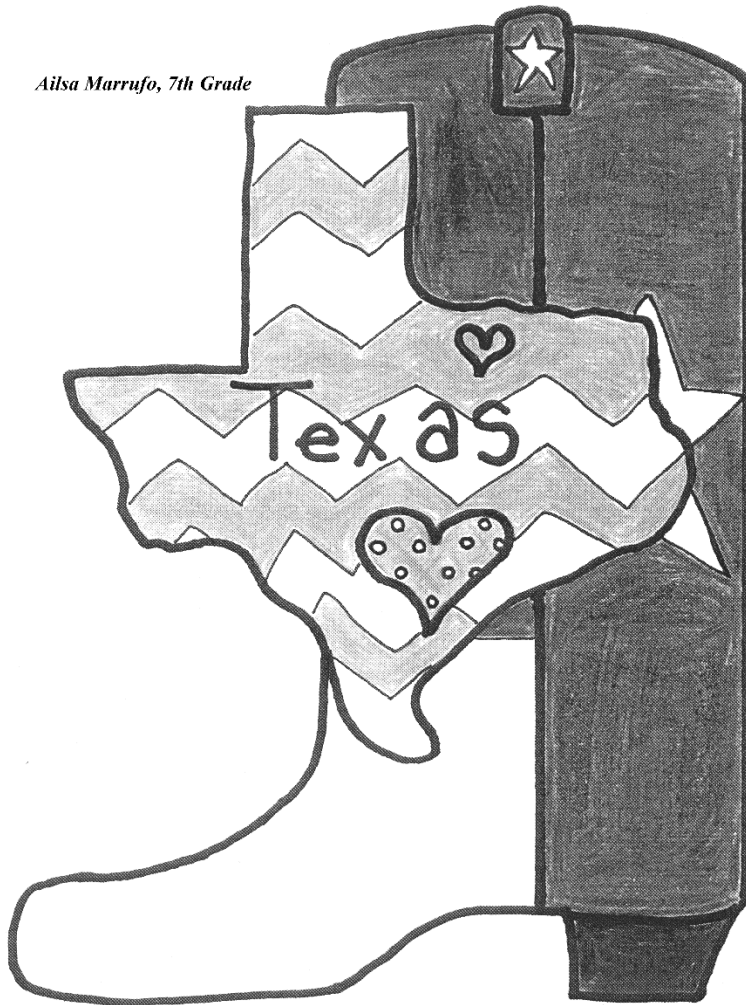

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Ailsa Marrufo, 7th Grade



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*.

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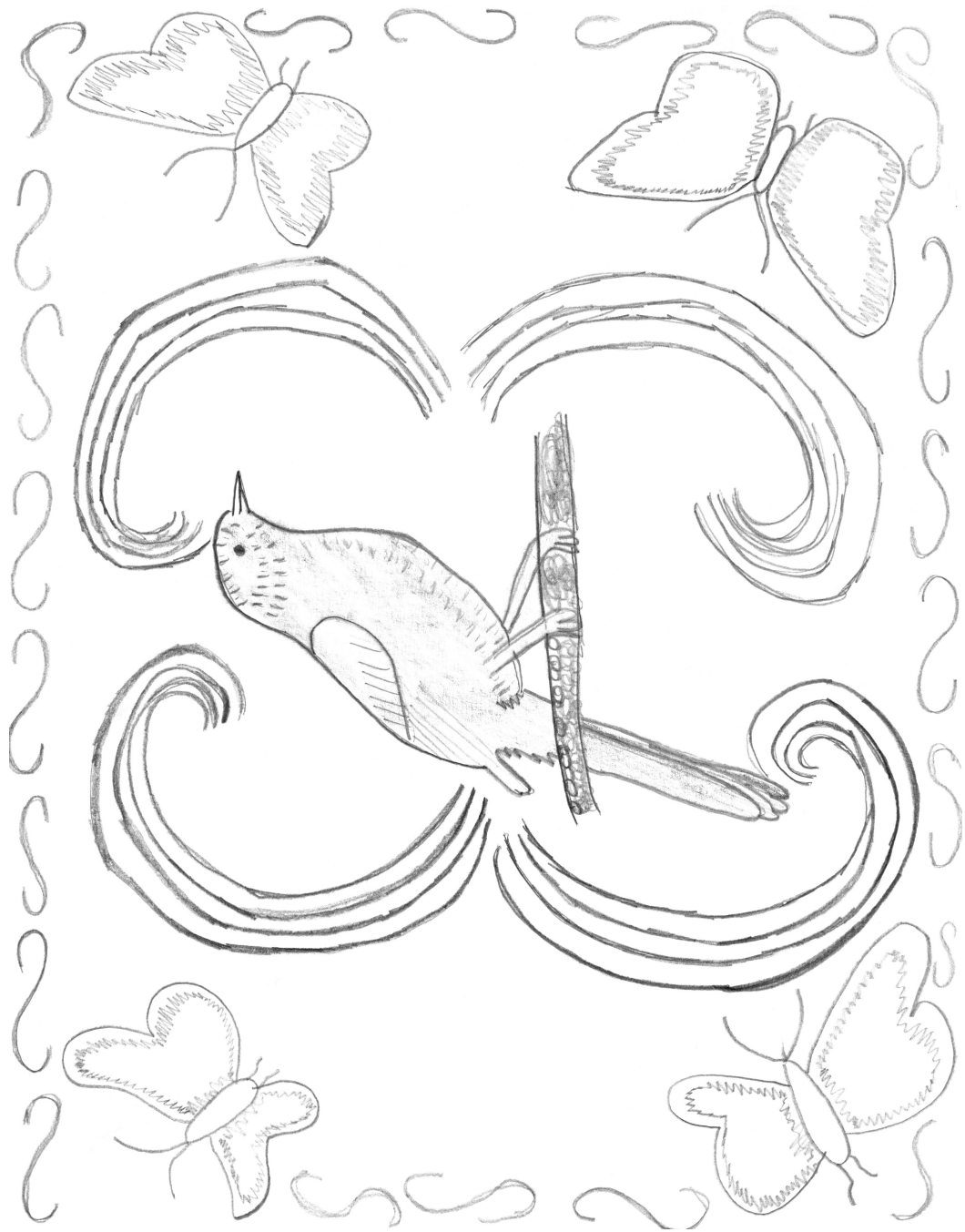
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THE GOVERNOR

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

Proclamation 41-3623

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on August 23, 2017, certifying that Hurricane Harvey posed a threat of imminent disaster for Aransas, Austin, Bee, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Harris, Jackson, Jefferson, Jim Wells, Karnes, Kleberg, Lavaca, Liberty, Live Oak, Matagorda, Nueces, Refugio, San Patricio, Victoria, Waller, Wharton and Wilson counties; and

WHEREAS, the disaster proclamation of August 23, 2017, was subsequently amended on August 26, August 27, August 28 and September 14 to add the following counties to the disaster proclamation: Angelina, Atascosa, Bastrop, Bexar, Brazos, Burleson, Caldwell, Cameron, Comal, Grimes, Guadalupe, Hardin, Jasper, Kerr, Lee, Leon, Madison, Milam, Montgomery, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Washington and Willacy; and

WHEREAS, on September 20, 2017, and in each subsequent month effective through today, I issued proclamations renewing the disaster declaration for all counties listed above; and

WHEREAS, due to the catastrophic damage caused by Hurricane Harvey, a state of disaster continues to exist in those same counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for the 60 counties listed above.

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

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

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

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 15th day of March, 2019.

Greg Abbott, Governor

TRD-201900819





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 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §§703.6, 703.13, 703.26

The Cancer Prevention and Research Institute of Texas (CPRI or the Institute) proposes amendments to 25 Texas Administrative Code §§703.6, 703.13, and 703.26. The proposed amendments clarify product development grant application review, program specific audit methodology for grantees, and unallowable costs.

Background and Justification

The proposed amendment to §703.6(e)(4)(B) clarifies that the Product Development Review Council (PDRC) may perform business operations and management due diligence for product development application, which go through both business and intellectual property due diligence. The proposed change to §703.13(f) clarifies what areas need to be included in a program specific audit provided by a grantee. Grant recipients who expend \$750,000 or more in state funds are required to submit a single independent audit, program specific audit, or agreed upon procedures engagement. There are certain expenses that grant recipients may not expend grant funds on and the proposed amendment to §703.26(e) clarifies the unallowable expenses include fundraising and tips or gratuities.

Fiscal Note

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

Public Benefit and Costs

Ms. Doyle has determined that for each year of the first five years the rule changes are in effect the public benefit anticipated due to enforcing the rule will be clarifying processes regarding grant review, specifying information to be included in single audit reviews, and specifying additional categories of unallowable expenses.

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

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

Government Growth Impact Statement

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

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

Submit written comments on the proposed rule changes to Ms. Kristen Pauling Doyle, General Counsel, Cancer Prevention and Research Institute of Texas, P.O. Box 12097, Austin, Texas 78711, no later than April 29, 2019. The Institute asks parties filing comments to indicate whether they support the rule revisions proposed by the Institute and, if a change is requested, to provide specific text proposed to be included in the rule. Comments may be submitted electronically to kdoyle@cprit.texas.gov. Comments may be submitted by facsimile transmission to (512) 475-2563.

Statutory Authority

The Institute proposes the rule changes under the authority of the Texas Health and Safety Code Annotated, §102.108, which provides the Institute with broad rule-making authority to administer the chapter.

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

§703.6. Grant Review Process.

(a) For all Grant Applications that are not administratively withdrawn by the Institute for noncompliance or otherwise withdrawn by the Grant Applicant, the Institute shall use a two-stage Peer Review process.

- (1) The Peer Review process, as described herein, is used to identify and recommend meritorious Cancer Research projects, including those projects with Cancer Research Product Development

prospects, and evidence-based Cancer Prevention and Control projects for Grant Award consideration by the Program Integration Committee and the Oversight Committee.

(2) Peer Review will be conducted pursuant to the requirements set forth in Chapter 702 of this title (relating to Institute Standards on Ethics and Conflicts, Including the Acceptance of Gifts and Donations to the Institute) and Chapter 102, Texas Health and Safety Code.

(b) The two stages of the Peer Review Process used by the Institute are:

(1) Evaluation of Grant Applications by Peer Review Panels; and

(2) Prioritization of Grant Applications by the Prevention Review Council, the Product Development Review Council, or the Scientific Review Council, as may be appropriate for the Grant Program.

(c) Except as described in subsection (e) of this section, the Peer Review Panel evaluation process encompasses the following actions, which will be consistently applied:

(1) The Institute distributes all Grant Applications submitted for a particular Grant Mechanism to one or more Peer Review Panels.

(2) The Peer Review Panel chairperson assigns each Grant Application to no less than two panel members that serve as the Primary Reviewers for the Grant Application. Assignments are made based upon the expertise and background of the Primary Reviewer in relation to the Grant Application.

(3) The Primary Reviewer is responsible for individually evaluating all components of the Grant Application, critiquing the merits according to explicit criteria published in the Request for Applications, and providing an individual Overall Evaluation Score that conveys the Primary Reviewer's general impression of the Grant Application's merit. The Primary Reviewers' individual Overall Evaluation Scores are averaged together to produce a single initial Overall Evaluation Score for the Grant Application.

(4) The Peer Review Panel meets to discuss the Grant Applications assigned to the Peer Review Panel. If there is insufficient time to discuss all Grant Applications, the Peer Review Panel chairperson determines the Grant Applications to be discussed by the panel. The chairperson's decision is based largely on the Grant Application's initial Overall Evaluation Score; however a Peer Review Panel member may request that a Grant Application be discussed by the Peer Review Panel.

(A) If a Grant Application is not discussed by the Peer Review Panel, then the initial Overall Evaluation Score serves as the final Overall Evaluation Score for the Grant Application. The Grant Application is not considered further during the Grant Review Cycle.

(B) If a Grant Application is discussed by the Peer Review Panel, each Peer Review Panel member submits a score for the Grant Application based on the panel member's general impression of the Grant Application's merit and accounting for the explicit criteria published in the Request for Applications. The submitted scores are averaged together to produce the final Overall Evaluation Score for the Grant Application.

(i) The panel chairperson participates in the discussion but does not score Grant Applications.

(ii) A Primary Reviewer has the option to revise his or her score for the Grant Application after panel discussion or to keep the same score submitted during the initial review.

(C) If the Peer Review Panel recommends changes to the Grant Award funds amount requested by the Grant Applicant or to the goals and objectives or timeline for the proposed project, then the recommended changes and explanation shall be recorded at the time the final Overall Evaluation Score is set.

(5) At the conclusion of the Peer Review Panel evaluation, the Peer Review Panel chairperson submits to the appropriate Review Council a list of Grant Applications discussed by the panel ranked in order by the final Overall Evaluation Score. Any changes to the Grant Award funding amount or to the project goals and objectives or timeline recommended by the Peer Review Panel shall be provided to the Review Council at that time.

(d) The Review Council's prioritization process for Grant Award recommendations encompasses the following actions, which will be consistently applied:

(1) The Review Council prioritizes the Grant Application recommendations across all the Peer Review Panels by assigning a Numerical Ranking Score to each Grant Application that was discussed by a Peer Review Panel. The Numerical Ranking Score is substantially based on the final Overall Evaluation Score submitted by the Peer Review Panel, but also takes into consideration how well the Grant Application achieves program priorities set by the Oversight Committee, the overall Program portfolio balance, and any other criteria described in the Request for Applications.

(2) The Review Council's recommendations are submitted simultaneously to the presiding officers of the Program Integration Committee and Oversight Committee. The recommendations, listed in order by Numerical Ranking Score shall include:

(A) An explanation describing how the Grant Application meets the Review Council's standards for Grant Award funding;

(B) The final Overall Evaluation Score assigned to the Grant Application by the Peer Review Panel, including an explanation for ranking one or more Grant Applications ahead of another Grant Application with a more favorable final Overall Evaluation Score; and

(C) The specified amount of the Grant Award funding for each Grant Application, including an explanation for recommended changes to the Grant Award funding amount or to the goals and objectives or timeline.

(3) A Grant Award recommendation is not final until the Review Council formally submits the recommendation to the presiding officers of the Program Integration Committee and the Oversight Committee. The Program Integration Committee, and, if appropriate, the Oversight Committee must make a final decision on the Grant Award recommendation in the same state fiscal year that the Review Council submits its final recommendation.

(e) Circumstances relevant to a particular Grant Mechanism or to a Grant Review Cycle may justify changes to the dual-stage Peer Review process described in subsections (c) and (d) of this section. Peer Review process changes the Institute may implement are described in this subsection. The list is not intended to be exhaustive. Any material changes to the Peer Review process, including those listed in this subsection, shall be described in the Request for Applications or communicated to all Grant Applicants.

(1) The Institute may use a preliminary evaluation process if the volume of Grant Applications submitted pursuant to a specific Request for Applications is such that timely review may be impeded. The preliminary evaluation will be conducted after Grant Applications are assigned to Peer Review Panels but prior to the initial review de-

scribed in subsection (c) of this section. The preliminary evaluation encompasses the following actions:

(A) The criteria and the specific Grant Application components used for the preliminary evaluation shall be stated in the Request for Applications;

(B) No less than two Peer Review Panel members are assigned to conduct the preliminary evaluation for a Grant Application and provide a preliminary score that conveys the general impression of the Grant Application's merit pursuant to the specified criteria; and

(C) The Peer Review Panel chairperson is responsible for determining the Grant Applications that move forward to initial review as described in subsection (c) of this section. The decision will be based upon preliminary evaluation scores. A Grant Application that does not move forward to initial review will not be considered further and the average of the preliminary evaluation scores received becomes the final Overall Evaluation Score for the Grant Application.

(2) The Institute shall assign all Grant Applications submitted for recruitment of researchers and clinicians to the Scientific Review Council.

(A) The Scientific Review Council members review all components of the Grant Application, evaluate the merits according to explicit criteria published in the Request for Applications, and, after discussion by the Review Council members, provide an individual Overall Evaluation Score that conveys the Review Council member's recommendation related to the proposed recruitment.

(B) The individual Overall Evaluation Scores are averaged together for a final Overall Evaluation Score for the Application.

(C) If more than one recruitment Grant Application is reviewed by the Scientific Review Council during the Grant Review Cycle, then the Scientific Review Council shall assign a Numerical Ranking Score to each Grant Application to convey its prioritization ranking.

(D) If the Scientific Review Council recommends a change to the Grant Award funds requested by the Grant Application, then the recommended change and explanation shall be recorded at the time the final Overall Evaluation Score is set.

(E) The Scientific Review Council's recommendations shall be provided to the presiding officer of the Program Integration Committee and to the Oversight Committee pursuant to the process described in subsection (d) of this section.

(3) The Institute may assign continuation Grant Applications to the appropriate Review Council.

(A) The Review Council members review all components of the Grant Application, evaluate the merits according to explicit criteria published in the Request for Applications, and, after discussion by the Review Council members, provide an individual Overall Evaluation Score that conveys the Review Council member's recommendation related to the progress and continued funding.

(B) The individual Overall Evaluation Scores are averaged together for a final Overall Evaluation Score for the Application.

(C) If more than one continuation Grant Application is reviewed by the Review Council during the Grant Review Cycle, then the Review Council shall assign a Numerical Ranking Score to each continuation Grant Application to convey its prioritization ranking.

(D) If the Review Council recommends a change to the Grant Award funds or to the scope of work or timeline requested by the continuation Grant Application, then the recommended change and

explanation shall be recorded at the time the final Overall Evaluation Score is set.

(E) The Review Council's recommendations shall be provided to the presiding officer of the Program Integration Committee and to the Oversight Committee pursuant to the process described in subsection (d) of this section.

(4) The Institute's Peer Review process described in subsections (c) and (d) of this section may include the following additional process steps for Product Development of Cancer Research Grant Applications:

(A) A Grant Applicant may be invited to deliver an in-person presentation to the Peer Review Panel. The Product Development Review Council chairperson is responsible for deciding which Grant Applicants will make in-person presentations. The decision is based upon the initial Overall Evaluation Scores of the primary reviewers following a discussion with Peer Review Panel members, as well as explicit criteria published in the Request for Applications.

(i) Peer Review Panel members may submit questions to be addressed by the Grant Applicant at the in-person presentation.

(ii) A Grant Application that is not presented in-person will not be considered further. The average of the primary reviewers' initial Overall Evaluation Scores will be the final Overall Evaluation Score for the Grant Application.

(iii) Following the in-person presentation, each Peer Review Panel member submits a score for the Grant Application based on the panel member's general impression of the Grant Application's merit and accounting for the explicit criteria published in the Request for Applications. The submitted scores are averaged together to produce the final Overall Evaluation Score for the Grant Application.

(B) A Grant Application may undergo business operations and management due diligence review and an intellectual property review [conducted by third parties]. The Peer Review Panel submits a list of applications recommended for due diligence review to the Product Development Review Council. The Product Development Review Council decides which Grant Applications submitted by the Peer Review Panel will undergo business operations and management due diligence and intellectual property review. The decision is based upon the Grant Application's final Overall Evaluation Score, but also takes into consideration how well the Grant Application achieves program priorities set by the Oversight Committee, the overall Program portfolio balance, and any other criteria described in the Request for Applications. A Grant Application that is not recommended for due diligence and intellectual property review will not be considered further.

(i) Business operations and management due diligence may be conducted by an outside vendor, contracted by the Institute or by members of the Product Development Review Council.

(ii) It will be at the Institute's discretion as to who to use to perform business operations and management due diligence; factors may include volume of work and expertise required.

(C) After receipt of the business operations and management due diligence and intellectual property reviews for a Grant Application, the Product Development Review Council and the Primary Reviewers meet to determine whether to recommend the Grant Application for a Grant Award based upon the information set forth in the due diligence and intellectual property reviews. The Product Development Review Council may recommend changes to the Grant Award budget and goals and objectives or timeline

(D) The Product Development Review Council assigns a Numerical Ranking Score to each Grant Application recommended for a Grant Award.

(f) Institute Employees and Oversight Committee members may attend Peer Review Panel and Review Council meetings. If an Institute Employee or an Oversight Committee member attends a Peer Review Panel meeting or a Review Council meeting, the attendance shall be recorded and the Institute Employee or Oversight Committee member shall certify in writing compliance with the Institute's Conflict of Interest rules. The Institute Employee's and Oversight Committee member's attendance at the Peer Review Panel meeting or Review Council meeting is subject to the following restrictions:

(1) Unless waived pursuant to the process described in Chapter 702, §702.17 of this title (relating to Exceptional Circumstances Requiring Participation), Institute Employees and Oversight Committee members shall not be present for any discussion, vote, or other action taken related to a Grant Applicant if the Institute Employee or Oversight Committee member has a Conflict of Interest with that Grant Applicant; and

(2) The Institute Employee or Oversight Committee member shall not participate in a discussion of the merits, vote, or other action taken related to a Grant Application, except to answer technical or administrative questions unrelated to the merits of the Grant Application and to provide input on the Institute's Grant Review Process.

(g) The Institute's Chief Compliance Officer shall observe meetings of the Peer Review Panel and Review Council where Grant Applications are discussed.

(1) The Chief Compliance Officer shall document that the Institute's Grant Review Process is consistently followed, including observance of the Institute's established Conflict of Interest rules and that participation by Institute employees, if any, is limited to providing input on the Institute's Grant Review Process and responding to committee questions unrelated to the merits of the Grant Application. Institute Program staff shall not participate in a discussion of the merits, vote, or any other action taken related to a Grant Application.

(2) The Chief Compliance Officer shall report to the Oversight Committee prior to a vote on the award recommendations specifying issues, if any, that are inconsistent with the Institute's established Grant Review Process.

(3) Nothing herein shall prevent the Institute from contracting with an independent third party to serve as a neutral observer of meetings of the Peer Review Panel and/or the Review Council where Grant Applications are discussed and to assume the reporting responsibilities of the Chief Compliance Officer described in this subsection. In the event that the independent third party observes the meeting of the Peer Review Panel and/or the Review Council, then the independent third party reviewer shall issue a report to the Chief Compliance Officer specifying issues, if any, that are inconsistent with the Institute's established Grant Review Process.

