Email: jtenner@central.uh.edu
 TRD-201900741

Jackie D. Tenner
Director of Purchasing
University of Houston System
Filed: March 5, 2019





London Moore
8th Grade

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)

SALES AND CUSTOMER SUPPORT

Sales - To purchase subscriptions or back issues, you may contact LexisNexis Sales at 1-800-223-1940 from 7am to 7pm, Central Time, Monday through Friday. Subscription cost is \$438 annually for first-class mail delivery and \$297 annually for second-class mail delivery.

Customer Support - For questions concerning your subscription or account information, you may contact LexisNexis Matthew Bender Customer Support from 7am to 7pm, Central Time, Monday through Friday.

Phone: (800) 833-9844

Fax: (518) 487-3584

E-mail: customer.support@lexisnexis.com

Website: www.lexisnexis.com/printedsc



LexisNexis[®]
It's how you know[™]