(h) Excepting a finding of an undisclosed Conflict of Interest as set forth in §703.9 of this chapter (relating to Limitation on Review of Grant Process), the Review Council's decision to not include a Grant Application on the prioritized list of Grant Applications submitted to the Program Integration Committee and the Oversight Committee is final. A Grant Application not included on the prioritized list created by the Review Council shall not be considered further during the Grant Review Cycle.

(i) At the time that the Peer Review Panel or the Review Council concludes its tasks for the Grant Review Cycle, each member shall certify in writing that the member complied with the Institute's Conflict

of Interest rules. An Institute Employee or an Oversight Committee member attending one or more Peer Review Panel meetings during the Grant Review Cycle shall certify compliance with the Institute's Conflict of Interest rules.

(j) The Institute shall retain a review record for a Grant Application submitted to the Institute, even if the Grant Application did not receive a Grant Award. Such records will be retained by the Institute's electronic Grant Management System. The records retained by the Institute must include the following information:

(1) The final Overall Evaluation Score and Numerical Ranking Score, if applicable, assigned to the Grant Application;

(2) The specified amount of the Grant Award funding for the Grant Application, including an explanation for recommended changes to the Grant Award funding amount or to the goals and objectives or timeline;

(3) The Scientific Research and Prevention Programs Committee that reviewed the Grant Application;

(4) Conflicts of Interest, if any, with the Grant Application identified by a member of the Scientific Research and Prevention Programs Committee, the Review Council, the Program Integration Committee, or the Oversight Committee; and

(5) Documentation of steps taken to recuse any member or members from the Grant Review Process because of disclosed Conflicts of Interest.

(k) For purposes of this rule, a Peer Review Panel chairperson or a Review Council chairperson that is unable to carry out his or her assigned duties due to a Conflict of Interest with regard to one or more Grant Applications or for any other reason may designate a co-chairperson from among the appointed Scientific Research and Prevention Programs committee members to fulfill the chairperson role. Such designation shall be recorded in writing and include the specific time and extent of the designation

§703.13. *Audits and Investigations.*

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

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

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

(b) Notwithstanding the foregoing, the Grant Recipient shall submit a single audit determination form no later than 60 days following the close of the Grant Recipient's fiscal year. The Grant Recipient shall report whether the Grant Recipient has expended \$750,000 or more in state awards during the Grant Recipient's fiscal year. If the Grant Recipient has expended \$750,000 or more in state awards in its fiscal year, the Grant Recipient shall obtain either an annual single in-

dependent audit, a program specific independent audit, or an agreed upon procedures engagement as defined by the American Institute of Certified Public Accountants and pursuant to guidance provided in subsection (e) of this section.

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

(2) The audit must be submitted to the Institute within thirty (30) days of receipt by the Grant Recipient but no later than nine (9) months following the close of the Grant Recipient's fiscal year and shall include a corrective action plan that addresses any weaknesses, deficiencies, wrongdoings, or other concerns raised by the audit report and a summary of the action taken by the Grant Recipient to address the concerns, if any, raised by the audit report.

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

(B) The Grant Recipient's request for additional time must be submitted on or before the due date of the required audit and corrective action plan. For purposes of this rule, the "due date of the required audit" is no later than nine (9) months following the close of the Grant Recipient's fiscal year.

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

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

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

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

(1) The option to perform an agreed upon procedures engagement is intended for a non-profit or for-profit Grant Recipient that is not subject to Generally Accepted Government Audit Standards (also known as the Yellow Book) published by the U.S. Government Accountability Office.

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

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

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

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

(A) Processes and controls;

(B) The Grant Contract;

(C) Indirect Costs;

(D) Matching Funds, if appropriate;

(E) Grant Award expenditures (payroll and non-payroll related transactions);

(F) Equipment;

(G) Revenue Sharing and Program Income;

(H) Reporting; and

(I) Grant Award closeout.

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

(f) For purposes of this rule, a program specific audit should address:

(1) sample of awards;

(2) reporting;

(3) Indirect costs;

(4) Matching funds, if appropriate;

(5) expenditures;

(6) Expenditure Reporting;

(7) Personnel Level of Effort Reporting;

(8) Grant Closeout;

(9) Performance Measures;

(10) Publications and Acknowledgements;

(11) Title to equipment;

(12) Contract certifications;

(13) Changes in Principal Investigator or Program Director;

tor;

(14) Intellectual Property and revenue sharing;

(15) early termination and event of default; and

(16) any other issue identified by the Institute, the Grant Recipient, or the person performing the program specific audit.

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

§703.26. Allowable Costs.

(a) A cost is an Allowable Cost and may be charged to the Grant Award if it is reasonable, allocable, and adequately documented.

(1) A cost is reasonable if the cost does not exceed that which would be incurred by a prudent individual or organization under the circumstances prevailing at the time the decision was made to incur the cost; and is necessary for the performance of the Grant Award defined in the Scope of Work in the Grant Contract.

(2) A cost is allocable if the cost:

(A) Benefits the Grant Award either directly or indirectly, subject to Indirect Cost limits stated in the Grant Contract;

(B) Is assigned the Grant Award in accordance with the relative benefit received;

(C) Is allowed or not prohibited by state laws, administrative rules, contractual terms, or applicable regulations;

(D) Is not included as a cost or used to meet Matching Fund requirements for any other Grant Award in either the current or a prior period; and

(E) Conforms to any limitations or exclusions set forth in the applicable cost principles, administrative rules, state laws, and terms of the Grant Contract.

(3) A cost is adequately documented if the cost is supported by the organization's accounting records and documented consistent with §703.24 of this title (relating to Financial Status Reports).

(b) Grant Award funds must be used for Allowable Costs as provided by the terms of the Grant Contract, Chapter 102, Texas Health and Safety Code, the Institute's administrative rules, and the Uniform Grant Management Standards (UGMS) adopted by the Comptroller's Office. If guidance from the Uniform Grant Management Standards on a particular issue conflicts with a specific provision of the Grant Contract, Chapter 102, Texas Health and Safety Code or the Institute's administrative rules, then the Grant Contract, statute, or Institute administrative rule shall prevail.

(c) An otherwise Allowable Cost will not be eligible for reimbursement if the Grant Recipient incurred the expense outside of the Grant Contract term, unless the Grant Recipient has received written approval from Institute's Chief Executive Officer to receive reimbursement for expenses incurred prior to the effective date of the Grant Contract.

(d) An otherwise Allowable Cost will not be eligible for reimbursement if the benefit from the cost of goods or services charged to the Grant Award is not realized within the applicable term of the Grant Award. The Grant Award should not be charged for the cost of goods or services that benefit another Grant Award or benefit a period prior to the Grant Contract effective date or after the termination of the Grant Contract.

(e) Grant Award funds shall not be used to reimburse unallowable expenses, including, but not limited to:

(1) Bad debt, such as losses arising from uncollectible accounts and other claims and related costs.

(2) Contributions to a contingency reserve or any similar provision for unforeseen events.

(3) Contributions and donations made to any individual or organization.

(4) Costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or

sports events, meals, alcoholic beverages, lodging, rentals, transportation and gratuities.

(5) Costs relating to food and beverage items, unless the food item is related to the issue studied by the project that is the subject of the Grant Award.

(6) Fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, local or Indian tribal laws and regulations.

(7) An honorary gift or a gratuitous payment.

(8) Interest and other financial costs related to borrowing and the cost of financing.

(9) Legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction.

(10) Liability insurance coverage.

(11) Benefit replacement pay or legislatively-mandated pay increases for eligible general revenue-funded state employees at Grant Recipient state agencies or universities.

(12) Professional association fees or dues for the Grant Recipient or an individual.

(13) Promotional items and costs relating to items such as T-shirts, coffee mugs, buttons, pencils, and candy that advertise or promote the project or Grant Recipient.

(14) Fees for visa services.

(15) Payments to a subcontractor if the subcontractor working on a Grant Award project employs an individual who is a Relative of the Principal Investigator, Program Director, Company Representative, Authorized Signing Official, or any person designated as Key Personnel for the same Grant Award project (collectively referred to as "affected Relative"), and:

(A) the Grant Recipient will be paying the subcontractor with Grant Award funds for any portion of the affected Relative's salary; or

(B) the Relative submits payment requests on behalf of the subcontractor to the Grant Recipient for payment with Grant Award funds.

(C) For exceptional circumstances, the Institute's Chief Executive Office may grant an exception to allow payment of Grant Award funds if the Grant Recipient notifies the Institute prior to finalizing the subcontract. The Chief Executive Officer must notify the Oversight Committee in writing of the decision to allow reimbursement for the otherwise unallowable expense.

(D) Nothing herein is intended to supersede a Grant Recipient's internal policies, to the extent that such policies are stricter.

(16) Fundraising.

(17) Tips or gratuities.

(f) The Institute is responsible for making the final determination regarding whether an expense shall be considered an Allowable Cost.

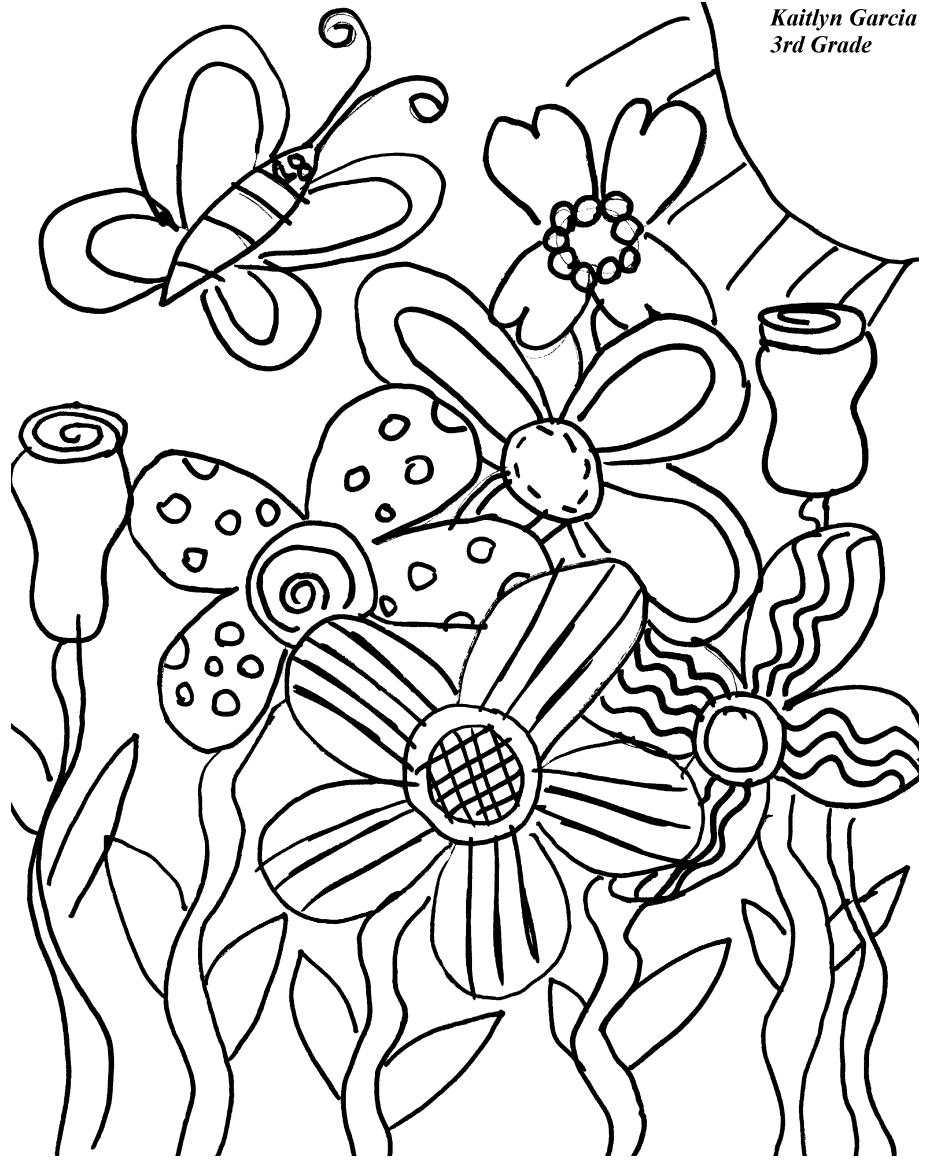
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 14, 2019.

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Heidi McConnell
Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Earliest possible date of adoption: April 28, 2019
For further information, please call: (512) 305-8487



Kaitlyn Garcia
3rd Grade



ADOPTED RULES

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

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER H. ELECTRICAL PLANNING DIVISION 2. ENERGY EFFICIENCY AND CUSTOMER-OWNED RESOURCES

16 TAC §§25.181 - 25.183

The Public Utility Commission of Texas (commission) adopts amendments to 16 Texas Administrative Code (TAC) §25.181, relating to Energy Efficiency Goal; new §25.182, relating to Energy Efficiency Cost Recovery Factor; and amendments to §25.183, relating to Reporting and Evaluation of Energy Efficiency Programs with changes to the proposed text as published in the December 21, 2018, issue of the *Texas Register* (43 TexReg 8203). The amendments to §25.181 remove the cost recovery and performance bonus subsections, require the inclusion of calculations supporting adjustments between meter and source in the energy-efficiency plan and report, clarify that peak demand is to be calculated at the source, address the processes to challenge the determination of avoided cost and the approval of changes to the technical reference manual, and include clarifications of rule language and non-substantive amendments, including the removal of obsolete and unnecessary rule language. The new §25.182 includes the cost recovery and performance bonus subsections removed from §25.181, and amends those subsections to require the application of interest to over- and under-recovery balances, clarify the bonus calculation based on recent commission precedent, clarify rule language, and incorporate non-substantive amendments including the removal of obsolete and unnecessary rule language. The amendments to §25.183 remove obsolete and unnecessary rule language. This new section and amendments are adopted under Project No. 48692.

The commission received comments on the proposed amendments and new section from the Steering Committee of Cities Served by Oncor (Cities); the Office of Public Utility Counsel (OPUC); the Lone Star Chapter of the Sierra Club (Sierra Club); the South-central Partnership for Energy Efficiency as a Resource (SPEER); as well as AEP Texas Inc., CenterPoint Energy Houston Electric LLC, El Paso Electric Company, Entergy Texas Inc., Oncor Electric Delivery Company LLC, Southwestern Electric Power Company, Southwestern Public

Service Company, and Texas-New Mexico Power Company (Joint Utilities).

Section 25.181, Energy Efficiency Goal

Subsection 25.181(c)(13), Energy Efficiency Cost Recovery Factor (EECRF)

SPEER and the Sierra Club expressed opposition to the proposed revision to the definition of EECRF that changes the term "cost-effective portfolio of energy efficiency programs" to "portfolio of cost-effective energy efficiency programs." SPEER and the Sierra Club opined that this change could have a major impact on the types of energy efficiency programs offered by the Joint Utilities. SPEER and the Sierra Club stated their belief that applying cost-effectiveness tests at the portfolio level affords the Joint Utilities the flexibility to offer some less cost-effective measures or programs as long as their shortfall is more than offset by more cost-effective measures. SPEER and the Sierra Club commented that this flexibility promotes the introduction of new technologies and supports hard-to-reach sectors. They concluded that a requirement that individual energy efficiency programs be cost-effective could prevent pilot programs and experimental technologies from being tested or implemented due to fear of the potentially high cost of the program.

SPEER and the Sierra Club urged the commission to return the term in the definition back to its original language. In addition, they requested the replacement of the terminology "portfolio of cost-effective energy efficiency programs" used in §25.181(d) and in §25.182(a)(1) with "cost-effective portfolio of energy efficiency programs."

OPUC expressed concern that the proposed change to the definition of EECRF would result in significant policy changes, and recommended deferring the proposed revision until the commission can give a full consideration to its effect. OPUC noted that the commission's existing rule, §25.181, is inconsistent regarding whether the term "cost-effective" applies to the portfolio as a whole or to each individual energy efficiency program within a portfolio. OPUC stated its belief that while cost-effectiveness of individual programs is important, there may be important policy reasons to consider applying the cost-effectiveness standard at the portfolio level. As an example, OPUC stated that programs serving low-income or hard-to-reach groups and programs with high upfront costs, such as those that introduce new technologies, may not meet a cost-effectiveness standard measure at the program level.

Cities urged that the commission adopt the proposed change to the definition. Cities commented that each energy efficiency program should be cost-effective. Cities stated that measuring cost-effectiveness at the program level would prevent the utilities from creating experimental and potentially costly programs at the

expense of ratepayers with no guarantee of energy efficiency savings.

Cities noted that the proposed change to the definition aligns with the original language found in §25.181(d), which uses the term "portfolio of cost-effective energy efficiency programs," and matches the language in proposed §25.182(a)(1) and (d), which use the existing language from §25.181(f).

Commission Response

The intent of the revision to the definition of EECRF that replaces the term "cost-effective portfolio of energy efficiency programs" with "portfolio of cost-effective energy efficiency programs" is to conform the definition to language used elsewhere in §25.181 and §25.182, and to align the definition with the commission's intent that a utility offer an energy efficiency program at a cost to the utility that is less than or equal to the benefits of the program. Concerns raised by SPEER and the Sierra Club bear similarity to those raised in Project No. 39674, Rulemaking Proceeding to Amend Energy Efficiency Rules, by the Joint Utilities regarding the requirement in §25.181(d) that cost-effectiveness be measured at the program level. Just as it did in Project No. 39674, the commission concludes that all programs, with the exception of the targeted low-income program, must meet a cost-effectiveness standard measured at the program level. To ensure best use of customers' funds, a program that does not meet the cost-effectiveness standard in the rule may need to be modified to reduce program costs or increase savings, or be discontinued.

In response to concerns raised by SPEER, the Sierra Club, and OPUC that cost-effectiveness measured at the program level could prevent implementation of programs that introduce new technology or dampen programs designed to serve hard-to-reach customers, the commission points to §25.181(i), which provides market transformation programs with some flexibility in meeting the cost-effectiveness standard during the first year of implementation. This flexibility gives utilities the opportunity to experiment with pilot programs in order to develop more successful energy efficiency programs. A utility also has the flexibility to use research and development funds to design and develop new programs. Furthermore, the targeted low-income program is not required to meet the generally applicable cost-effectiveness standard in the rule. Instead, the targeted low-income program must meet the savings-to-investment ratio cost-effectiveness standard, which is the widely used cost-effectiveness standard for targeted low-income programs.

The commission declines to adopt the revisions proposed by SPEER and the Sierra Club or to defer revision of the existing definition as proposed by OPUC. The commission adopts the proposed change to the definition.

Subsection 25.181(c)(44), Peak Demand; Subsection 25.181(c)(45), Peak Demand Reduction; and Subsection 25.181(e)(3)(B), Annual Energy Efficiency Goals

The Joint Utilities opined that the proposed change to the definition of peak demand and peak demand reduction would significantly alter how energy efficiency goals and savings are calculated. The Joint Utilities noted that under the existing rule, the peak demand at the meter is used to calculate energy efficiency goals, and the peak demand reduction at the meter is used to report savings based on the Technical Reference Manual. The Joint Utilities commented that the proposed change is intended to promote transparency regarding how peak demand is converted from an "at source" value to an "at meter" value, rather than intended to change how the energy efficiency goals and

savings are calculated. The Joint Utilities acknowledged that the proposed definition of peak demand is accurate in that the highest annual demand on a utility's system is traditionally measured at the source. However, because the peak demand goal is measured at the meter, the Joint Utilities proposed the addition of language to §25.181(e)(3)(B) that clarifies that the annual peak demand at the source is converted to an equivalent demand goal at the meter by applying reasonable line loss factors, such as those approved in each utility's most recently approved rate case or line loss study. The Joint Utilities also requested a change to the proposed definition of peak demand reduction to reflect that peak demand reduction is measured at the meter.

Commission Response

The commission agrees with the Joint Utilities that peak demand at the meter is used to calculate the utilities' energy efficiency goals. In order to clarify that the peak demand at the source is converted to peak demand at the meter for the purpose of calculating the utilities' goals, the commission has added the Joint Utilities' proposed language to §25.181(e)(3)(B).

It remains the intent of the commission that peak demand reduction be measured at the meter, where the savings originate, in order to determine achievement of the utilities' goals, which are set at the meter. However, the commission believes there is value in converting the peak demand reduction at the meter to peak demand reduction at the source in order to provide an estimate of avoided generation attributable to the utilities' energy efficiency programs.

To address the Joint Utilities' concern regarding the measurement of peak demand reduction for purposes of determining achievement relating to the utilities' goals, which are calculated at the meter, the commission strikes the proposed addition to the definition of demand reduction that requires its measurement at the source. The commission believes the proposed language in §25.181(l)(2)(X) that requires the utilities' energy efficiency plans and reports to include calculations supporting the adjustments to restate the demand goal from the source to the meter and to restate the energy efficiency savings from the meter to the source is sufficient to ensure that the peak demand reduction measured at the meter is also reported at the source.

Because it is appropriate to measure peak demand reduction at the meter in order to determine achievement relating to a utility's goal, and to convert these savings to peak demand reduction at the source for an estimate of avoided generation, the commission declines to add the Joint Utilities' proposed language that would limit peak demand reduction to a measurement made at the meter.

Subsection 25.181(d), Cost-effectiveness Standard

Cities expressed support for the proposed revisions to §25.181(d)(2)(A) and §25.181(d)(2)(A)(iii) that change the date by which commission staff must file the avoided cost of capacity, clarify where it must be filed, and require that stakeholders who challenge the avoided cost of capacity provide supporting data and calculations to describe why staff's calculation is incorrect.

Cities proposed the addition of rule language to §25.181(d)(2)(A) to require that staff file supporting data and calculations when the avoided cost of capacity is filed in order to provide more transparency and understanding into the process by which staff establishes the avoided cost of capacity.

Commission Response

The commission agrees with Cities that a requirement to file supporting data when the avoided cost of capacity is filed provides transparency, and the commission adds the requirement to §25.181(d)(2)(A). The commission declines, however, to add language to the rule to require the filing of supporting calculations, because the calculation for the avoided cost of capacity is already laid out in the rule.

Subsection 25.181(g)(4), Utility Administration

To clarify that deemed savings are reviewed and approved by commission staff consistent with the proposed revision to §25.181(o)(6)(C), the Joint Utilities recommended the removal of the language regarding deemed savings estimates from the list of items that the utility is required to file with the commission.

Commission Response

The commission intends that staff review and approve new deemed savings estimates. The commission agrees with the comments of the Joint Utilities and removes language in §25.181(g)(4) regarding deemed savings estimates.

Subsection 25.181(o)(6)(C), Evaluation, Measurement, and Verification (EM&V)

The Joint Utilities expressed support for commission staff approval of updates to the technical reference manual (TRM), noting that commission staff approval would eliminate the need for deemed savings petition filings for commission approval, reduce staff workload, and streamline the overall process. However, the Joint Utilities expressed concern that the proposed 45-day period to challenge TRM changes approved by staff could result in deemed savings not being approved in a timely manner for program implementation. The Joint Utilities stated their belief that this would negatively impact participants and project sponsors and increase administrative burdens. To address their concerns, the Joint Utilities suggested that the deemed savings for a specified program year be approved by commission staff through the Energy Efficiency Implementation Project (EEIP) process by December 1 of the year preceding the program year and that the Joint Utilities or the EM&V contractor maintain the ability to initiate an approval process for additions or modifications to be incorporated into future versions of the TRM. The Joint Utilities provided language to require the implementation for use in subsequent years of any TRM challenges approved via a petition filing after commission staff approval.

Cities remarked that they do not object to the proposed language related to challenging the TRM, nor do they object to the Joint Utilities' alternative process for challenging the TRM as long as the process is transparent, the timing for the commission to adopt proposed changes is clearly stated in the rule, and stakeholders are adequately notified of the EEIP meeting or the process by which they must participate to petition for TRM updates.

Commission Response

The commission agrees with the comments of the Joint Utilities and adds language to subsection §25.181(o)(6)(C) to clarify that updates to the TRM are made through the EEIP. Furthermore, it is the intention of the commission that the Joint Utilities, other interested parties, or the EM&V contractor maintain the ability to initiate an approval process for additions or modifications to be incorporated into future versions of the TRM. Although it is the commission's preference that updates to the TRM be approved in the year preceding the program year in which they will take effect, the commission declines to modify the rule to require that

staff approve updates to the TRM by December 1 of the year preceding the program year. The commission notes that the timing of staff approval is dependent on when an addition or modification to the TRM is proposed and, depending on the circumstances, it may be preferable that the updates take effect in the year in which they are approved, as has been done in the past.

Furthermore, the commission declines to accept the Joint Utilities' proposed language regarding a TRM challenge via a petition filing that would delay implementation of a change approved as a result of a petition to subsequent program years. In order to provide the relief requested by a petition in a timely manner, it may be necessary for the commission to approve an effective date for the relief requested that is the same as the effective date of the version of the TRM that was challenged.

Section 25.182, Energy Efficiency Cost Recovery Factor

Subsection 25.182(d)(1)(A), Cost Recovery

Cities stated that because the term "program expenditures" is not defined in §25.181, potential inconsistencies are created with the term "program costs," which is defined in §25.181 and §25.182. Cities commented that the rule should define the term "program expenditures" in order to differentiate it from the term "program costs."

In addition, Cities opined that inclusion of EM&V costs in proposed §25.182(d)(1)(A) as a program expenditure could result in double counting of "measurement and verification" as defined in program costs. In addition, Cities stated the belief that if measurement and verification costs are distinct from EM&V costs, the rule should so clarify.

The Joint Utilities opposed the addition of a definition for program expenditures. In response to the Cities' suggestion that the absence of a definition for "program expenditures" creates potential inconsistencies with the term "program costs," the Joint Utilities remarked that they were not aware of a situation where such an inconsistency has arisen. Furthermore, the Joint Utilities commented that in order for the commission to consider a proposed definition of "program expenditures," the Cities should have proposed a definition in their comments to allow other stakeholders the opportunity to comment on the proposed definition.

The Joint Utilities also expressed disagreement with the Cities' suggestion that inclusion of EM&V costs as a program expenditure in proposed §25.182(d)(1)(A) could result in a double counting of "measurement and verification" as defined in program costs. The Joint Utilities noted that measurement and verification costs are not the same as EM&V costs. The Joint Utilities explained that measurement and verification costs are administrative costs included in a utility's program costs; EM&V costs are for the EM&V contractor that, under the energy efficiency rule, do not count against the utility's cost caps or administrative spending caps. The Joint Utilities pointed out that the two terms are specifically defined in §25.181(c)(22) and (38). The Joint Utilities summarized that there is no double counting or need for further clarification.

Commission Response

The commission declines to add a definition for "program expenditures." As explained by the Joint Utilities, no issues have arisen from the lack of a definition for "program expenditures" and no definition has been proposed for comment.

As required under §25.181(n), a utility must document energy and demand savings using accepted measurement and verifi-

ation methods. Because §25.181(g)(1) makes clear that administrative costs include all reasonable and necessary costs incurred by a utility in carrying out its responsibilities under the rule, the commission agrees with the Joint Utilities that a utility's costs for its own measurement and verification are included in administrative costs. EM&V costs are costs for the commission's EM&V contractor to conduct independent evaluation, measurement, and verification of the utilities' energy efficiency programs and do not count against a utility's EECRF cost caps or administrative spending cap. The utility's measurement and verification costs and the costs for the commission's EM&V contractor are considered when determining the cost-effectiveness of the utility's programs under §25.181(d)(1), and in the calculation of net benefits used to determine a utility's performance bonus under §25.182(e)(2). In its response to comments relating to §25.181(d)(1) in Project No. 39674, the commission confirmed that EM&V costs constitute measurement and verification costs that are specified for inclusion in the program cost calculation under §25.181(d)(1).

Because the utility's measurement and verification costs are properly included in program costs as a component of the utility's administrative costs, the commission believes it is appropriate to strike the term "measurement and verification" in §25.181(d)(1) and proposed §25.182(e)(2), and replace it with the term "EM&V contractor costs" to avoid confusion regarding the terms "measurement and verification" and "EM&V costs." In addition, in order to clarify that the term "EM&V costs" refers to costs for the commission's EM&V contractor and does not refer to a utility's measurement and verification expense, the commission changes the term in §25.182(d)(1)(A) to "EM&V contractor costs."

Subsections 25.182(d)(1) and (2), Cost Recovery

The Cities commented that the language regarding the application of interest to the over- or under-recovery of energy efficiency costs, as drafted, was unclear about the calculation of the amount of interest. Cities suggested adding the phrase "applied monthly" to the language in the proposed rule to clarify that interest should be calculated on a monthly basis. Joint Utilities replied that the Cities' suggested application of interest on a monthly basis would be overly burdensome and that, consistent with Joint Utilities' initial comments, the EECRF proceedings are situations where a simple, annual application of interest works best because the over- or under-recovery balance is calculated on an annual--not a monthly--basis.

Joint Utilities commented that the rule should clarify which commission-authorized rates for over and under-billing should be applied to an over- or under-recovery in an EECRF proceeding. Joint Utilities proposed adding the phrase "in each year for which the over- or under-recovery is calculated" to the rule language. Joint Utilities provided an example for a hypothetical over- or under-recovery in program year 2018, which would be collected or refunded in 2020: the amount to refund or collect in 2020 should be calculated by applying, to the over- or under-recovery from 2018, first the commission-authorized rate for 2018 in the first year, and second, the commission-authorized rate for 2019 in the second year.

Commission Response

The commission disagrees with Cities, but agrees with Joint Utilities, that it is appropriate to calculate interest on over- or under-recovery on an annual basis in an EECRF proceeding, which

mirrors the calculation of the over- or under-recovery balance itself on an annual basis.

The commission agrees with Joint Utilities that the rule should clarify which annual commission-authorized rates for over- and under-billing should be applied in calculating interest on over- or under-recovery in an EECRF proceeding. The commission modifies the suggested language from Joint Utilities to provide greater clarity.

Subsection 25.182(d)(10), Cost Recovery

Joint Utilities proposed changes to the currently existing language in proposed §25.182(d)(10) on the basis that certain items, such as incentive payments, administrative costs, and contracts with energy efficiency service providers, often cannot be directly assigned by rate class. Joint Utilities proposed another change, deleting the word "retail" before "rate class," to clarify that the rule is using the term "rate class" as defined in §25.182(c)(2).

Commission Response

The commission agrees that the word "retail" prior to "rate class" is unnecessary in this subsection, as the term "retail" is already included in the definition of "rate class" in §25.182(c)(2), and the commission modifies the rule language accordingly. The commission declines to adopt the other change to this subsection proposed by Joint Utilities. In Project No. 39674, the commission thoroughly reviewed and considered the issue of direct assignment of costs at the rate class level, and found that the current rule language requiring direct assignment of incentive costs to rate classes to the maximum extent reasonably possible was appropriate to ensure adherence to the requirement under Public Utility Regulatory Act (PURA) §39.905(b)(4). Furthermore, proper due diligence by the utilities in adhering to the requirement of PURA §39.905(b)(4) requires an accurate tracking of energy efficiency cost expenditures to the customers, and therefore rate classes, that receive the services under the programs.

Subsection 25.182(d)(12), Cost Recovery

The Joint Utilities emphasized that it is important for the commission to explicitly approve a utility's energy efficiency goal and budget for the future year as is currently done under the energy efficiency rule. The Joint Utilities acknowledged that while the existing rule does not explicitly provide for approval of the proposed savings goals, it requires a finding of fact that addresses whether the proposed budget is appropriate for the utility to meet the goals. The Joint Utilities opined that this finding of fact in a final order provides the utility with the assurance that its spending level is recoverable if the budget is spent reasonably. The Joint Utilities stated their belief that the proposed rule would no longer clearly provide this assurance because the scope of the EECRF as proposed in §25.182(d)(12) could be interpreted to pertain only to a prior year's goal and costs.

The Joint Utilities commented that their concern could be addressed by including the paragraphs currently found within §25.181(f)(12) in the new §25.182(d)(12), or by indicating in the new rule that the scope of an EECRF proceeding includes a determination of whether the costs to be recovered through an EECRF are reasonable estimates of the costs necessary to provide energy efficiency programs and to meet or exceed the utility's energy efficiency goals.

Commission Response

Consistent with existing §25.181, the commission adds language to §25.182(d)(12) to clarify that the scope of an EECRF proceeding includes a determination of whether the costs to be recovered through an EECRF are reasonable estimates of the costs necessary to provide energy efficiency programs and to meet or exceed the utility's energy efficiency goals.

Subsection 25.182(e)(2), Energy Efficiency Performance Bonus OPUC expressed agreement with the proposed language in §25.182(e)(2) that clarifies that the calculation of net benefits includes as a program cost any shareholder bonus awarded to the utility. OPUC stated that the proposed language is consistent with the commission's declaratory order in Docket No. 48297.

Commission Response

The commission agrees with OPUC that the proposed language in §25.182(e)(2) clarifies that the calculation of net benefits includes as a program cost any shareholder bonus awarded to the utility and is consistent with the commission's final order in Docket No. 48297.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

These amendments and new section are adopted under §14.002 of the Public Utility Regulatory Act, Tex. Util. Code Ann. (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §36.204, which authorizes the commission to establish rates for an electric utility that allow timely recovery of the reasonable costs for conservation and load management, including additional incentives for conservation and load management; and PURA §39.905, which requires the commission to provide oversight of energy-efficiency programs of electric utilities subject to that section and adopt rules and procedures to ensure that electric utilities subject to that section can achieve their energy-efficiency goals.

Cross reference to statutes: Public Utility Regulatory Act §§14.002, 36.204, and 39.905.

§25.181. Energy Efficiency Goal.

(a) Purpose. The purpose of this section is to ensure that:

(1) electric utilities administer energy efficiency incentive programs in a market-neutral, nondiscriminatory manner and do not offer competitive services, except as permitted in §25.343 of this title (relating to Competitive Energy Services) or this section;

(2) all customers, in all eligible customer classes and all areas of an electric utility's service area, have a choice of and access to the utility's portfolio of energy efficiency programs that allow each customer to reduce energy consumption, summer and winter peak demand, or energy costs; and

(3) each electric utility annually provides, through market-based standard offer programs, targeted market-transformation programs, or utility self-delivered programs, incentives sufficient for residential and commercial customers, retail electric providers, and energy efficiency service providers to acquire additional cost-effective energy efficiency, subject to EECRF caps established in §25.182(d)(7) of this title (relating to Energy Efficiency Cost Recovery Factor), for the utility to achieve the goals in subsection (e) of this section.

(b) Application. This section applies to electric utilities and the Electric Reliability Council of Texas, Inc. (ERCOT).

(c) Definitions. The following terms, when used in this section and in §25.182 of this title, shall have the following meanings unless the context indicates otherwise:

(1) Affiliate --

(A) A person who directly or indirectly owns or holds at least 5.0% of the voting securities of an energy efficiency service provider;

(B) A person in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider;

(C) A corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by an energy efficiency service provider;

(D) A corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by:

(i) a person who directly or indirectly owns or controls at least 5.0% of the voting securities of an energy efficiency service provider; or

(ii) a person in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider; or

(E) A person who is an officer or director of an energy efficiency service provider or of a corporation in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider;

(F) A person who actually exercises substantial influence or control over the policies and actions of an energy efficiency service provider;

(G) A person over which the energy efficiency service provider exercises the control described in subparagraph (F) of this paragraph;

(H) A person who exercises common control over an energy efficiency service provider, where "exercising common control over an energy efficiency service provider" means having the power, either directly or indirectly, to direct or cause the direction of the management or policies of an energy efficiency service provider, without regard to whether that power is established through ownership or voting of securities or any other direct or indirect means; or

(I) A person who, together with one or more persons with whom the person is related by ownership, marriage or blood relationship, or by action in concert, actually exercises substantial influence over the policies and actions of an energy efficiency service provider even though neither person may qualify as an affiliate individually.

(2) Baseline--A relevant condition that would have existed in the absence of the energy efficiency project or program being implemented, including energy consumption that would have occurred. Baselines are used to calculate program-related demand and energy savings. Baselines can be defined as either project-specific baselines or performance standard baselines (e.g., building codes).

(3) Claimed savings--Values reported by an electric utility after the energy efficiency activities have been completed, but prior to the time an independent, third-party evaluation of the savings is performed. As with projected savings estimates, these values may utilize results of prior evaluations and/or values in technical reference manuals. However, they are adjusted from projected savings estimates by correcting for any known data errors and actual installation rates and

may also be adjusted with revised values for factors such as per-unit savings values, operating hours, and savings persistence rates. Can be indicated as first year, annual demand or energy savings, and/or lifetime energy or demand savings values. Can be indicated as gross savings and/or net savings values.

(4) Commercial customer--A non-residential customer taking service at a point of delivery at a distribution voltage under an electric utility's tariff during the prior program year or a non-profit customer or government entity, including an educational institution. For purposes of this section, each point of delivery shall be considered a separate customer.

(5) Competitive energy efficiency services--Energy efficiency services that are defined as competitive under §25.341 of this title (relating to Definitions).

(6) Conservation load factor--The ratio of the annual energy savings goal, in kilowatt hours (kWh), to the peak demand goal for the year, measured in kilowatts (kW) and multiplied by the number of hours in the year.

(7) Deemed savings calculation--An industry-wide engineering algorithm used to calculate energy and/or demand savings of the installed energy efficiency measure that has been developed from common practice that is widely considered acceptable for the measure and purpose, and is applicable to the situation being evaluated. May include stipulated assumptions for one or more parameters in the algorithm, but typically requires some data associated with actual installed measure. An electric utility may use the calculation with documented measure-specific assumptions, instead of energy and peak demand savings determined through measurement and verification activities or the use of deemed savings.

(8) Deemed savings value--An estimate of energy or demand savings for a single unit of an installed energy efficiency measure that has been developed from data sources and analytical methods that are widely considered acceptable for the measure and purpose, and is applicable to the situation being evaluated. An electric utility may use deemed savings values instead of energy and peak demand savings determined through measurement and verification activities.

(9) Demand--The rate at which electric energy is used at a given instant, or averaged over a designated period, usually expressed in kW or megawatts (MW).

(10) Demand savings--A quantifiable reduction in demand.

(11) Eligible customers--Residential and commercial customers. In addition, to the extent that they meet the criteria for participation in load management standard offer programs developed for industrial customers and implemented prior to May 1, 2007, industrial customers are eligible customers solely for the purpose of participating in such programs.

(12) Energy efficiency--Improvements in the use of electricity that are achieved through customer facility or customer equipment improvements, devices, processes, or behavioral or operational changes that produce reductions in demand or energy consumption with the same or higher level of end-use service and that do not materially degrade existing levels of comfort, convenience, and productivity.

(13) Energy Efficiency Cost Recovery Factor (EECRF)--An electric tariff provision, compliant with §25.182 of this title, ensuring timely and reasonable cost recovery for utility expenditures made to satisfy the goal of PURA §39.905 that provide for a portfolio of cost-effective energy efficiency programs under this section.

(14) Energy efficiency measures--Equipment, materials, and practices, including practices that result in behavioral or opera-

tional changes, implemented at a customer's site on the customer's side of the meter that result in a reduction at the customer level and/or on the utility's system in electric energy consumption, measured in kWh, or peak demand, measured in kW, or both. These measures may include thermal energy storage and removal of an inefficient appliance so long as the customer need satisfied by the appliance is still met.

(15) Energy efficiency program--The aggregate of the energy efficiency activities carried out by an electric utility under this section or a set of energy efficiency projects carried out by an electric utility under the same name and operating rules.

(16) Energy efficiency project--An energy efficiency measure or combination of measures undertaken in accordance with a standard offer, market transformation program, or self-delivered program.

(17) Energy efficiency service provider--A person or other entity that installs energy efficiency measures or performs other energy efficiency services under this section. An energy efficiency service provider may be a retail electric provider or commercial customer, provided that the commercial customer has a peak load equal to or greater than 50 kW. An energy efficiency service provider may also be a governmental entity or a non-profit organization, but may not be an electric utility.

(18) Energy savings--A quantifiable reduction in a customer's consumption of energy that is attributable to energy efficiency measures, usually expressed in kWh or MWh.

(19) Estimated useful life (EUL)--The number of years until 50% of installed measures are still operable and providing savings, and is used interchangeably with the term "measure life". The EUL determines the period of time over which the benefits of the energy efficiency measure are expected to accrue.

(20) Evaluated savings--Savings estimates reported by the EM&V contractor after the energy efficiency activities and an impact evaluation have been completed. Differs from claimed savings in that the EM&V contractor has conducted some of the evaluation and/or verification activities. These values may rely on claimed savings for factors such as installation rates and the Technical Reference Manual for values such as per unit savings values and operating hours. These savings estimates may also include adjustments to claimed savings for data errors, per unit savings values, operating hours, installation rates, savings persistence rates, or other considerations. Can be indicated as first year, annual demand or energy savings, and/or lifetime energy or demand savings values. Can be indicated as gross savings and/or net savings values.

(21) Evaluation--The conduct of any of a wide range of assessment studies and other activities aimed at determining the effects of a program; or aimed at understanding or documenting program performance, program or program-related markets and market operations, program-induced changes in energy efficiency markets, levels of demand or energy savings, or program cost-effectiveness. Market assessment, monitoring, and evaluation, and measurement and verification (M&V) are aspects of evaluation.

(22) Evaluation, measurement, and verification (EM&V) contractor--One or more independent, third-party contractors selected and retained by the commission to plan, conduct, and report on energy efficiency evaluation activities, including verification.

(23) Free driver--Customers who do not directly participate in an energy efficiency program, but who undertake energy efficiency actions in response to program activity.

(24) Free rider--A program participant who would have implemented the program measure or practice in the absence of the

program. Free riders can be total, in which the participant's activity would have completely replicated the program measure; partial, in which the participant's activity would have partially replicated the program measure; or deferred, in which the participant's activity would have completely replicated the program measure, but at a time after the time the program measure was implemented.

(25) Growth in demand--The annual increase in demand in the Texas portion of an electric utility's service area at time of peak demand, as measured in accordance with this section.

(26) Gross savings--The change in energy consumption and/or demand that results directly from program-related actions taken by participants in an efficiency program, regardless of why they participated.

(27) Hard-to-reach customers--Residential customers with an annual household income at or below 200% of the federal poverty guidelines.

(28) Impact evaluation--An evaluation of the program-specific, directly induced changes (e.g., energy and/or demand reduction) attributable to an energy efficiency program.

(29) Incentive payment--Payment made by a utility to an energy efficiency service provider, an end-use customer, or third-party contractor to implement and/or attract customers to energy efficiency programs, including standard offer, market transformation and self-delivered programs.

(30) Industrial customer--A for-profit entity engaged in an industrial process taking electric service at transmission voltage, or a for-profit entity engaged in an industrial process taking electric service at distribution voltage that qualifies for a tax exemption under Tax Code §151.317 and has submitted an identification notice under subsection (u) of this section.

(31) Inspection--Examination of a project to verify that an energy efficiency measure has been installed, is capable of performing its intended function, and is producing an energy savings or demand reduction equivalent to the energy savings or demand reduction reported towards meeting the energy efficiency goals of this section.

(32) Installation rate--The percentage of measures that receive incentives under an energy efficiency program that are actually installed in a defined period of time. The installation rate is calculated by dividing the number of measures installed by the number of measures that receive incentives under an efficiency program in a defined period of time.

(33) International performance measurement and verification protocol (IPMVP)--A guidance document issued by the Efficiency Valuation Organization with a framework and definitions describing the M&V approaches.

(34) Lifetime energy (demand) savings--The energy (demand) savings over the lifetime of an installed measure(s), project(s), or program(s). May include consideration of measure estimated useful life, technical degradation, and other factors. Can be gross or net savings.

(35) Load control--Activities that place the operation of electricity-consuming equipment under the control or dispatch of an energy efficiency service provider, an independent system operator, or other transmission organization or that are controlled by the customer, with the objective of producing energy or demand savings.

(36) Load management--Load control activities that result in a reduction in peak demand, or a shifting of energy usage from a

peak to an off-peak period or from high-price periods to lower price periods.

(37) Market transformation program--Strategic programs intended to induce lasting structural or behavioral changes in the market that result in increased adoption of energy efficient technologies, services, and practices, as described in this section.

(38) Measurement and verification--A subset of program impact evaluation that is associated with the documentation of energy or demand savings at individual sites or projects using one or more methods that can involve measurements, engineering calculations, statistical analyses, and/or computer simulation modeling. M&V approaches are defined in the IPMVP.

(39) Net savings--The total change in load that is attributable to an energy efficiency program. This change in energy and/or demand use shall include, implicitly or explicitly, consideration of appropriate factors. These factors may include free ridership, participant and non-participant spillover, induced market effects, changes in the level of energy service, and/or other non-program causes of changes in energy use and/or demand.

(40) Net-to-gross--A factor representing net program savings divided by gross program savings that is applied to gross program impacts to convert them into net program impacts. The factor may be made up of a variety of factors that create differences between gross and net savings, commonly considering the effects of free riders and spillover.

(41) Non-participant spillover--Energy savings that occur when a program non-participant installs energy efficiency measures or applies energy savings practices as a result of a program's influence.

(42) Off-peak period--Period during which the demand on an electric utility system is not at or near its maximum. For the purpose of this section, the off-peak period includes all hours that are not in the peak period.

(43) Participant spillover--The additional energy savings that occur when a program participant independently installs incremental energy efficiency measures or applies energy savings practices after having participated in the efficiency program as a result of the program's influence.

(44) Peak demand--Electrical demand at the times of highest annual demand on the utility's system at the source. Peak demand refers to Texas retail peak demand and, therefore, does not include demand of retail customers in other states or wholesale customers.

(45) Peak demand reduction--Reduction in demand on the utility's system at the times of the utility's summer peak period or winter peak period.

(46) Peak period--For the purpose of this section, the peak period consists of the hours from one p.m. to seven p.m. during the months of June, July, August, and September, and the hours of six a.m. to ten a.m. and six p.m. to ten p.m. during the months of December, January, and February, excluding weekends and Federal holidays.

(47) Program year--A year in which an energy efficiency incentive program is implemented, beginning January 1 and ending December 31.

(48) Projected savings--Values reported by an electric utility prior to the time the energy efficiency activities are implemented. Are typically estimates of savings prepared for program and/or portfolio design or planning purposes. These values are based on pre-program or portfolio estimates of factors such as per-unit savings values, operating hours, installation rates, and savings persistence rates. These

values may utilize results of prior evaluations and/or values in the Technical Reference Manual. Can be indicated as first year, annual demand or energy savings, and/or lifetime energy or demand savings values. Can be indicated as gross savings and/or net savings values.

(49) Renewable demand side management (DSM) technologies--Equipment that uses a renewable energy resource (renewable resource), as defined in §25.173(c) of this title (relating to Goal for Renewable Energy), a geothermal heat pump, a solar water heater, or another natural mechanism of the environment, that when installed at a customer site, reduces the customer's net purchases of energy, demand, or both.

(50) Savings-to-Investment Ratio (SIR)--The ratio of the present value of a customer's estimated lifetime electricity cost savings from energy efficiency measures to the present value of the installation costs, inclusive of any incidental repairs, of those energy efficiency measures.

(51) Self-delivered program--A program developed by a utility in an area in which customer choice is not offered that provides incentives directly to customers. The utility may use internal or external resources to design and administer the program.

(52) Spillover--Reductions in energy consumption and/or demand caused by the presence of an energy efficiency program, beyond the program-related gross savings of the participants and without financial or technical assistance from the program. There can be participant and/or non-participant spillover.

(53) Spillover rate--Estimate of energy savings attributable to spillover expressed as a percent of savings installed by participants through an energy efficiency program.

(54) Standard offer contract--A contract between an energy efficiency service provider and a participating utility or between a participating utility and a commercial customer specifying standard payments based upon the amount of energy and peak demand savings achieved through energy efficiency measures, the measurement and verification protocols, and other terms and conditions, consistent with this section.

(55) Standard offer program--A program under which a utility administers standard offer contracts between the utility and energy efficiency service providers.

(56) Technical reference manual (TRM)--A resource document compiled by the commission's EM&V contractor that includes information used in program planning and reporting of energy efficiency programs. It can include savings values for measures, engineering algorithms to calculate savings, impact factors to be applied to calculated savings (e.g., net-to-gross values), protocols, source documentation, specified assumptions, and other relevant material to support the calculation of measure and program savings.

(57) Verification--An independent assessment that a program has been implemented in accordance with the program design. The objectives of measure installation verification are to confirm the installation rate, that the installation meets reasonable quality standards, and that the measures are operating correctly and have the potential to generate the predicted savings. Verification activities are generally conducted during on-site surveys of a sample of projects. Project site inspections, participant phone and mail surveys and/or implementer and participant documentation review are typical activities associated with verification. Verification is also a subset of evaluation.

(d) Cost-effectiveness standard. An energy efficiency program is deemed to be cost-effective if the cost of the program to the utility is less than or equal to the benefits of the program. Utilities are

encouraged to achieve demand reduction and energy savings through a portfolio of cost-effective programs that exceed each utility's energy efficiency goals while staying within the cost caps established in §25.182(d)(7) of this title.

(1) The cost of a program includes the cost of incentives, EM&V contractor costs, any shareholder bonus awarded to the utility, and actual or allocated research and development and administrative costs. The benefits of the program consist of the value of the demand reductions and energy savings, measured in accordance with the avoided costs prescribed in this subsection. The present value of the program benefits shall be calculated over the projected life of the measures installed or implemented under the program.

(2) The avoided cost of capacity shall be established in accordance with this paragraph.

(A) By November 1 of each year, commission staff shall file the avoided cost of capacity for the upcoming year, including supporting data, in the commission's central records under the control number for the energy efficiency implementation project.

(i) Staff shall calculate the avoided cost of capacity from the base overnight cost using the lower of a new conventional combustion turbine or a new advanced combustion turbine, as reported by the United States Department of Energy's Energy Information Administration's (EIA) Cost and Performance Characteristics of New Central Station Electricity Generating Technologies associated with EIA's Annual Energy Outlook. If EIA cost data that reflects current conditions in the industry does not exist, staff may establish an avoided cost of capacity using another data source.

(ii) If the EIA base overnight cost of a new conventional or an advanced combustion turbine, whichever is lower, is less than \$700 per kW, the avoided cost of capacity shall be \$80 per kW-year. If the base overnight cost of a new conventional or advanced combustion turbine, whichever is lower, is at or between \$700 and \$1,000 per kW, the avoided cost of capacity shall be \$100 per kW-year. If the base overnight cost of a new conventional or advanced combustion turbine, whichever is lower, is greater than \$1,000 per kW, the avoided cost of capacity shall be \$120 per kW-year.

(iii) The avoided cost of capacity calculated by staff may be challenged only by the filing of a petition within 45 days of the date the avoided cost of capacity is filed in the commission's central records under the control number for the energy efficiency implementation project described by paragraph (2)(A) of this subsection. The petition must clearly describe the reasons commission's staff's avoided cost calculation is incorrect, include supporting data and calculations, and state the relief sought.

(B) A utility in an area in which customer choice is not offered may petition the commission for authorization to use an avoided cost of capacity different from the avoided cost determined according to subparagraph (A) of this paragraph by filing a petition no later than 45 days after the date the avoided cost of capacity calculated by staff is filed in the commission's central records under the control number for the energy efficiency implementation project described by paragraph (2)(A) of this subsection. The petition must clearly describe the reasons a different avoided cost should be used, include supporting data and calculations, and state the relief sought. The avoided cost of capacity proposed by the utility shall be based on a generating resource or purchase in the utility's resource acquisition plan and the terms of the purchase or the cost of the resource shall be disclosed in the filing.

(3) The avoided cost of energy shall be established in accordance with this paragraph.

(A) By November 1 of each year, ERCOT shall file the avoided cost of energy for the upcoming year for the ERCOT region, as defined in §25.5(48) of this title (relating to Definitions), in the commission's central records under the control number for the energy efficiency implementation project. ERCOT shall calculate the avoided cost of energy by determining the load-weighted average of the competitive load zone settlement point prices for the peak periods covering the two previous winter and summer peaks. The avoided cost of energy calculated by ERCOT may be challenged only by the filing of a petition within 45 days of the date the avoided cost of capacity is filed by ERCOT in the commission's central records under the control number for the energy efficiency implementation project described by paragraph (2)(A) of this subsection. The petition must clearly describe the reasons ERCOT's avoided cost of energy calculation is incorrect, include supporting data and calculations, and state the relief sought.

(B) A utility in an area in which customer choice is not offered may petition the commission for authorization to use an avoided cost of energy other than that otherwise determined according to this paragraph. The avoided cost of energy may be based on peak period energy prices in an energy market operated by a regional transmission organization if the utility participates in that market and the prices are reported publicly. If the utility does not participate in such a market, the avoided cost of energy may be based on the expected heat rate of the gas-turbine generating technology specified in this subsection, multiplied by a publicly reported cost of natural gas.

(e) Annual energy efficiency goals.

(1) An electric utility shall administer a portfolio of energy efficiency programs to acquire, at a minimum, the following:

(A) Beginning with the 2013 program year, until the trigger described in subparagraph (B) of this paragraph is reached, the utility shall acquire a 30% reduction of its annual growth in demand of residential and commercial customers.

(B) If the demand reduction goal to be acquired by a utility under subparagraph (A) of this paragraph is equivalent to at least four-tenths of 1% of its summer weather-adjusted peak demand for the combined residential and commercial customers for the previous program year, the utility shall meet the energy efficiency goal described in subparagraph (C) of this paragraph for each subsequent program year.

(C) Once the trigger described in subparagraph (B) of this paragraph is reached, the utility shall acquire four-tenths of 1% of its summer weather-adjusted peak demand for the combined residential and commercial customers for the previous program year.

(D) Except as adjusted in accordance with subsection (u) of this section, a utility's demand reduction goal in any year shall not be lower than its goal for the prior year, unless the commission establishes a goal for a utility under paragraph (2) of this subsection.

(2) The commission may establish for a utility a lower goal than the goal specified in paragraph (1) of this subsection, a higher administrative spending cap than the cap specified under subsection (g) of this section, or an EECRF greater than the cap specified in §25.182(d)(7) of this title, if the utility demonstrates that compliance with that goal, administrative spending cap, or EECRF cost cap is not reasonably possible and that good cause supports the lower goal, higher administrative spending cap, or higher EECRF cost cap. To be eligible for a lower goal, higher administrative spending cap, or a higher EECRF cost cap, the utility must request a good cause exception as part of its EECRF application under §25.182 of this title. If approved, the good cause exception is limited to the program year associated with the EECRF application.

(3) Each utility's demand-reduction goal shall be calculated as follows:

(A) Each year's historical demand for residential and commercial customers shall be adjusted for weather fluctuations, using weather data for the most recent ten years. The utility's growth in residential and commercial demand is based on the average growth in retail load in the Texas portion of the utility's service area, measured at the utility's annual system peak. The utility shall calculate the average growth rate for the prior five years.

(B) The demand goal for energy-efficiency savings for a year under paragraph (1)(A) of this subsection is calculated by applying the percentage goal to the average growth in peak demand, calculated in accordance with subparagraph (A) of this paragraph. The annual demand goal for energy efficiency savings under paragraph (1)(C) of this subsection is calculated by applying the percentage goal to the utility's summer weather-adjusted five-year average peak demand for the combined residential and commercial customers. This annual peak demand goal at the source is then converted to an equivalent goal at the meter by applying reasonable line loss factors.

(C) A utility may submit for commission approval an alternative method to calculate its growth in demand, for good cause.

(D) If a utility's prior five-year average load growth, calculated under subparagraph (A) of this paragraph, is negative, the utility shall use the demand reduction goal calculated using the alternative method approved by the commission beginning with the 2013 program year or, if the commission has not approved an alternative method, the utility shall use the previous year's demand reduction goal.

(E) A utility shall not claim savings obtained from energy efficiency measures funded through settlement orders or count towards the bonus calculation any savings obtained from grant incentives that have been awarded directly to the utility for energy efficiency programs.

(F) Savings achieved through programs for hard-to-reach customers shall be no less than 5.0% of the utility's total demand reduction goal.

(G) Utilities may apply peak savings on a per project basis to summer or winter peak, but not to both summer and winter peaks.

(4) An electric utility shall administer a portfolio of energy efficiency programs designed to meet an energy savings goal calculated from its demand savings goal, using a 20% conservation load factor.

(5) Electric utilities shall administer a portfolio of energy efficiency programs to effectively and efficiently achieve the goals set out in this section.

(A) Incentive payments may be made under standard offer contracts, market transformation contracts, or as part of a self-delivered program for energy savings and demand reductions. Each electric utility shall establish standard incentive payments to achieve the objectives of this section.

(B) Projects or measures under a standard offer, market transformation, or self-delivered program are not eligible for incentive payments or compensation if:

(i) A project would achieve demand or energy reduction by eliminating an existing function, shutting down a facility or operation, or would result in building vacancies or the re-location of existing operations to a location outside of the area served by the utility conducting the program, except for an appliance recycling program consistent with this section.

(ii) A measure would be adopted even in the absence of the energy efficiency service provider's proposed energy efficiency project, except in special cases, such as hard-to-reach and weatherization programs, or where free riders are accounted for using a net to gross adjustment of the avoided costs, or another method that achieves the same result.

(iii) A project results in negative environmental or health effects, including effects that result from improper disposal of equipment and materials.

(C) Ineligibility under subparagraph (B) of this paragraph does not apply to standard offer, market transformation, and self-delivered programs aimed at energy code adoption, implementation, compliance, and enforcement under subsection (k) of this section, nor does it preclude standard offer, market transformation, or self-delivered programs promoting energy efficiency measures also required by energy codes to the degree such codes do not achieve full compliance rates.

(D) A utility in an area in which customer choice is not offered may achieve the goals of paragraphs (1) and (2) of this subsection by:

(i) providing rebate or incentive funds directly to eligible residential and commercial customers for programs implemented under this section; or

(ii) developing, subject to commission approval, new programs other than standard offer programs and market transformation programs, to the extent that the new programs satisfy the same cost-effectiveness standard as standard offer programs and market transformation programs using the process outlined in subsection (q) of this section.

(E) For a utility in an area in which customer choice is offered, the utility may achieve the goal of this section in rural areas by providing rebate or incentive funds directly to customers after demonstrating to the commission in a contested case hearing that the goal requirement cannot be met through the implementation of programs by retail electric providers or energy efficiency service providers in the rural areas.

(f) Incentive payments. The incentive payments for each customer class shall not exceed 100% of avoided cost, as determined in accordance with this section. The incentive payments shall be set by each utility with the objective of achieving its energy and demand savings goals at the lowest reasonable cost per program. Different incentive levels may be established for areas that have historically been underserved by the utility's energy efficiency programs or for other appropriate reasons. Utilities may adjust incentive payments during the program year, but such adjustments must be clearly publicized in the materials used by the utility to set out the program rules and describe the programs to participating energy efficiency service providers.

(g) Utility administration. The cost of administration in a program year shall not exceed 15% of a utility's total program costs for that program year. The cost of research and development in a program year shall not exceed 10% of a utility's total program costs for that program year. The cumulative cost of administration and research and development shall not exceed 20% of a utility's total program costs, unless a good cause exception filed under subsection (e)(2) of this section is granted. Any portion of these costs that is not directly assignable to a specific program shall be allocated among the programs in proportion to the program incentive costs. Any bonus awarded by the commission shall not be included in program costs for the purpose of applying these limits.

(1) Administrative costs include all reasonable and necessary costs incurred by a utility in carrying out its responsibilities under this section, including:

(A) conducting informational activities designed to explain the standard offer programs and market transformation programs to energy efficiency service providers, retail electric providers, and vendors;

(B) for a utility offering self-delivered programs, internal utility costs to conduct outreach activities to customers and energy efficiency service providers will be considered administration;

(C) providing informational programs to improve customer awareness of energy efficiency programs and measures;

(D) reviewing and selecting energy efficiency programs in accordance with this section;

(E) providing regular and special reports to the commission, including reports of energy and demand savings;

(F) a utility's costs for an EECRF proceeding conducted under §25.182(d) of this title;

(G) the costs paid by a utility pursuant to PURA §33.023(b) for an EECRF proceeding conducted under §25.182(d) of this title; however, these costs are not included in the administrative caps applied in this paragraph; and

(H) any other activities that are necessary and appropriate for successful program implementation.

(2) A utility shall adopt measures to foster competition among energy efficiency service providers for standard offer, market transformation, and self-delivered programs, such as limiting the number of projects or level of incentives that a single energy efficiency service provider and its affiliates is eligible for and establishing funding set-asides for small projects.

(3) A utility may establish funding set-asides or other program rules to foster participation in energy efficiency programs by municipalities and other governmental entities.

(4) Electric utilities offering standard offer, market transformation, and self-delivered programs shall use standardized forms, procedures, and program templates. The electric utility shall file any standardized materials, or any change to it, with the commission at least 60 days prior to its use. In filing such materials, the utility shall provide an explanation of changes from the version of the materials that was previously used. For standard offer, market transformation, and self-delivered programs, the utility shall provide relevant documents to retail electric providers and energy efficiency service providers and work collaboratively with them when it changes program documents, to the extent that such changes are not considered in the energy efficiency implementation project described in subsection (q) of this section.

(5) Each electric utility in an area in which customer choice is offered shall conduct programs to encourage and facilitate the participation of retail electric providers and energy efficiency service providers in the delivery of efficiency and demand response programs, including:

(A) Coordinating program rules, contracts, and incentives to facilitate the statewide marketing and delivery of the same or similar programs by retail electric providers;

(B) Setting aside amounts for programs to be delivered to customers by retail electric providers and establishing program rules and schedules that will give retail electric providers sufficient time to

plan, advertise, and conduct energy efficiency programs, while preserving the utility's ability to meet the goals in this section; and

(C) Working with retail electric providers and energy efficiency service providers to evaluate the demand reductions and energy savings resulting from time-of-use prices; home-area network devices, such as in-home displays; and other programs facilitated by advanced meters to determine the demand and energy savings from such programs.

(h) Standard offer programs. A utility's standard offer program shall be implemented through program rules and standard offer contracts that are consistent with this section. Standard offer contracts will be available to any energy efficiency service provider that satisfies the contract requirements prescribed by the utility under this section and demonstrates that it is capable of managing energy efficiency projects under an electric utility's energy efficiency program.

(i) Market transformation programs. Market transformation programs are strategic efforts, including, but not limited to, incentives and education designed to reduce market barriers for energy efficient technologies and practices. Market transformation programs may be designed to obtain energy savings or peak demand reductions beyond savings that are reasonably expected to be achieved as a result of current compliance levels with existing building codes applicable to new buildings and equipment efficiency standards or standard offer programs. Market transformation programs may also be specifically designed to express support for early adoption, implementation, and enforcement of the most recent version of the International Energy Conservation Code for residential or commercial buildings by local jurisdictions, express support for more effective implementation and enforcement of the state energy code and compliance with the state energy code, and encourage utilization of the types of building components, products, and services required to comply with such energy codes. The existence of federal, state, or local governmental funding for, or encouragement to utilize, the types of building components, products, and services required to comply with such energy codes does not prevent utilities from offering programs to supplement governmental spending and encouragement. Utilities should cooperate with the retail electric providers, and, where possible, leverage existing industry-recognized programs that have the potential to reduce demand and energy consumption in Texas and consider statewide administration where appropriate. Market transformation programs may operate over a period of more than one year and may demonstrate cost-effectiveness over a period longer than one year.

(j) Self-delivered programs. A utility may use internal or external resources to design, administer, and deliver self-delivered programs. The programs shall be tailored to the unique characteristics of the utility's service area in order to attract customer and energy efficiency service provider participation. The programs shall meet the same cost effectiveness requirements as standard offer and market transformation programs.

(k) Requirements for standard offer, market transformation, and self-delivered programs. A utility's standard offer, market transformation, and self-delivered programs shall meet the requirements of this subsection. A utility may conduct information and advertising campaigns to foster participation in standard offer, market transformation, and self-delivered programs.

(1) Standard offer, market transformation, and self-delivered programs:

(A) shall describe the eligible customer classes and allocate funding among the classes on an equitable basis;

(B) may offer standard incentive payments and specify a schedule of payments that are sufficient to meet the goals of the program, which shall be consistent with this section, or any revised payment formula adopted by the commission. The incentive payments may include both payments for energy and demand savings, as appropriate;

(C) shall not permit the provision of any product, service, pricing benefit, or alternative terms or conditions to be conditioned upon the purchase of any other good or service from the utility, except that only customers taking transmission and distribution services from a utility can participate in its energy efficiency programs;

(D) shall provide for a complaint process that allows:

(i) an energy efficiency service provider to file a complaint with the commission against a utility; and

(ii) a customer to file a complaint with the utility against an energy efficiency service provider;

(E) may permit the use of distributed renewable generation, geothermal, heat pump, solar water heater and combined heat and power technologies, involving installations of ten megawatts or less;

(F) may factor in the estimated level of enforcement and compliance with existing energy codes in determining energy and peak demand savings; and

(G) may require energy efficiency service providers to provide the following:

(i) a description of how the value of any incentive will be passed on to customers;

(ii) evidence of experience and good credit rating;

(iii) a list of references;

(iv) all applicable licenses required under state law and local building codes;

(v) evidence of all building permits required by governing jurisdictions; and

(vi) evidence of all necessary insurance.

(2) Standard offer and self-delivered programs:

(A) shall require energy efficiency service providers to identify peak demand and energy savings for each project in the proposals they submit to the utility;

(B) shall be neutral with respect to specific technologies, equipment, or fuels. Energy efficiency projects may lead to switching from electricity to another energy source, provided that the energy efficiency project results in overall lower energy costs, lower energy consumption, and the installation of high efficiency equipment. Utilities may not pay incentives for a customer to switch from gas appliances to electric appliances except in connection with the installation of high efficiency combined heating and air conditioning systems;

(C) shall require that all projects result in a reduction in purchased energy consumption, or peak demand, or a reduction in energy costs for the end-use customer;

(D) shall encourage comprehensive projects incorporating more than one energy efficiency measure;

(E) shall be limited to projects that result in consistent and predictable energy or peak demand savings over an appropriate period of time based on the life of the measure; and

(F) may permit a utility to use poor performance, including customer complaints, as a criterion to limit or disqualify an energy efficiency service provider or its affiliate from participating in a program.

(3) A market transformation program shall identify:

- (A) program goals;
- (B) market barriers the program is designed to overcome;
- (C) key intervention strategies for overcoming those barriers;
- (D) estimated costs and projected energy and capacity savings;
- (E) a baseline study that is appropriate in time and geographic region. In establishing a baseline, the study shall consider the level of regional implementation and enforcement of any applicable energy code;
- (F) program implementation timeline and milestones;
- (G) a description of how the program will achieve the transition from extensive market intervention activities toward a largely self-sustaining market;
- (H) a method for measuring and verifying savings; and
- (I) the period over which savings shall be considered to accrue, including a projected date by which the market will be sufficiently transformed so that the program should be discontinued.

(4) A market transformation program shall be designed to achieve energy or peak demand savings, or both, and lasting changes in the way energy efficient goods or services are distributed, purchased, installed, or used over a defined period of time. A utility shall use fair competitive procedures to select energy efficiency service providers to conduct a market transformation program, and shall include in its annual report the justification for the selection of an energy efficiency service provider to conduct a market transformation program on a sole-source basis.

(5) A load-control standard-offer program shall not permit an energy efficiency service provider to receive incentives under the program for the same demand reduction benefit for which it is compensated under a capacity-based demand response program conducted by an independent organization, independent system operator, or regional transmission operator. The qualified scheduling entity representing an energy efficiency service provider is not prohibited from receiving revenues from energy sold in ERCOT markets in addition to any incentive for demand reduction offered under a utility load-control standard offer program.

(6) Utilities offering load management programs shall work with ERCOT and energy efficiency service providers to identify eligible loads and shall integrate such loads into the ERCOT markets to the extent feasible. Such integration shall not preclude the continued operation of utility load management programs that cannot be feasibly integrated into the ERCOT markets or that continue to provide separate and distinct benefits.

(l) Energy efficiency plans and reports (EEPR). Each electric utility shall file by April 1 of each year an energy efficiency plan and report in a project annually designated for this purpose, as described in this subsection and §25.183(d) of this title. The plan and report shall be filed as a searchable pdf document.

(1) Each electric utility's energy efficiency plan and report shall describe how the utility intends to achieve the goals set forth in

this section and comply with the other requirements of this section. The plan and report shall be based on program years. The plan and report shall propose an annual budget sufficient to reach the goals specified in this section.

(2) Each electric utility's plan and report shall include:

- (A) the utility's total actual and weather-adjusted peak demand and actual and weather-adjusted peak demand for residential and commercial customers for the previous five years, measured at the source;
- (B) the demand goal calculated in accordance with this section for the current year and the following year, including documentation of the demand, weather adjustments, and the calculation of the goal;
- (C) the utility's customers' total actual and weather-adjusted energy consumption and actual and weather-adjusted energy consumption for residential and commercial customers for the previous five years;
- (D) the energy goal calculated in accordance with this section, including documentation of the energy consumption, weather adjustments, and the calculation of the goal;
- (E) a description of existing energy efficiency programs and an explanation of the extent to which these programs will be used to meet the utility's energy efficiency goals;
- (F) a description of each of the utility's energy efficiency programs that were not included in the previous year's plan, including measurement and verification plans if appropriate, and any baseline studies and research reports or analyses supporting the value of the new programs;
- (G) an estimate of the energy and peak demand savings to be obtained through each separate energy efficiency program;
- (H) a description of the customer classes targeted by the utility's energy efficiency programs, specifying the size of the hard-to-reach, residential, and commercial classes, and the methodology used for estimating the size of each customer class;
- (I) the proposed annual budget required to implement the utility's energy efficiency programs, broken out by program for each customer class, including hard-to-reach customers, and any set-asides or budget restrictions adopted or proposed in accordance with this section. The proposed budget shall detail the incentive payments and utility administrative costs, including specific items for research and information and outreach to energy efficiency service providers, and other major administrative costs, and the basis for estimating the proposed expenditures;
- (J) a discussion of the types of informational activities the utility plans to use to encourage participation by customers, energy efficiency service providers, and retail electric providers to participate in energy efficiency programs, including the manner in which the utility will provide notice of energy efficiency programs, and any other facts that may be considered when evaluating a program;
- (K) the utility's performance in achieving its energy goal and demand goal for the prior five years, as reported in annual energy efficiency reports filed in accordance with this section;
- (L) a comparison of projected savings (energy and demand), reported savings, and verified savings for each of the utility's energy efficiency programs for the prior two years;
- (M) a description of the results of any market transformation program, including a comparison of the baseline and actual re-

sults and any adjustments to the milestones for a market transformation program;

(N) a description of self-delivered programs;

(O) expenditures for the prior five years for energy and demand incentive payments and program administration, by program and customer class;

(P) funds that were committed but not spent during the prior year, by program;

(Q) a comparison of actual and budgeted program costs, including an explanation of any increase or decreases of more than 10% in the cost of a program;

(R) information relating to energy and demand savings achieved and the number of customers served by each program by customer class;

(S) the utility's most recent EECRF, the revenue collected through the EECRF, the utility's forecasted annual energy efficiency program expenditures in excess of the actual energy efficiency revenues collected from base rates as described in §25.182(d)(2) of this title, and the control number under which the most recent EECRF was established;

(T) the amount of any over- or under-recovery of energy efficiency program costs whether collected through base rates or the EECRF;

(U) a list of any counties that in the prior year were under-served by the energy efficiency program;

(V) a description of new or discontinued programs, including pilot programs that are planned to be continued as full programs. For programs that are to be introduced or pilot programs that are to be continued as full programs, the description shall include the budget and projected demand and energy savings;

(W) a link to the program manuals for the current program year; and

(X) the calculations supporting the adjustments to restate the demand goal from the source to the meter and to restate the energy efficiency savings from the meter to the source.

(m) Review of programs. Commission staff may initiate a proceeding to review a utility's energy efficiency programs. In addition, an interested entity may request that the commission initiate a proceeding to review a utility's energy efficiency programs.

(n) Inspection, measurement and verification. Each standard offer, market transformation, and self-delivered program shall include use of an industry-accepted evaluation and/or measurement and verification protocol, such as the International Performance Measurement and Verification Protocol or a protocol approved by the commission, to document and verify energy and peak demand savings to ensure that the goals of this section are achieved. A utility shall not provide an energy efficiency service provider final compensation until the provider establishes that the work is complete and evaluation and/or measurement and verification in accordance with the protocol verifies that the savings will be achieved. However, a utility may provide an energy efficiency service provider that offers behavioral programs incremental compensation as work is performed. If inspection of one or more measures is a part of the protocol, a utility shall not provide an energy efficiency service provider final compensation until the utility has conducted its inspection on at least a sample of measures and the inspections confirm that the work has been done. A utility shall provide inspection reports to commission staff within 20 days of staff's request.

(1) The energy efficiency service provider, or for self-delivered programs, the utility, is responsible for the determination and documentation of energy and peak demand savings using the approved evaluation and/or measurement and verification protocol, and may utilize the services of an independent third party for such purposes.

(2) Commission-approved deemed energy and peak demand savings may be used in lieu of the energy efficiency service provider's measurement and verification, where applicable. The deemed savings approved by the commission before December 31, 2007 are continued in effect, unless superseded by commission action.

(3) Where installed measures are employed, an energy efficiency service provider shall verify that the measures contracted for were installed before final payment is made to the energy efficiency service provider, by obtaining the customer's signature certifying that the measures were installed, or by other reasonably reliable means approved by the utility.

(4) For projects involving over 30 installations, a statistically significant sample of installations will be subject to on-site inspection in accordance with the protocol for the project to verify that measures are installed and capable of performing their intended function. Inspection shall occur within 30 days of notification of measure installation.

(5) Projects of less than 30 installations may be aggregated and a statistically significant sample of the aggregate installations will be subject to on-site inspection in accordance with the protocol for the projects to ensure that measures are installed and capable of performing their intended function. Inspection shall occur within 30 days of notification of measure installation.

(6) Where installed measures are employed, the sample size for on-site inspections may be adjusted for an energy efficiency service provider under a particular contract, based on the results of prior inspections.

(o) Evaluation, measurement, and verification (EM&V). The following defines the evaluation, measurement, and verification (EM&V) framework. The goal of this framework is to ensure that the programs are evaluated, measured, and verified using a consistent process that allows for accurate estimation of energy and demand impacts.

(1) EM&V objectives include:

(A) Documenting the impacts of the utilities' individual energy efficiency and load management portfolios, comparing their performance with established goals, and determining cost-effectiveness;

(B) Providing feedback for the commission, commission staff, utilities, and other stakeholders on program portfolio performance; and

(C) Providing input into the utilities' and ERCOT's planning activities.

(2) The principles that guide the EM&V activities in meeting the primary EM&V objectives are:

(A) Evaluators follow ethical guidelines.

(B) Important and relevant assumptions used by program planners and administrators are reviewed as part of the EM&V efforts.

(C) All important and relevant EM&V assumptions and calculations are documented and the reliability of results is indicated in evaluation reports.

(D) The majority of evaluation expenditures and efforts are in areas of greatest importance or uncertainty.

(3) The commission shall select an entity to act as the commission's EM&V contractor and conduct evaluation activities. The EM&V contractor shall operate under the commission's supervision and oversight, and the EM&V contractor shall offer independent analysis to the commission in order to assist in making decisions in the public interest.

(A) Under the oversight of the commission staff and with the assistance of utilities and other parties, the EM&V contractor will evaluate specific programs and the portfolio of programs for each utility.

(B) The EM&V contractor shall have the authority to request data it considers necessary to fulfill its evaluation, measurements, and verification responsibilities from the utilities. A utility shall make good faith efforts to provide complete, accurate, and timely responses to all EM&V contractor requests for documents, data, information and other materials. The commission may on its own volition or upon recommendation by staff require that a utility provide the EM&V contractor with specific information.

(4) Evaluation activities will be conducted by the EM&V contractor to meet the evaluation objectives defined in this section. Activities shall include, but are not limited to:

(A) Providing appropriate planning documents.

(B) Impact evaluations to determine and document appropriate metrics for each utility's individual evaluated programs and portfolio of all programs, annual portfolio evaluation reports, and additional reports and services as defined by commission staff to meet the EM&V objectives.

(C) Preparation of a statewide technical reference manual (TRM), including updates to such manual as defined in this subsection.

(5) The impact evaluation activities may include the use of one or more evaluation approaches. Evaluation activities may also include, or just include, verification activities on a census or sample of projects implemented by the utilities. Evaluations may also include the use of due-diligence on utility-provided documentation as well as surveys of program participants, non-participants, contractors, vendors, and other market actors.

(6) The following apply to the development of a statewide TRM by the EM&V contractor.

(A) The EM&V contractor shall use existing Texas, or other state, deemed savings manual(s), protocols, and the work papers used to develop the values in the manual(s), as a foundation for developing the TRM. The TRM shall include applicability requirements for each deemed savings value or deemed savings calculation. The TRM may also include standardized EM&V protocols for determining and/or verifying energy and demand savings for particular measures or programs. Utilities may apply TRM deemed savings values or deemed savings calculations to a measure or program if the applicability criteria are met.

(B) The TRM shall be reviewed by the EM&V contractor at least annually, under a schedule determined by commission staff, with the intention of preparing an updated TRM, if needed. In addition, any utility or other stakeholder may request additions to or modifications to the TRM at any time with the provision of documentation for the basis of such an addition or modification. At the discretion of commission staff, the EM&V contractor may review such documentation

to prepare a recommendation with respect to the addition or modification.

(C) Commission staff shall approve any updated TRMs through the energy efficiency implementation project. The approval process for any TRM additions or modifications, not made during the regular review schedule determined by commission staff, shall include a review by commission staff to determine if an addition or modification is appropriate before an annual update. TRM changes approved by staff may be challenged only by the filing of a petition within 45 days of the date that staff's approval is filed in the commission's central records under the control number for the energy efficiency implementation project described by subsection (d)(2)(A) of this section. The petition must clearly describe the reasons commission staff should not have approved the TRM changes, include supporting data and calculations, and state the relief sought.

(D) Any changes to the TRM shall be applied prospectively to programs offered in the appropriate program year.

(E) The TRM shall be publicly available.

(F) Utilities shall utilize the values contained in the TRM, unless the commission indicates otherwise.

(7) The utilities shall prepare projected savings estimates and claimed savings estimates. The utilities shall conduct their own EM&V activities for purposes such as confirming any incentive payments to customers or contractors and preparing documentation for internal and external reporting, including providing documentation to the EM&V contractor. The EM&V contractor shall prepare evaluated savings for preparation of its evaluation reports and a realization rate comparing evaluated savings with projected savings estimates and/or claimed savings estimates.

(8) Baselines for preparation of TRM deemed savings values or deemed savings calculations or for other evaluation activities shall be defined by the EM&V contractor and commission staff shall review and approve them. When common practice baselines are defined for determining gross energy and/or demand savings for a measure or program, common practice may be documented by market studies. Baselines shall be defined by measure category as follows (deviations from these specifications may be made with justification and approval of commission staff):

(A) Baseline is existing conditions for the estimated remaining lifetime of existing equipment for early replacement of functional equipment still within its current useful life. Baseline is applicable code, standard or common practice for remaining lifetime of the measure past the estimated remaining lifetime of existing equipment;

(B) Baseline is applicable code, standard or common practice for replacement of functional equipment beyond its current useful life;

(C) Baseline is applicable code, standard or common practice for unplanned replacements of failed equipment; and

(D) Baseline is applicable code, standard or common practice for new construction or major tenant improvements.

(9) Relevant recommendations of the EM&V contractor related to program design and reporting should be addressed in the Energy Efficiency Implementation Project (EEIP) and considered for implementation in future program years. The commission may require a utility to implement the EM&V contractor's recommendations in a future program year.

(10) The utilities shall be assigned the EM&V costs in proportion to their annual program costs and shall pay the invoices ap-

proved by the commission. The commission shall at least biennially review the EM&V contractor's costs and establish a budget for its services sufficient to pay for those services that it determines are economic and beneficial to be performed.

(A) The funding of the EM&V contractor shall be sufficient to ensure the selection of an EM&V contractor in accordance with the scope of EM&V activities outlined in this subsection.

(B) EM&V costs shall be itemized in the utilities' annual reports to the commission as a separate line item. The EM&V costs shall not count against the utility's cost caps or administration spending caps.

(11) For the purpose of analysis, the utility shall grant the EM&V contractor access to data maintained in the utilities' data tracking systems, including, but not limited to, the following proprietary customer information: customer identifying information, individual customer contracts, and load and usage data in accordance with §25.272(g)(1)(A) of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates). Such information shall be treated as confidential information.

(A) The utility shall maintain records for three years that include the date, time, and nature of proprietary customer information released to the EM&V contractor.

(B) The EM&V contractor shall aggregate data in such a way as to protect customer, retail electric provider, and energy efficiency service provider proprietary information in any non-confidential reports or filings the EM&V contractor prepares.

(C) The EM&V contractor shall not utilize data provided or received under commission authority for any purposes outside the authorized scope of work the EM&V contractor performs for the commission.

(D) The EM&V contractor providing services under this section shall not release any information it receives related to the work performed unless directed to do so by the commission.

(p) Targeted low-income energy efficiency program. Each unbundled transmission and distribution utility shall include in its energy efficiency plan a targeted low-income energy efficiency program. A utility in an area in which customer choice is not offered may include in its energy efficiency plan a targeted low-income energy efficiency program that utilizes the cost-effectiveness methodology provided in paragraph (2) of this subsection. Savings achieved by the program shall count toward the utility's energy efficiency goal.

(1) Each utility shall ensure that annual expenditures for the targeted low-income energy efficiency program are not less than 10% of the utility's energy efficiency budget for the program year.

(2) The utility's targeted low-income program shall incorporate a whole-house assessment that will evaluate all applicable energy efficiency measures for which there are commission-approved deemed savings. The cost-effectiveness of measures eligible to be installed and the overall program shall be evaluated using the Savings-to-Investment ratio (SIR).

(3) Any funds that are not obligated after July of a program year may be made available for use in the hard-to-reach program.

(q) Energy Efficiency Implementation Project - EEIP. The commission shall use the EEIP to develop best practices in standard offer market transformation, self-directed, pilot, or other programs, modifications to programs, standardized forms and procedures, protocols, deemed savings estimates, program templates, and the overall direction of the energy efficiency program established by this section.

Utilities shall provide timely responses to questions posed by other participants relevant to the tasks of the EEIP. Any recommendations from the EEIP process shall relate to future years as described in this subsection.

(1) The following functions may also be undertaken in the EEIP:

(A) development, discussion, and review of new statewide standard offer programs;

(B) identification, discussion, design, and review of new market transformation programs;

(C) determination of measures for which deemed savings are appropriate and participation in the development of deemed savings estimates for those measures;

(D) review of and recommendations on the commission EM&V contractor's reports;

(E) review of and recommendations on incentive payment levels and their adequacy to induce the desired level of participation by energy efficiency service providers and customers;

(F) review of and recommendations on a utility's annual energy efficiency plans and reports;

(G) utility program portfolios and proposed energy efficiency spending levels for future program years;

(H) periodic reviews of the cost-effectiveness methodology; and

(I) other activities as identified by commission staff.

(2) The EEIP projects shall be conducted by commission staff. The commission's EM&V contractor's reports shall be filed in the project at a date determined by commission staff.

(3) A utility that intends to launch a program that is substantially different from other programs previously implemented by any utility affected by this section shall file a program template and shall provide notice of such to EEIP participants. Notice to EEIP participants need not be provided if a program description or program template for the new program is provided through the utility's annual energy efficiency report. Following the first year in which a program was implemented, the utility shall include the program results in the utility's annual energy efficiency report.

(4) Participants in the EEIP may submit comments and reply comments in the EEIP on dates established by commission staff.

(5) Any new programs or program redesigns shall be submitted to the commission in a petition in a separate proceeding. The approved changes shall be available for use in the utilities' next EEPR and EECRF filings. If the changes are not approved by the commission by November 1 in a particular year, the first time that the changes shall be available for use is the second EEPR and EECRF filings made after commission approval.

(6) Any interested entity that participates in the EEIP may file a petition to the commission for consideration regarding changes to programs.

(r) Retail providers. Each utility in an area in which customer choice is offered shall conduct outreach and information programs and otherwise use its best efforts to encourage and facilitate the involvement of retail electric providers as energy efficiency service companies in the delivery of efficiency and demand response programs.

(s) Customer protection. Each energy efficiency service provider that provides energy efficiency services to end-use customers

under this section shall provide the disclosures and include the contractual provisions required by this subsection, except for commercial customers with a peak load exceeding 50 kW. Paragraph (1) of this subsection does not apply to behavioral energy efficiency programs that do not require a contract with a customer.

(1) Clear disclosure to the customer shall be made of the following:

(A) the customer's right to a cooling-off period of three business days, in which the contract may be canceled, if applicable under law;

(B) the name, telephone number, and street address of the energy efficiency service provider and any subcontractor that will be performing services at the customer's home or business;

(C) the fact that incentives are made available to the energy efficiency services provider through a program funded by utility customers, manufacturers or other entities and the amount of any incentives provided by the utility;

(D) the amount of any incentives that will be provided to the customer;

(E) notice of provisions that will be included in the customer's contract, including warranties;

(F) the fact that the energy efficiency service provider must measure and report to the utility the energy and peak demand savings from installed energy efficiency measures;

(G) the liability insurance to cover property damage carried by the energy efficiency service provider and any subcontractor;

(H) the financial arrangement between the energy efficiency service provider and customer, including an explanation of the total customer payments, the total expected interest charged, all possible penalties for non-payment, and whether the customer's installment sales agreement may be sold;

(I) the fact that the energy efficiency service provider is not part of or endorsed by the commission or the utility; and

(J) a description of the complaint procedure established by the utility under this section, and toll free numbers for the Customer Protection Division of the Public Utility Commission of Texas, and the Office of Attorney General's Consumer Protection Hotline.

(2) The energy efficiency service provider's contract with the customer, where such a contract is employed, shall include:

(A) work activities, completion dates, and the terms and conditions that protect residential customers in the event of non-performance by the energy efficiency service provider;

(B) provisions prohibiting the waiver of consumer protection statutes, performance warranties, false claims of energy savings and reductions in energy costs;

(C) a disclosure notifying the customer that consumption data may be disclosed to the EM&V contractor for evaluation purposes; and

(D) a complaint procedure to address performance issues by the energy efficiency service provider or a subcontractor.

(3) When an energy efficiency service provider completes the installation of measures for a customer, it shall provide the customer an "All Bills Paid" affidavit to protect against claims of subcontractors.

(t) Grandfathered programs. An electric utility that offered a load management standard offer program for industrial customers prior to May 1, 2007 shall continue to make the program available, at 2007 funding and participation levels, and may include additional customers in the program to maintain these funding and participation levels.

(u) Identification notice. An industrial customer taking electric service at distribution voltage may submit a notice identifying the distribution accounts for which it qualifies under subsection (c)(30) of this section. The identification notice shall be submitted directly to the customer's utility. An identification notice submitted under this section must be renewed every three years. Each identification notice must include the name of the industrial customer, a copy of the customer's Texas Sales and Use Tax Exemption Certification (under Tax Code §151.317), a description of the industrial process taking place at the consuming facilities, and the customer's applicable account number(s) or ESID number(s). The identification notice is limited solely to the metered point of delivery of the industrial process taking place at the consuming facilities. The account number(s) or ESID number(s) identified by the industrial customer under this section shall not be charged for any costs associated with programs provided under this section, including any shareholder bonus awarded; nor shall the identified facilities be eligible to participate in utility-administered energy efficiency programs during the term. Notices shall be submitted not later than February 1 to be effective for the following program year. A utility's demand reduction goal shall be adjusted to remove any load that is lost as a result of this subsection.

(v) Administrative penalty. The commission may impose an administrative penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section. Factors, to the extent they are outside of the utility's control, that may be considered in determining whether to impose a sanction for the utility's failure to meet the goal include:

(1) the level of demand by retail electric providers and energy efficiency service providers for program incentive funds made available by the utility through its programs;

(2) changes in building energy codes; and

(3) changes in government-imposed appliance or equipment efficiency standards.

§25.182. *Energy Efficiency Cost Recovery Factor.*

(a) Purpose. The purpose of this section is to implement Public Utility Regulatory Act (PURA) §39.905 and establish:

(1) an energy efficiency cost recovery factor (EECRF) that enables an electric utility to timely recover the reasonable costs of providing a portfolio of cost-effective energy efficiency programs that complies with this section and §25.181 of this title (relating to Energy Efficiency Goal).

(2) an incentive to reward an electric utility that exceeds its demand and energy reduction goals under the requirements of §25.181 of this title at a cost that does not exceed the cost caps established in subsection (d)(7) of this section.

(b) Application. This section applies to electric utilities.

(c) Definitions. The definitions provided in §25.181(c) of this title shall also apply in this section. The following terms, when used in this section, shall have the following meaning unless the context indicates otherwise:

(1) Billing determinants--The measures of energy consumption or load used to calculate a customer's bill or to determine the aggregate revenue from rates from all customers.

(2) Rate class--For the purpose of calculating EECRF rates, a utility's rate classes are those retail rate classes approved in the utility's most recent base-rate proceeding, excluding non-eligible customers.

(d) Cost recovery. A utility shall establish an EECRF that complies with this subsection to timely recover the reasonable costs of providing a portfolio of cost-effective energy efficiency programs under §25.181 of this title.

(1) The EECRF shall be calculated based on the following:

(A) The utility's forecasted annual energy efficiency program expenditures, the preceding year's over- or under-recovery including interest and municipal and utility EECRF proceeding expenses, any performance bonus earned under subsection (e) of this section, and evaluation, measurement, and verification (EM&V) contractor costs allocated to the utility by the commission for the preceding year under §25.181 of this title.

(B) For a utility that collects any amount of energy efficiency costs in its base rates, the amounts described in subparagraph (A) of this paragraph in excess of the actual energy efficiency revenues collected from base rates as described in paragraph (2) of this subsection.

(2) The commission may approve an EECRF for each eligible rate class. The costs shall be directly assigned to each rate class that received services under the programs to the maximum extent reasonably possible. In its EECRF proceeding, a utility may request a good cause exception to combine one or more rate classes, each containing fewer than 20 customers, with a similar rate class that received services under the same energy efficiency programs in the preceding year. For each rate class, the under- or over-recovery of the energy efficiency costs shall be the difference between actual EECRF revenues and actual costs for that class that comply with paragraph (12) of this subsection, including interest applied on such over- or under-recovery calculated by rate class and compounded on an annual basis for a two-year period using the annual interest rates authorized by the commission for over- and under-billing for the year in which the over- or under-recovery occurred and the immediately subsequent year. Where a utility collects energy efficiency costs in its base rates, actual energy efficiency revenues collected from base rates consist of the amount of energy efficiency costs expressly included in base rates, adjusted to account for changes in billing determinants from the test year billing determinants used to set rates in the last base rate proceeding.

(3) A proceeding conducted under this subsection is a ratemaking proceeding for purposes of PURA §33.023 and §36.061. EECRF proceeding expenses shall be included in the EECRF calculated under paragraph (1) of this subsection as follows:

(A) For a utility's EECRF proceeding expenses, the utility may include only its expenses for the immediately previous EECRF proceeding conducted under this subsection.

(B) For municipalities' EECRF proceeding expenses, the utility may include only expenses paid or owed for the immediately previous EECRF proceeding conducted under this subsection for services reimbursable under PURA §33.023(b).

(4) Base rates shall not be set to recover energy efficiency costs.

(5) If a utility recovers energy efficiency costs through base rates, the EECRF may be changed in a general rate proceeding. If a utility is not recovering energy efficiency costs through base rates, the EECRF may be adjusted only in an EECRF proceeding under this subsection.

(6) For residential customers and for non-residential rate classes whose base rates do not provide for demand charges, the EECRF rates shall be designed to provide only for energy charges. For non-residential rate classes whose base rates provide for demand charges, the EECRF rates shall provide for energy charges or demand charges, but not both. Any EECRF demand charge shall not be billed using a demand ratchet mechanism.

(7) The total EECRF costs outlined in paragraph (1) of this subsection, excluding EM&V costs, excluding municipal EECRF proceeding expenses, and excluding any interest amounts applied to over- or under-recoveries, shall not exceed the amounts prescribed in this paragraph unless a good cause exception filed under §25.181(e)(2) of this title is granted.

(A) For residential customers for program year 2018, \$0.001263 per kWh increased or decreased by a rate equal to the 2016 calendar year's percentage change in the South urban consumer price index (CPI), as determined by the Federal Bureau of Labor Statistics; and

(B) For commercial customers for program year 2018, rates designed to recover revenues equal to \$0.000790 per kWh increased or decreased by a rate equal to the 2016 calendar year's percentage change in the South urban CPI, as determined by the Federal Bureau of Labor Statistics times the aggregate of all eligible commercial customers' kWh consumption.

(C) For the 2019 program year and thereafter, the residential and commercial cost caps shall be calculated to be the prior period's cost caps increased or decreased by a rate equal to the most recently available calendar year's percentage change in the South urban CPI, as determined by the Federal Bureau of Labor Statistics.

(8) Not later than May 1 of each year, a utility in an area in which customer choice is not offered shall apply to adjust its EECRF effective January 1 of the following year. Not later than June 1 of each year, a utility in an area in which customer choice is offered shall apply to adjust its EECRF effective March 1 of the following year. If a utility is in an area in which customer choice is offered in some but not all parts of its service area and files one energy efficiency plan and report covering all of its service area, the utility shall apply to adjust the EECRF not later than May 1 of each year, with the EECRF effective January 1 in the parts of its service area in which customer choice is not offered and March 1 in the parts of its service area in which customer choice is offered.

(9) Upon a utility's filing of an application to establish a new EECRF or adjust an EECRF, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding required by subparagraphs (A), (B), and (C) of this paragraph as follows:

(A) For a utility in an area in which customer choice is not offered, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding prior to the January 1 effective date of the new or adjusted EECRF, except where good cause supports a different procedural schedule.

(B) For a utility in an area in which customer choice is offered, the effective date of a new or adjusted EECRF shall be March 1. The presiding officer shall set a procedural schedule that will enable the utility to file an EECRF compliance tariff consistent with the final order within ten days of the date of the final order. The procedural schedule shall also provide that the compliance filing date will be at least 45 days before the effective date of March 1. In no event shall the effective date of any new or adjusted EECRF occur less than 45 days after the utility files a compliance tariff consistent with a final order

approving the new or adjusted EECRF. The utility shall serve notice of the approved rates and the effective date of the approved rates by the working day after the utility files a compliance tariff consistent with the final order approving the new or adjusted EECRF to retail electric providers that are authorized by the registration agent to provide service in the utility's service area. Notice under this subparagraph may be served by email. The procedural schedule may be extended for good cause, but in no event shall the effective date of any new or adjusted EECRF occur less than 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF, and in no event shall the utility serve notice of the approved rates and the effective date of the approved rates to retail electric providers that are authorized by the registration agent to provide service in the utility's service area more than one working day after the utility files the compliance tariff.

(C) For a utility in an area in which customer choice is offered in some but not all parts of its service area and that files one energy efficiency plan and report covering all of its service area, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding prior to the January 1 effective date of the new or adjusted EECRF for the areas in which customer choice is not offered, except where good cause supports a different schedule. For areas in which customer choice is offered, the effective date of the new or adjusted EECRF shall be March 1. The presiding officer shall set a procedural schedule that will enable the utility to file an EECRF compliance tariff consistent with the final order within ten days of the date of the final order. The procedural schedule shall also provide that the compliance filing date will be at least 45 days before the effective date of March 1. In no event shall the effective date of any new or adjusted EECRF occur less than 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF. The utility shall serve notice of the approved rates and the effective date of the approved rates by the working day after the utility files a compliance tariff consistent with the final order approving the new or adjusted EECRF to retail electric providers that are authorized by the registration agent to provide service in the utility's service area. Notice under this subparagraph of this paragraph may be served by email. The procedural schedule may be extended for good cause, but in no event shall the effective date of any new or adjusted EECRF occur less than 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF, and in no event shall the utility serve notice of the approved rates and the effective date of the approved rates to retail electric providers that are authorized by the registration agent to provide service in the utility's service area more than one working day after the utility files the compliance tariff.

(D) If no hearing is requested within 30 days of the filing of the application, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding within 90 days after a sufficient application was filed; or

(E) If a hearing is requested within 30 days of the filing of the application, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding within 180 days after a sufficient application was filed. If a hearing is requested, the hearing will be held no earlier than the first working day after the 45th day after a sufficient application is filed.

(10) A utility's application to establish or adjust an EECRF shall include the utility's most recent energy efficiency plan and report, consistent with §25.181(1) and §25.183(d) of this title, as well as testimony and schedules, in Excel format with formulas intact, showing the following, by rate class, for the prior program year and the program year for which the proposed EECRF will be collected as appropriate:

(A) the utility's forecasted energy efficiency costs;

(B) the actual base rate recovery of energy efficiency costs, adjusted for changes in load and usage subsequent to the last base rate proceeding, with supporting calculations;

(C) a calculation showing whether the utility qualifies for an energy efficiency performance bonus and the amount that it calculates to have earned for the prior year;

(D) any adjustment for past over- or under-recovery of energy efficiency revenues, including interest;

(E) information concerning the calculation of billing determinants for the preceding year and for the year in which the EECRF is expected to be in effect;

(F) the direct assignment and allocation of energy efficiency costs to the utility's eligible rate classes, including any portion of energy efficiency costs included in base rates, provided that the utility's actual EECRF expenditures by rate class may deviate from the projected expenditures by rate class, to the extent doing so does not exceed the cost caps in paragraph (7) of this subsection;

(G) information concerning calculations related to the requirements of paragraph (7) of this subsection;

(H) the incentive payments by the utility, by program, including a list of each energy efficiency administrator and/or service provider receiving more than 5% of the utility's overall incentive payments and the percentage of the utility's incentives received by those providers. Such information may be treated as confidential;

(I) the utility's administrative costs, including any affiliate costs and EECRF proceeding expenses and an explanation of both;

(J) the actual EECRF revenues by rate class for any period for which the utility calculates an under- or over-recovery of EECRF costs;

(K) the utility's bidding and engagement process for contracting with energy efficiency service providers, including a list of all energy efficiency service providers that participated in the utility programs and contractors paid with funds collected through the EECRF. Such information may be treated as confidential;

(L) the estimated useful life used for each measure in each program, or a link to the information if publicly available; and

(M) any other information that supports the determination of the EECRF.

(11) The following factors must be included in the application, as applicable, to support the recovery of energy efficiency costs under this subsection.

(A) the costs are less than or equal to the benefits of the programs, as calculated in §25.181(d) of this title;

(B) the program portfolio was implemented in accordance with recommendations made by the commission's EM&V contractor and approved by the commission and the EM&V contractor has found no material deficiencies in the utility's administration of its portfolio of energy efficiency programs under §25.181 of this title. This subparagraph does not preclude parties from examining and challenging the reasonableness of a utility's energy efficiency program expenses nor does it limit the commission's ability to address the reasonableness of a utility's energy efficiency program expenses;

(C) if a utility is in an area in which customer choice is offered and is subject to the requirements of PURA §39.905(f), the

utility met its targeted low-income energy efficiency requirements under §25.181 of this title;

(D) existing market conditions in the utility's service territory affected its ability to implement one or more of its energy efficiency programs or affected its costs;

(E) the utility's costs incurred and achievements accomplished in the previous year or estimated for the year the requested EECRF will be in effect are consistent with the utility's energy efficiency program costs and achievements in previous years notwithstanding any recommendations or comments by the EM&V contractor;

(F) changed circumstances in the utility's service area since the commission approved the utility's budget for the implementation year that affect the ability of the utility to implement any of its energy efficiency programs or its energy efficiency costs;

(G) the number of energy efficiency service providers operating in the utility's service territory affects the ability of the utility to implement any of its energy efficiency programs or its energy efficiency costs;

(H) customer participation in the utility's prior years' energy efficiency programs affects customer participation in the utility's energy efficiency programs in previous years or its proposed programs underlying its EECRF request and the extent to which program costs were expended to generate more participation or transform the market for the utility's programs;

(I) the utility's energy efficiency costs for the previous year or estimated for the year the requested EECRF will be in effect are comparable to costs in other markets with similar conditions; and

(J) the utility has set its incentive payments with the objective of achieving its energy and demand goals under §25.181 of this title at the lowest reasonable cost per program.

(12) The scope of an EECRF proceeding includes the extent to which the costs recovered through the EECRF complied with PURA §39.905, this section, and §25.181 of this title; the extent to which the costs recovered were reasonable and necessary to reduce demand and energy growth; and a determination of whether the costs to be recovered through an EECRF are reasonable estimates of the costs necessary to provide energy efficiency programs and to meet or exceed the utility's energy efficiency goals. The proceeding shall not include a review of program design to the extent that the programs complied with the energy efficiency implementation project (EEIP) process defined in §25.181(q) of this title. The commission shall not allow recovery of expenses that are designated as non-recoverable under §25.231(b)(2) of this title (relating to Cost of Service).

(13) Notice of a utility's filing of an EECRF application is reasonable if the utility provides in writing a general description of the application and the docket number assigned to the application within seven days of the application filing date to:

(A) All parties in the utility's most recent completed EECRF docket;

(B) All retail electric providers that are authorized by the registration agent to provide service in the utility's service area at the time the EECRF application is filed;

(C) All parties in the utility's most recent completed base-rate proceeding; and

(D) The state agency that administers the federal weatherization program.

(14) The utility shall file an affidavit attesting to the completion of notice within 14 days after the application is filed.

(15) The commission may approve a utility's request to establish an EECRF revenue requirement or EECRF rates that are lower than the amounts otherwise determined under this section.

(e) Energy efficiency performance bonus. A utility that exceeds its demand and energy reduction goals established in §25.181 of this title at a cost that does not exceed the cost caps established in subsection (d)(7) of this section shall be awarded a performance bonus calculated in accordance with this subsection. The performance bonus shall be based on the utility's energy efficiency achievements for the previous program year. The bonus calculation shall not include demand or energy savings that result from programs other than programs implemented under §25.181 of this title.

(1) The performance bonus shall entitle the utility to receive a share of the net benefits realized in meeting its demand reduction goal established in §25.181 of this title.

(2) Net benefits shall be calculated as the sum of total avoided cost associated with the eligible programs administered by the utility minus the sum of all program costs. Program costs shall include the cost of incentives, EM&V contractor costs, any shareholder bonus awarded to the utility, and actual or allocated research and development and administrative costs, but shall not include any interest amounts applied to over- or under-recoveries. Total avoided costs and program costs shall be calculated in accordance with this section and §25.181 of this title.

(3) A utility that exceeds 100% of its demand and energy reduction goals shall receive a bonus equal to 1% of the net benefits for every 2% that the demand reduction goal has been exceeded, with a maximum of 10% of the utility's total net benefits.

(4) The commission may reduce the bonus otherwise permitted under this subsection for a utility with a lower goal, higher administrative spending cap, or higher EECRF cost cap established by the commission under §25.181(e)(2) of this title. The bonus shall be considered in the EECRF proceeding in which the bonus is requested.

(5) In calculating net benefits to determine a performance bonus, a discount rate equal to the utility's weighted average cost of capital of the utility and an escalation rate of 2% shall be used. The utility shall provide documentation for the net benefits calculation, including, but not limited to, the weighted average cost of capital, useful life of equipment or measure, and quantity of each measure implemented.

(6) The bonus shall be allocated in proportion to the program costs associated with meeting the demand and energy goals under §25.181 of this title and allocated to eligible customers on a rate class basis.

(7) A bonus earned under this section shall not be included in the utility's revenues or net income for the purpose of establishing a utility's rates or commission assessment of its earnings.

§25.183. Reporting and Evaluation of Energy Efficiency Programs.

(a) Purpose. The purpose of this section is to establish reporting requirements sufficient for the commission, in cooperation with Energy Systems Laboratory of Texas A&M University (Laboratory), to quantify, by county, the reductions in energy consumption, peak demand and associated emissions of air contaminants achieved from the programs implemented under §25.181 of this title (relating to the Energy Efficiency Goal).

(b) Application. This section applies to electric utilities administering energy efficiency programs implemented under the Public Utility Regulatory Act (PURA) §39.905 and pursuant to §25.181 of

this title, and independent system operators (ISO) and regional transmission organizations (RTO).

(c) Definitions. The definitions provided in §25.181(c) of this title shall also apply to this section, unless the context indicates otherwise.

(d) Reporting. Each electric utility shall file by April 1, of each program year an annual energy efficiency plan and report. The annual energy efficiency plan and report shall include the information required under §25.181(l) of this title and paragraphs (1) - (5) of this subsection in a format prescribed by the commission.

(1) Load data within the applicable service area. If such information is available from an ISO or RTO in the power region in which the electric utility operates, then the ISO or RTO shall provide this information to the commission instead of the electric utility.

(2) The reduction in peak demand attributable to energy efficiency programs implemented under §25.181 of this title, in kW by county, by type of program and by funding source.

(3) The reduction in energy consumption attributable to energy efficiency programs implemented under §25.181 of this title, in kWh by county, by type of program and by funding source.

(4) Any data to be provided under this section that is proprietary in nature shall be filed in accordance with §22.71(d) of this title (relating to Filing of Pleadings, Documents and Other Materials).

(5) Any other information determined by the commission to be necessary to quantify the air contaminant emission reductions.

(e) Evaluation. Annually the commission, in cooperation with the Laboratory, shall provide the Texas Commission on Environmental Quality (TCEQ) a report, by county, that compiles the data provided by the utilities affected by this section and quantifies the reductions of energy consumption, peak demand and associated air contaminant emissions.

(1) The Laboratory shall ensure that all data that is proprietary in nature is protected from disclosure.

(2) The commission and the Laboratory shall ensure that the report does not provide information that would allow market participants to gain a competitive advantage.

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 15, 2019.

TRD-201900817

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Effective date: April 4, 2019

Proposal publication date: December 21, 2018

For further information, please call: (512) 936-7244



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

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 101, General Air Quality Rules.

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 commission will assess whether the reasons for initially adopting the rules in Chapter 101 continue to exist.

Comments regarding suggested changes to the rules in Chapter 101 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 101. 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 2019-026-101-AI. Comments must be received by April 29, 2019. For further information, please contact Eddy Lin, Air Quality Division, at (512) 239-3932.

TRD-201900823

Robert Martinez

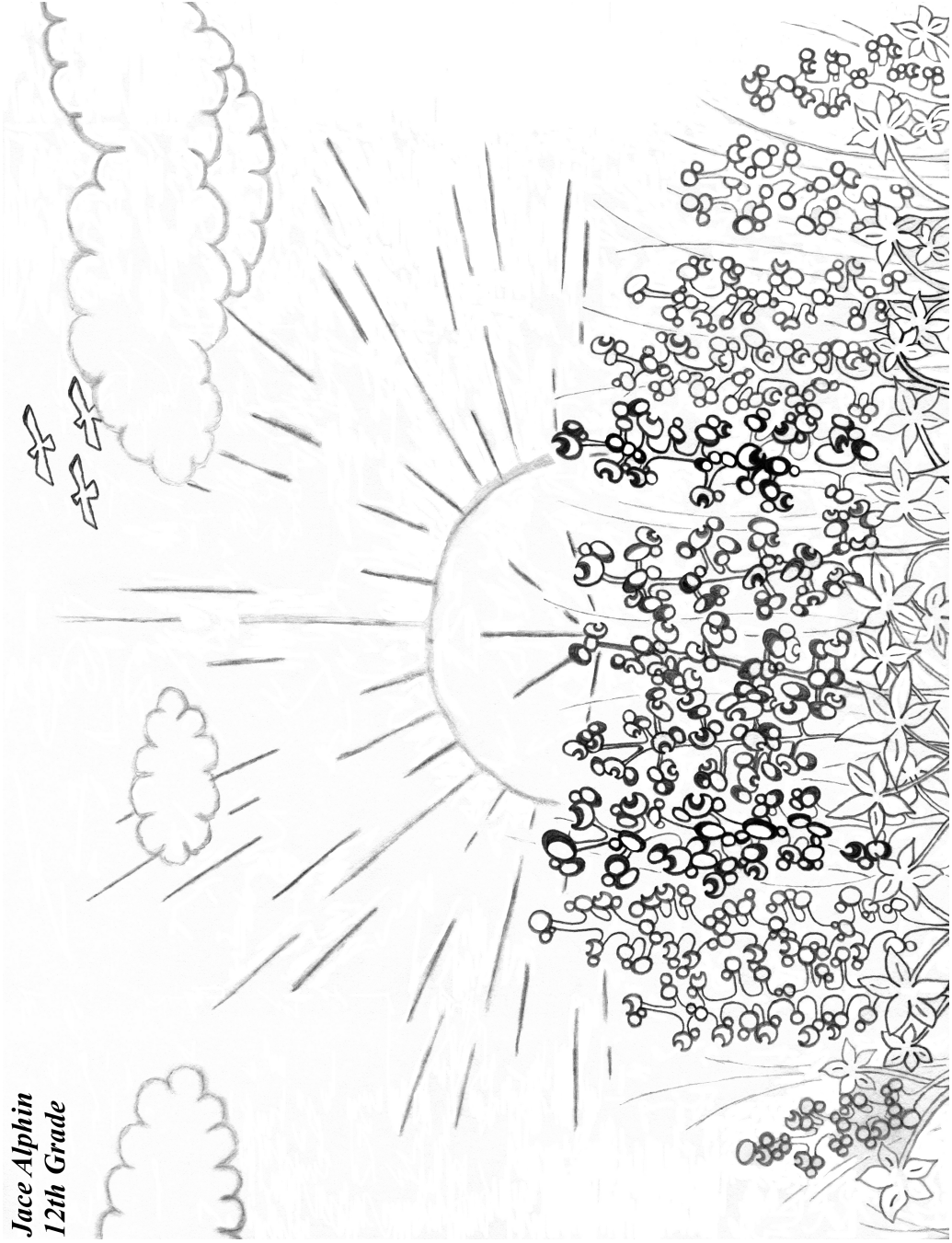
Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: March 19, 2019



*Jace Alphin
12th Grade*



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.

Texas Department of Agriculture

Request for Applications: 2019 Young Farmer Grant Program

Purpose.

Pursuant to the Texas Agriculture Code, Section 58.091, the Texas Department of Agriculture (TDA) is requesting applications for the Young Farmer Grant (YFG) program. The YFG is administered by TDA under the direction of the Texas Agricultural Finance Authority (TAFA). The purpose of this program is to provide financial assistance in the form of dollar-for-dollar matching grant funds to those persons 18 years or older but younger than 46 years of age who are engaged or will be engaged in creating or expanding an agricultural business in Texas.

TAFA's Young Farmer Grant Program aims to:

- Grow and support Texas agriculture - so as not to have to ship products from other states, including deficit commodities;
- Help grow an operation that also impacts the community; and
- Help meet a financial need that is otherwise not met.

Eligibility.

Grant applications will be accepted from any person 18 years or older, but younger than 46 years of age as of the time of the grant award, who is engaged or will be engaged in creating or expanding agriculture in Texas. The applicant must be able to make dollar-for-dollar matching expenditures to sustain, create or expand the proposed project. Applicant must be a U.S. citizen and must reside and operate in Texas.

Grant funds will not be awarded to multiple family members applying for funding for the same project. Each individual grant applicant must clearly describe a distinct project and demonstrate how the individual grant applicant will independently benefit from the grant.

An applicant who has a family, employment or business relationship with an executive, officer or employee of TDA, or a member of the TAFA Board of Directors, is not eligible for a grant and may not participate in the YFG program.

Grant recipients who have a current, open grant may not receive a new grant during this cycle.

Funding Parameters.

Selected grantees will receive funding for their projects on a cost reimbursement basis. Funds will not be advanced to grantees. Selected grantees must have the financial capability to pay all costs upfront.

The TAFA Board of Directors (board) anticipates total funding of \$150,000 will be available for grant awards of not less than \$5,000 and or more than \$20,000 for each grantee selected to receive an award under the program.

The TAFA board reserves the right to fully or partially fund any particular grant application. The grant award does not include required Grantee Matching Funds. Grantees will be required to meet a 1:1 match. For every dollar requested, the grantee must show expenditure, prior to reimbursement, of at least an equal amount of Grantee Matching Funds from allowable sources. Awards are subject to the

availability of funds. If funds are not appropriated or collected for this purpose, applicants will be informed accordingly.

Application Requirements:

To be considered, applications must be complete and submitted on Form GTBD-108. An application and information can be downloaded from TDA's Grants Office under the Grants and Services tab at www.TexasAgriculture.gov.

The complete application packet including the proposal with signatures must be received by Wednesday, April 10, 2019.

For questions regarding submission of the proposal and/or TDA requirements, please contact the Grants Office at (512) 463-7448, or by email at Grants@TexasAgriculture.gov.

Texas Public Information Act.

Once submitted, all applications shall be deemed to be the property of the TDA and are subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

TRD-201900814

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Filed: March 15, 2019

State Bar of Texas

Committee on Disciplinary Rules and Referenda Proposed Rule Changes: Texas Disciplinary Rules of Professional Conduct Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

The Committee on Disciplinary Rules and Referenda, or CDRR, was created by Government Code section 81.0872 and is responsible for overseeing the initial process for proposing a disciplinary rule. Pursuant to Government Code section 81.0876, the Committee publishes the following proposed rule. The Committee will accept comments concerning the proposed rule through July 1, 2019. Comments can be submitted at texasbar.com/CDRR. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin, Texas.

Proposed Rule (Redline Version)

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

(a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, and 1.09 do not prohibit a lawyer from providing, or offering to provide, limited pro bono legal services unless the lawyer knows, at the time the services are provided, that the lawyer would be prohibited by those limitations from providing the services.

(b) Lawyers in a firm with a lawyer providing, or offering to provide, limited pro bono legal services shall not be prohibited by the imputation

provisions of Rules 1.06, 1.07, and 1.09 from representing a client if that lawyer does not:

(1) disclose confidential information of the pro bono client to the lawyers in the firm; or

(2) maintain such information in a manner that would render it accessible to the lawyers in the firm.

(c) The eligibility information that an applicant is required to provide when applying for free legal services or limited pro bono legal services from a program described in subparagraph (d)(1) by itself will not create a conflict of interest if:

(1) the eligibility information is not material to the legal matter; or

(2) the applicant's provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.

(d) As used in this Rule, "limited pro bono legal services" means legal services that are:

(1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program;

(2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and

(3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.

(e) As used in this Rule, a lawyer is not "in a firm" with other lawyers solely because the lawyer provides limited pro bono legal services with the other lawyers.

Proposed Rule (Clean Version)

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

(a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, and 1.09 do not prohibit a lawyer from providing, or offering to provide, limited pro bono legal services unless the lawyer knows, at the time the services are provided, that the lawyer would be prohibited by those limitations from providing the services.

(b) Lawyers in a firm with a lawyer providing, or offering to provide, limited pro bono legal services shall not be prohibited by the imputation provisions of Rules 1.06, 1.07, and 1.09 from representing a client if that lawyer does not:

(1) disclose confidential information of the pro bono client to the lawyers in the firm; or

(2) maintain such information in a manner that would render it accessible to the lawyers in the firm.

(c) The eligibility information that an applicant is required to provide when applying for free legal services or limited pro bono legal services from a program described in subparagraph (d)(1) by itself will not create a conflict of interest if:

(1) the eligibility information is not material to the legal matter; or

(2) the applicant's provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.

(d) As used in this Rule, "limited pro bono legal services" means legal services that are:

(1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program;

(2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and

(3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.

(e) As used in this Rule, a lawyer is not "in a firm" with other lawyers solely because the lawyer provides limited pro bono legal services with the other lawyers.

TRD-201900808

Brad Johnson

Disciplinary Rules and Referenda Attorney

State Bar of Texas

Filed: March 14, 2019

◆ ◆ ◆
Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - February 2019

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period February 2019 is \$36.68 per barrel for the three-month period beginning on November 1, 2018, and ending January 31, 2019. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of February 2019, from a qualified low-producing oil lease, is not eligible for a credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period February 2019 is \$2.60 per mcf for the three-month period beginning on November 1, 2018, and ending January 31, 2019. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of February 2019, from a qualified low-producing well, is eligible for a 50.00% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of February 2019 is \$54.98 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of February 2019, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of February 2019 is \$2.68 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of February 2019, from a qualified low-producing gas well.

Inquiries should be submitted to Teresa G. Bostick, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

TRD-201900809

William Hamner
Special Counsel for Tax Administration
Comptroller of Public Accounts
Filed: March 14, 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, 303.009 and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/25/19 - 03/31/19 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 03/25/19 - 03/31/19 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 04/01/19 - 04/30/19 is 5.50% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 04/01/19 - 04/30/19 is 5.50% for commercial over \$250,000.

¹ Credit for personal, family or household use.

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

TRD-201900824
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: March 19, 2019

◆ ◆ ◆
Credit Union Department

Application for a Merger or Consolidation

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

An application was received from FivePoint Credit Union (Nederland) seeking approval to merge with Southeast Texas Employees Federal Credit Union (Orange), with FivePoint Credit Union being the surviving credit union.

An application was received from TxDOT Credit Union (Abilene) seeking approval to merge with THD 6 Credit Union (Odessa), with TxDOT Credit Union being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-201900836
John J. Kolhoff
Commissioner
Credit Union Department
Filed: March 20, 2019

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Application to Expand Field of Membership

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

An application was received from Mobility Credit Union, Irving, Texas to expand its field of membership. The proposal would permit persons who live, worship, attend school or work in Dallas County, Texas to be eligible for membership in the credit union.

An application was received from Texas Bay Credit Union, Houston, Texas to expand its field of membership. The proposal would permit persons who live, work, attend school, or worship in and businesses and other legal entities located in Fort Bend County, Texas to be eligible for membership in the credit union.

An application was received from EECU, Fort Worth, Texas to expand its field of membership. The proposal would permit members of EECU Community Foundation to be eligible for membership in the credit union.

An application was received from Neighborhood Credit Union, Dallas, Texas to expand its field of membership. The proposal would permit persons who work, reside, worship or attend school within Collin County, Texas to be eligible for membership in the credit union.

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

TRD-201900835
John J. Kolhoff
Commissioner
Credit Union Department
Filed: March 20, 2019

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Notice of Final Action Taken

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

Application to Expand Field of Membership - Approved

Mobility Credit Union, Irving, Texas - See *Texas Register* issue dated January 25, 2019.

Community Resource CU #1, Baytown, Texas - See *Texas Register* issue dated December 28, 2018.

Community Resource CU #2, Baytown, Texas - See *Texas Register* issue dated December 28, 2018.

Community Resource CU #3, Baytown, Texas - See *Texas Register* issue dated December 28, 2018.

TRD-201900834

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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 29, 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 29, 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: Affordable Funerals, LLC; DOCKET NUMBER: 2018-1594-AIR-E; IDENTIFIER: RN106439730; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: crematory; RULES VIOLATED: 30 TAC §101.201(e) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification within 24 hours after the discovery of an excess opacity event; and 30 TAC §106.494(b)(2)(C), Permit By Rule Registration Number 103763, and THSC, §382.085(b), by failing to prevent an excess opacity event; PENALTY: \$4,538; ENFORCEMENT COORDINATOR: Soraya Bun, (512) 239-1274; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Allen Watts dba Lago Vista Water System; DOCKET NUMBER: 2018-1289-PWS-E; IDENTIFIER: RN102676350; LOCATION: Luling, Guadalupe County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.109(d)(4)(B) (formerly §290.109(c)(4)(B)), by failing to collect, within 24 hours of notification of the routine distribution total coliform-positive sample on July 30, 2014, at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from each active groundwater source in use at the time the distribution coliform-positive sample was collected; 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 each quarter for the fourth quarter of 2017 and the first quarter of 2018; and 30 TAC §291.76 and TWC, §5.702, by failing to pay Regulatory Assessment Fees and associated late fees for Certificate of Convenience and Necessity Number 12813 for Fiscal Years 2014 through 2017; PENALTY: \$457; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2018-1519-PWS-E; IDENTIFIER: RN101233849; LOCATION: Fredericksburg, Gillespie County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; PENALTY: \$150; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(4) COMPANY: BASF Corporation; DOCKET NUMBER: 2018-1381-AIR-E; IDENTIFIER: RN100225689; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O1331, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification within 24 hours after the discovery of an emissions event; 30 TAC §101.201(b)(1)(F) and §122.143(4), FOP Number O1331, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; 30 TAC §101.201(b)(1)(G) and (H) and §122.143(4), FOP Number O1331, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; and 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 8199A, Special Conditions Number 1, FOP Number O1331, GTC and STC Number 13, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$12,566; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: BIANCA ENTERPRISES, INCORPORATED dba Kwik Pik Food Mart; DOCKET NUMBER: 2018-1697-PST-E; IDENTIFIER: RN101534758; LOCATION: Forest Hill, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to TCEQ within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate a suspected release of a regulated substance within 30 days of discovery; PENALTY: \$14,651; ENFORCEMENT COORDINATOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Blake Truax dba The Barn and Merri Truax dba The Barn; DOCKET NUMBER: 2018-1532-PWS-E; IDENTIFIER: RN102883394; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(b)(1) and (e)(2), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned;

and 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; PENALTY: \$550; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(7) COMPANY: CenturyLink Communications, LLC dba Qwest Communications; DOCKET NUMBER: 2018-1627-PST-E; IDENTIFIER: RN102234184; LOCATION: Houston, Harris County; TYPE OF FACILITY: emergency generator; RULES VIOLATED: 30 TAC §334.49(c)(2)(C) and TWC, §26.3475(d), by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every 30 days; PENALTY: \$6,185; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: City of Alpine; DOCKET NUMBER: 2018-0277-MLM-E; IDENTIFIER: RN103114690 and RN101176261; LOCATION: Alpine, Brewster County; TYPE OF FACILITY: wastewater treatment (Facility 1) and public water supply (Facility 2); RULES VIOLATED: 30 TAC §30.350(d) and §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014349001, Other Requirements Number 1, by failing to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration; 30 TAC §290.41(c)(3)(K), by failing to provide 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 §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(e)(4)(C), by failing to provide at least two operators who hold a Class C or higher groundwater license and who each work at least 16 hours per month at the public water system's production, treatment, or distribution facilities; 30 TAC §290.46(f)(2) and (3)(B)(iii) and (iv) and (E)(iv), by failing to maintain water works operation and maintenance records and make them available for review to the executive director upon request; 30 TAC §290.46(m)(1)(A), by failing to conduct an annual inspection of the eight elevated and ground storage tanks at Facility 2; 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; 30 TAC §305.125(1) and TPDES Permit Number WQ0014349001, Monitoring and Reporting Requirements Number 5, by failing to calibrate the flow meters as often as necessary to ensure accuracy, but not less than annually; 30 TAC §305.125(1) and TPDES Permit Number WQ0014349001, Monitoring and Reporting Requirements Number 7, by failing to notify TCEQ of any noncompliance which may endanger human health or safety, or the environment within 24 hours of becoming aware of the noncompliance, orally or by facsimile transmission, and failing to provide written notification within five working days of becoming aware of the noncompliance; 30 TAC §305.125(1) and §319.6 and TPDES Permit Number WQ0014349001, Monitoring and Reporting Requirements Number 2.a, by failing to assure the quality of all measurements through the use of blanks, standards, duplicates, and spikes; 30 TAC §305.125(1) and §319.7(c) and TPDES Permit Number WQ0014349001, Monitoring and Reporting Requirements Number 3.b, by failing to maintain calibration

records at Facility 1; 30 TAC §305.125(1) and §319.11(c) and TPDES Permit Number WQ0014349001, Monitoring and Reporting Requirements Number 2.a, by failing to properly analyze effluent samples; and 30 TAC §305.125(1) and §319.11(e) and TPDES Permit Number WQ0014349001, Monitoring and Reporting Requirements Number 2.a, by failing to utilize and calibrate a National Institute of Standards and Technology thermometer; PENALTY: \$48,818; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(9) COMPANY: City of Eden; DOCKET NUMBER: 2018-1671-PWS-E; IDENTIFIER: RN101405439; LOCATION: Eden, Concho County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection is provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or backflow prevention assembly, as identified in 30 TAC §290.47(f); PENALTY: \$465; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2527; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(10) COMPANY: City of Premont; DOCKET NUMBER: 2018-1600-PWS-E; IDENTIFIER: RN101389849; LOCATION: Premont, Jim Wells County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(d) and §290.46(r), by failing to provide a minimum pressure of 35 pounds per square inch (psi) throughout the distribution system under normal operating conditions and 20 psi during emergencies such as firefighting; 30 TAC §290.46(e)(4)(C), by failing to operate a groundwater system serving more than 1,000 connections under the direct supervision of at least two operators who hold a Class C or higher groundwater license, and who each work at least 16 hours per month at the public water system's production, treatment, or distribution facilities; 30 TAC §290.46(q) and Texas Health and Safety Code, §341.0315(c), by failing to institute special precautions, protective measures, and boil water notices in the event of low distribution pressures (below 20 psi), water outages, microbiological samples found to contain *Escherichia coli* (or other approved fecal indicator), failure to maintain adequate disinfectant residuals, elevated finished water turbidity levels, or other conditions which indicate that the potability of the drinking water supply has been compromised; and 30 TAC §290.119(b)(7), by failing to use an acceptable analytical method for disinfectant analyses; PENALTY: \$493; ENFORCEMENT COORDINATOR: Ross Luedtke, (254) 761-3036; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(11) COMPANY: Larry W. Gray; DOCKET NUMBER: 2019-0287-WOC-E; IDENTIFIER: RN104953674; LOCATION: Vidor, Orange 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: Epi-fanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(12) COMPANY: Homes by Jferg Incorporated; DOCKET NUMBER: 2019-0324-WQ-E; IDENTIFIER: RN110483690; 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: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(13) COMPANY: Lhoist North America of Texas, Ltd.; DOCKET NUMBER: 2018-1473-AIR-E; IDENTIFIER: RN100552454; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY:

lime manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(1) and (3), 116.115(c), and 122.143(4), 40 Code of Federal Regulations §60.13(h)(2)(vi), New Source Review (NSR) Permit Numbers 7808 and PSDTX256M3, Special Conditions (SC) Number 2.A.(1), Federal Operating Permit (FOP) Number O1122, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Numbers 6.E and 9, and Texas Health and Safety Code (THSC), §382.085(b), by failing to exclude data recorded during periods of continuous monitoring system downtime in the data averages; 30 TAC §§101.20(3), 116.115(b)(2)(E)(iv) and (c), and 122.143(4), NSR Permit Numbers 7808 and PSDTX256M3, SC Number 27.A, FOP Number O1122, GTC and STC Number 9, and THSC, §382.085(b), by failing to maintain records in a format suitable for inspection; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 7808 and PSDTX256M3, SC Number 26, FOP Number O1122, GTC and STC Number 9, and THSC, §382.085(b), by failing to notify TCEQ as soon as possible after the discovery of any monitor malfunction which is expected to result in more than 24 hours of lost data; 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O1122, GTC, and THSC, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; and 30 TAC §122.143(4) and §122.146(2), FOP Number O1122, GTC and STC Number 12, and THSC, §382.085(b), by failing to submit a permit compliance certification no later than 30 days after the end of the certification period; PENALTY: \$19,261; ENFORCEMENT COORDINATOR: Trina Grieco, (210) 403-4006; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(14) COMPANY: Midcoast G & P (North Texas) L.P. f/k/a Enbridge G & P (North Texas) L.P.; DOCKET NUMBER: 2018-1568-AIR-E; IDENTIFIER: RN100209469; LOCATION: Gordon, Palo Pinto County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §§116.115(b)(2)(F), 116.615(2), and 122.143(4), Standard Permit Registration Number 72937, Federal Operating Permit Number O3123, General Terms and Conditions and Special Terms and Conditions Number 9, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rates; PENALTY: \$3,638; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: Mike Ward dba Mike Ward Custom Homes; DOCKET NUMBER: 2019-0326-WQ-E; IDENTIFIER: RN110525987; LOCATION: Buffalo Gap, Taylor County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(16) COMPANY: NZ LLC dba Jeffrey's Food Mart; DOCKET NUMBER: 2018-0928-PST-E; IDENTIFIER: RN102469251; LOCATION: Sugar Land, Fort Bend County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every 30 days; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: P C S DEVELOPMENT COMPANY; DOCKET NUMBER: 2017-0785-MWD-E; IDENTIFIER: RN101273241; LOCATION: Orange, Orange 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 (TPDES) Permit Number WQ0011916001, Effluent Limitations and

Monitoring Requirements Numbers 2 and 3, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0011916001, Operational Requirements Number 1, by failing to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and (5), TWC, §26.121(a)(2), and TPDES Permit Number WQ0011916001, Permit Conditions Number 2(g), by failing to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state; 30 TAC §305.125(1) and (9)(A) and TPDES Permit Number WQ0011916001, Monitoring and Reporting Requirements Number 7(c), by failing to report in writing any effluent violation which deviates from the permitted effluent limitations by more than 40% to the TCEQ's Beaumont Regional Office and TCEQ's Enforcement Division within five working days of becoming aware of the noncompliance; 30 TAC §305.125(1), (12), and (19) and TPDES Permit Number WQ0011916001, Permit Conditions Number 1(a), by failing to submit correct and accurate information in a report to the executive director; 30 TAC §305.125(1) and (17) and TPDES Permit Number WQ0011916001, Sludge Provisions, by failing to timely submit the annual sludge report for the monitoring periods ending July 31, 2015, and July 31, 2016, to the TCEQ's Beaumont Regional Office and TCEQ's Enforcement Division by September 30, 2015, and September 30, 2016, respectively; 30 TAC §305.125(1) and (17) and §317.6(b)(1)(D) and TPDES Permit Number WQ0011916001, Operational Requirements Number 1, by failing to properly locate the self-contained breathing apparatus at a safe distance from the chlorine facilities; 30 TAC §305.125(1) and (17) and §319.7(d) and TPDES Permit Number WQ0011916001, Monitoring and Reporting Requirements Number 1, by failing to timely submit discharge monitoring reports at the intervals specified in the permit; 30 TAC §305.125(1) and §319.11(c) and TPDES Permit Number WQ0011916001, Monitoring and Reporting Requirements Number 2, by failing to maintain complete and accurate records of monitoring activities; 30 TAC §305.125(9), TWC, §26.039(b), and TPDES Permit Number WQ0011916001, Monitoring and Reporting Requirements Number 7(a), by failing to notify TCEQ orally or by facsimile transmission within 24 hours of becoming aware of a noncompliance and in writing within five days to the TCEQ's Beaumont Regional Office and TCEQ's Enforcement Division; and 30 TAC §317.3(e)(5), by failing to have a functioning audiovisual alarm system that is activated in case of power outage, pump failure, or a specified high water level for all lift stations; PENALTY: \$69,503; ENFORCEMENT COORDINATOR: Caleb Olson, (512) 239-2541; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(18) COMPANY: Trinity River Authority of Texas; DOCKET NUMBER: 2018-1494-MWD-E; IDENTIFIER: RN100751577; LOCATION: Ferris, Dallas County; TYPE OF FACILITY: wastewater treatment facility with an associated wastewater collection system; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1) and (c), and Texas Pollutant Discharge Elimination System Permit Number WQ0010984001, Permit Conditions Number 2.g., by failing to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state; PENALTY: \$6,563; ENFORCEMENT COORDINATOR: Christopher Moreno, (254) 761-3038; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(19) COMPANY: Victoria's Platinum Properties, LLC; DOCKET NUMBER: 2018-1629-PWS-E; IDENTIFIER: RN101241412; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.106(f)(3) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic, based on a running annual average; and 30 TAC §290.117(n), by failing to comply with the additional sampling requirements as

required by the executive director to ensure that minimal levels of corrosion are maintained in the distribution system; PENALTY: \$404; ENFORCEMENT COORDINATOR: Julianne Dewar, (512) 239-1001; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(20) COMPANY: Westpark Properties, LLC; DOCKET NUMBER: 2018-1645-PWS-E; IDENTIFIER: RN110518289; LOCATION: Weatherford, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e)(1) and (h)(1) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the executive director (ED) for review and approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A), by failing to submit a copy of the well completion data for review and approval from the ED prior to placing a public drinking water well into service; 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; and 30 TAC §290.46(e)(4)(A), by failing to use a water works operator with a Class D or higher license for a groundwater system serving no more than 250 connections; PENALTY: \$676; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: Zarzamora Grocery, Incorporated dba Amigo Food Mart; DOCKET NUMBER: 2018-1703-PST-E; IDENTIFIER: RN101749075; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,470; ENFORCEMENT COORDINATOR: Amanda Scott, (512) 239-2558; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-201900822
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 19, 2019

Enforcement Orders

An agreed order was adopted regarding DRI/PLR Southport, LLC, Docket No. 2016-1767-WQ-E on March 19, 2019, assessing \$3,412 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SANHEDRIN II, L.P., Docket No. 2017-0044-PWS-E on March 19, 2019, assessing \$542 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Adam Taylor, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding KIMKRISS ENTERPRISES, INC., Docket No. 2017-0833-WQ-E on March 19, 2019, assessing \$4,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cao Xuan Dang dba Stop N Save, Docket No. 2017-1737-PST-E on March 19, 2019, assessing \$7,425 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Adam Taylor, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding United States Department of the Air Force, Docket No. 2018-0014-MWD-E on March 19, 2019, assessing \$1,072.57 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 PASO DEL NORTE REALTY, INC. dba Trans-National Express, Docket No. 2018-0740-MSW-E on March 19, 2019, assessing \$1,312 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201900840
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 20, 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 155450

APPLICATION. Fred Weber Inc, 2320 Creve Coeur Mill Road, Maryland Heights, Missouri 63043-4207 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 155450 to authorize the operation of a permanent concrete batch plant. The facility is proposed to be located on the north side of Highway 21 approximately 1.3 miles northeast of its intersection with Yarrington Road, San Marcos, Hays County, Texas 78640. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.930277&lng=-97.834166&zoom=13&type=r>. This application was submitted to the TCEQ on February 4, 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 28, 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:

Monday, April 29, 2019, at 6:00 p.m.

Country Inn & Suites

1560 Interstate Highway 35 South

San Marcos, Texas 78666

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 Austin Regional Office, located at 12100 Park 35 Circle Building A, Room 179, Austin, Texas 78753-1808, 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 Fred Weber, Inc., 2320 Creve Coeur Mill Road, Maryland Heights, Missouri 63043-4207, or by calling Ms. Lina J. Klein, Environmental Director at (314) 473-3613.

Notice Issuance Date: March 13, 2019

TRD-201900845

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2019



Notice of District Petition

Notice issued March 18, 2019

TCEQ Internal Control No. D-11142018-030; Rick Horton, Traci Horton, Derek Ammerman, and Jan Ammerman (Petitioners) filed a petition for creation of Hunt County Municipal Utility District No. 3 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners holds

title to a majority in value of the land to be included in the proposed District; (2) there is no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 502.424 acres located within Hunt County, Texas; and (4) all of the land within the proposed District is within Hunt County, Texas, and no portion of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city, town or village in Texas. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain and operate waterworks and sanitary sewer system for commercial and residential purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate and amend local storm waters or other local harmful excesses of waters; (4) road facilities; and (5) purchase, construct, acquire, improvement, maintain and operate such additional facilities, systems, plants and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$49,549,697.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, 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 Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-201900842

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 20, 2019

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Notice of District Petition

TCEQ Internal Control No. D-02222019-030; Richard K. Duncan, Sr. (Petitioner) filed a petition for creation of Galveston County Municipal Utility District No. 73 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land in the proposed District; (2) there is only one lienholder, ZB, N.A., doing business as, and formerly known as, Amegy Bank, on the property to be included in the proposed District and the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 786.55 acres located within Galveston County, Texas; and (4) the proposed District is within the corporate limits of the City of League City, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Ordinance No. 2019-04, passed and approved January 22, 2019, the City of League City gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will purchase, design, construct, acquire, maintain, and operate water, wastewater, drainage, road, and park and recreational facilities for commercial and residential purposes. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$136,245,000 (including \$77,415,000 for utilities plus \$7,600,000 for roads plus \$9,600,000 for park and recreational facilities).

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, 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 Districts Review Team, at

(512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-201900843
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 20, 2019

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Notice of District Petition

Notice issued March 20, 2019

TCEQ Internal Control No. D-02222019-029; Richard K. Duncan, Sr. (Petitioner) filed a petition for creation of Galveston County Municipal Utility District No. 74 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land in the proposed District; (2) there is only one lienholder, ZB, N.A., doing business as, and formerly known as, Amegy Bank, on the property to be included in the proposed District and the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 345.10 acres located within Galveston County, Texas; and (4) the proposed District is within the corporate limits of the City of League City, Texas and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Ordinance No. 2019-06, passed and approved January 22, 2019, the City of League City gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will purchase, construct, acquire, maintain, and operate water, wastewater, drainage, road, and park and recreational facilities for commercial and residential purposes. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$55,960,000 (including \$30,154,000 for utilities plus \$4,550,000 for roads plus \$4,050,000 for park and recreational facilities).

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30

days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, 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 Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-201900844
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 20, 2019



Notice of Hearing: Aqua Texas, Inc.; SOAH Docket No. 582-19-3429; TCEQ Docket No. 2018-1619-MWD; Permit No. WQ0015642001

APPLICATION.

Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015642001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. TCEQ received this application on January 17, 2018.

The facility will be located approximately 3,025 feet northwest of the intersection of Farm-to-Market Road 359 and Farm-to-Market Road 723, in Fort Bend County, Texas 77406. The treated effluent will be discharged directly to Jones Creek which is a portion of Upper Oyster Creek in Segment No. 1245 of the Brazos River Basin. The designated uses for Segment No. 1245 are intermediate aquatic life use, public water supply, and primary contact recreation. In accordance with Title 30 Texas Administrative Code Section 307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Jones Creek or Upper Oyster Creek, which has been identified as having intermediate aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The TCEQ Executive Director has prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at George Memorial Library, 1001 Golfview Drive, Richmond, Texas. As a public courtesy, we have provided the following Web page to an online map of the site or the facility's general location. The online map is not part of the application or the notice: [\[dex.html?lat=29.638333&lng=-95.816944&zoom=13&type=r\]\(http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.638333&lng=-95.816944&zoom=13&type=r\)>. For the exact location, refer to the application.](http://www.tceq.texas.gov/assets/public/hb610/in-</p></div><div data-bbox=)

CONTESTED CASE HEARING.

The State Office of Administrative Hearings (SOAH) will conduct a preliminary hearing at:

10:00 a.m. - May 1, 2019

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, allow an opportunity for settlement discussions, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding, which will occur at a later date, will be similar to a civil trial in state district court. The hearing will address the disputed issues of fact identified in the TCEQ order concerning this application issued on February 20, 2019. In addition to these issues, the judge may consider additional issues if certain factors are met.

The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 26, Texas Water Code; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. The hearing will be held unless all timely hearing requests have been withdrawn or denied.

To request to be a party, you must attend the hearing and show you would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and request to be a party. Only persons named as parties may participate at the hearing.

In accordance with 1 TAC §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."

INFORMATION.

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our website at <http://www.tceq.texas.gov/>.

Further information may also be obtained from Aqua Texas, Inc. at the address stated above or by calling Ms. Shelley Young, P.E., WaterEngineers, Inc., at (281) 373-0500.

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

Issued: March 19, 2019

TRD-201900841
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 20, 2019



Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

Deadline: Semiannual Report due January 15, 2019, for Candidates

Bruce W. Bain, 10810 Katy Fwy., Ste. 102, Houston, Texas 77043
Matthew S. Beebe, 70 NE Loop 410, Ste. 755, San Antonio, Texas 78216
Richard Bonton, 12680 W. Lake Houston Pkwy., Ste. 510 PMB 180, Houston, Texas 77044
Garrett E. Brown, 3802 Hawkshead Dr., Austin, Texas 78727
Johnathan B. Brohawn, 380 Lure Ln., Livingston, Texas 77351
Mark A. Calhoon, P.O. Box 3460, Palestine, Texas 75802
Cynthia T. Cavazos, 104 S. San Eduardo, San Antonio, Texas 78237
Thelma S. Clardy, P.O. Box 622, De Soto, Texas 75123-0123
Michael E. Cooper, P.O. Box 33041, Fort Worth, Texas 76162
Ana L. Cortez, P.O. Box 350, Manor, Texas 78653
Matthew Taylor Flores, 5707 4th Ave. #710, Canyon, Texas 79015
Lisa D. Fritsch, 6011 Long Champ Ct. #103, Austin, Texas 78746
Yvette Y. Gbalazeh, 5123 Echo Ave., Dallas, Texas 75215
Angela K. Hayes, 4848 Pin Oak Park, Apt. 425, Houston, Texas 77081
Henry C. Hering, P.O. Box 953, Lindale, Texas 75771
Calab W. Homoth, 777 Texas, Graham, Texas 76850
Jayne Phillips Howell, P.O. Box 2635, Denton, Texas 76202
Wayne Calloway Huffaker, P.O. Box 968, Tahoka, Texas 79373
Scott T. Kilgore, 5980 Arapaho Rd. #23B, Dallas, Texas 75248
Charles V. Lauersdorf, 1814 Clydesdale Ct., Rowlett, Texas 75088
Teodulo Lucio Lopez, 210 W. Cano, Ste. B, Edinburg, Texas 78539
John F. McDonough, 2128 Beech Ln., Pampa, Texas 79065
Joseph G. McElligott, 20927 Kings Clover Ct., Humble, Texas 77346
William C. Meier, 2233 Farrington Ln., Hurst, Texas 76054-2802
Sandre Streete Moncriffe, P.O. Box 221, De Soto, Texas 75123-0123
Joseph W. Mumbach, 6625 Roos Rd, Houston, Texas 77074
Jeffery A. Payne, 6510 Abrams Rd., Ste. 640, Dallas, Texas 75231
Joel Perez, 111 Soledad St., Ste. 300, San Antonio, Texas 78205
James P. Presley, 2724 Shauntel St., Pearland, Texas 77581
Jennifer N. Ramos, 1730 E. Oltorf St., Apt. 401, Austin, Texas 78741
Audra D. Riley, P.O. Box 360124, Dallas, Texas 75336
Osbert G. Rodriguez, 1020 Dennet Rd., Brownsville, Texas 78526
Inna Rogoff-Klein, P.O. Box 2972, Corpus Christi, Texas 78403
Martina Salinas, 5408 Black Oak Ln., River Oaks, Texas 76114
Jolei Shipley, 8765 Holmes Rd., Nederland, Texas 77627
Brittney R. Smith, 7102 Pontiac Ave., Lubbock, Texas 79424
Adrian A. Spears, 2834 Sierra Salinas, San Antonio, Texas 78259

Tony C. Teal, 7819 Buford Dr., Dallas, Texas 75241-5435

Peter R. Veeck, 204 W. Main, Denison, Texas 75020

Kory D. Watkins, 7760 Cochise Dr., Lone Oak, Texas 75453

Michael R. Walsh, 17414 Pinewood Forest Dr., Spring, Texas 77379

Lee B. Weaver, P.O. Box 152844, Austin, Texas 78715

Deadline: Semiannual Report due January 15, 2019, for Committees

Laura J. Abernathy, Amarillo Federation of Teachers Committee on Political Education, 5410 S. Bell Bldg. B, #418 Amarillo, Texas 79109

Alvaro Arreola, Integrity of School Districts Political Action Committee, 3315 Sidney Brooks St. #200, San Antonio, Texas 78235

Chrysti Bowersox, West Gulf Maritime Assn. PAC, 1717 East Loop N., Ste. #200, Houston, Texas 77029

Kurt Boyland, Texas Assn. Of Marriage & Family Therapy PAC, P.O. Box 49009, Austin, Texas 78765

Robert L. Bruce, Texas Association of Conservative Teachers, 640 Briarcrest Dr., Ste. 122, Bryan, Texas 77802

Stuart Campbell, Harris County Deputies Org., 314 Texas St. #2000, Houston, Texas 77002

John H. Chase, Vote Texas Blue, 7123 Dalewood Ln., Dallas, Texas 75214

Mark E. Ciavaglia, Friends of TCISD, 2701 9th St. N, Texas City, Texas 77590

Jerry S. Coker, Citizens for Kids, 1102 Allie Payne Rd., Orange, Texas 77632

Wilson Davis, Texans for Stem Cells, 4719 S. Congress Ave., Austin, Texas 78745

Chanley Delk, Big Spring Professional Firefighters PAC, 5613 Rodeo St., Midland, Texas 79705

Fernando Dubove, New American PAC, 400 S. Zang Blvd., Ste. 600, Dallas, Texas 75208

William Elliot, Texas Card Players Association Political Action Committee, P.O. Box 26176, Austin, Texas 78755

Leslie Ficke, Highland Park Community League, 25 Highland Park Village #100-533, Dallas, Texas 75205

Joshua S. Finkenbinder, Texas Combat Veterans, 909 Hampshire, Grand Prairie, Texas 75050

Douglas L. Foshee, Texas Aspires, P.O. Box 684606, Austin, Texas 78768

Tangela L. Franklin, Aldine American Federation of Teachers, 1404 N. Sam Houston Pkwy. E., Ste. 150, Houston, Texas 77032

Tiffany Frinzi, Mobile Health Alliance PAC, 3736 Bee Cave Rd., Ste. 1-164, West Lake Hills, Texas 78746

Lorenzo Gonzalez, Southside Today, PAC, 1114 Par Four, San Antonio, Texas 78221

Charles E. Green, Kaufman County Republican Men PAC, 1012 Talpa Ln., Forney, Texas 75126

Ronald Hamilton, Citizen Input PAC, 3245 W. Main St., Ste. 235-113, Frisco, Texas 75034

Sean Haynes, Cowboys for Liberty, 1108 Lavaca St., Ste. 110-294, Austin, Texas 78701

Michelle Hill, First Financial Corp. PAC, 800 Washington Ave., Waco, Texas 76701-1253

Ray Charles Jones, North Side Political Action Group, P.O. Box 11071, Houston, Texas 77293

Michael Joseph, Pastors PAC, 5837 De Zavala Rd. #691181, San Antonio, Texas 78249

Eric Knustrom, The Texas PAC, 1122 Colorado St., Ste. 102, Austin, Texas 78701

Eric Leonard, Victoria Democrats Club, 108 Waterstone, Victoria, Texas 77901

Josh Lyrock, Texans for Ethical Local Leadership, 83 County Road #41, Old River Winfree, Texas 77535

Santiago Manrique, Opportunities for Brownsville PAC, P.O. Box 1894, Los Fresnos, Texas 78566

Glen Maxey, True Blue Action PAC, P.O. Box 301058, Austin, Texas 78703

Mary M. McAdam, Dallas Green Alliance, 3700 McKinney Ave. #1611, Dallas, Texas 75204

W. Troy McKinney, Concerned Citizens for a Responsible Judiciary PAC, 440 Louisiana, Ste. 800, Houston, Texas 77002

Kerry Mildon, Endless Opportunities Socorro Bond 2017, 12405 Paseo Largo Cir., El Paso, Texas 79928

Gary L. Moody, Neighbors For McLendon - Chisholm, P.O. Box 1954, Rockwall, Texas 75807

Coymelle K Murchison, Vote For Her, 633 W. Davis St. #345, Dallas, Texas 75208

Shaun McDade Nelson, Texas Stonewall Democratic Caucus, 6008 Tyne St., Houston, Texas 77007

Lucius O'Dell, Texans for Conservative Government PAC, 2830 S. Hulen St. #229, Fort Worth, Texas 76109

Carlos G. Perrett, ADELANTE Houston, 12251 Elm Orchard Trail, Humble, Texas 77346

Stephanie Phillips, Justice For All PAC, 6115 Reamer St., Houston, Texas 77074

Britney Richey, Hays County Republican Women, P.O. Box 1533, San Marcos, Texas 78667

Ashley Roberts, East Houston Democrats Political Action Committee, 6327 Danshire Ct., Houston, Texas 77049

Emma Ruiz, Workers Defense Action Fund PAC, 5903 Swayden Ln., Austin, Texas 78745

Alan Sandersen, Fort Bend Business PAC, 130 Industrial Blvd., Ste. 130, Sugar Land, Texas 77478

Dinesh Singhal, Harris County Democratic Lawyers' Association Inc., 711 Louisiana St., Ste. 1900, Pennzoil South Tower, Houston, Texas 77002

George S. Stephens, Lone Star Overnight Political Committee, Bldg. 2, Ste. 105, 6500 River Place Blvd., Austin, Texas 78730

Geoffrey R. Tahuahua, Coalition for an Affordable Austin, 8140 Exchange Dr., Austin, Texas 78754

Sharollet Thompson, Texas Truth In Politics (TXTIP), 633 W. Davis St. #345, Dallas, Texas 75208

Bridget W. Tobin, Austin Young Democrats, 1401 St. Edwards Dr. #270, Austin, Texas 78704

Steve Tomson, Collin County Conservative Coalition, 5000 Kirkland, Plano, Texas 75093

Jennifer Trahan, Texas Job Order Contractors PAC, c/o Williams & Thomas LP, 16875 Diana Ln., Houston, Texas 77058

Mike J. Warner, Texas Plumbers Association, 4727 Arvilla Ln., Houston, Texas 77021

Ted A. Waterston, The Texas Blue Dog Coalition, 3924 Kimbrough Ln., Plano, Texas 75025

TRD-201900811

Ian Steusloff

Interim Executive Director

Texas Ethics Commission

Filed: March 14, 2019

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General Land Office

Notice of Funds Availability - Texas Coastal Management Program

The General Land Office and the Coastal Coordination Advisory Committee (Committee) file this Notice of Funds Availability to announce the availability of §306/§306A federal grant funds under the Texas Coastal Management Program (CMP). The purpose of the CMP is to improve the management of the state's coastal resources and ensure the long-term ecological and economic productivity of the coast.

A federal award to the state of approximately \$2 million in §306/§306A funding is expected in October 2020. The General Land Office, which oversees the implementation of the CMP with the advice of the Committee, will pass through approximately 90% of the available §306/§306A funds to eligible entities to support projects that implement and/or advance the CMP goals and policies. Projects must be located within the coastal zone boundary established by the Texas Legislature in 1995.

The following entities are eligible to receive grants under the CMP.

- Incorporated cities within the coastal zone boundary
- County governments within the coastal zone boundary
- Texas state agencies
- Texas public colleges/universities
- Subdivisions of the state with jurisdiction within the coastal zone boundary (e.g., navigation districts, port authorities, river authorities, and soil and water conservation districts)
- Councils of governments and other regional governmental entities within the coastal zone boundary
- The Galveston Bay Estuary Program
- The Coastal Bend Bays and Estuaries Program
- Nonprofit Organizations that are registered as a 501(c)(3) and have an office located in Texas. Nonprofit organizations must be nominated by one of the eligible entities listed above. (A nomination must take the form of a resolution or letter from an official representative of the entity. The nominating entity is not expected to contribute financially or administratively to the management and implementation of the proposed project.)

The General Land Office and the Committee will accept applications through a competitive pre-proposal process followed by an invitation-only final application submission. Projects must address at least one of the following funding categories:

- Public access enhancements to coastal natural resource areas;
- Applied research and data collection within the coastal zone boundary that supports coastal-related initiatives of at least one Committee member agency;
- Coastal resiliency enhancements to protect coastal natural resources;
- Coastal planning and community engagement, to enhance coastal resiliency; and
- Efforts that support the implementation of a fully-certified Coastal Nonpoint Source (NPS) Pollution Control program in accordance with the conditions of Coastal Zone Management Act §6217(g).

The General Land Office will hold three grant workshops to provide information on the grant program and allow potential applicants the opportunity to discuss specific project ideas with staff. Applicants are not required to attend a workshop, but attendance is strongly encouraged.

- Corpus Christi - May 8, 2019, at 9:30 a.m.

Del Mar College Center for Economic Development

3209 S. Staples Street, RM 117

Corpus Christi, Texas 78411

- South Padre Island - May 9, 2019, at 9:30 a.m.

South Padre Island Birding and Nature Center

6801 Padre Boulevard

South Padre Island, Texas 78597

- Galveston - May 15, 2019, at 9:30 a.m.

Rosenberg Library

2310 Sealy Street, Wortham Auditorium

Galveston, Texas 77550

The requirements to receive federal grant funds are outlined in the CMP Cycle 25 application solicitation. The solicitation and application are available for download at <http://www.glo.texas.gov/coast/grant-projects/funding/>.

Applicants must register proposed projects 48 hours prior to the pre-proposal submission deadline. Applicants submitting more than one project must register each individual project. To be considered for funding, pre-proposals and final applications must be submitted electronically in accordance with submission procedures. Submission procedures will be provided to applicants following project registration.

Submission of a pre-proposal is required for all projects proposed for funding. Pre-proposals are due by 5:00 p.m. on June 12, 2019. Written comments will be provided to enhance the quality of the project for the final application or better align the project with Committee member agency needs for future cycles. Applicants will receive notification of whether the project may be submitted as a final application. Upon invitation, applicants must submit final applications with supporting documentation by 5:00 p.m. on October 2, 2019.

TRD-201900818

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: March 18, 2019

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Texas Health and Human Services Commission

Public Notice - Texas State Plan for Medical Assistance Amendment Proposed to be Effective April 1, 2019

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The amendment is proposed to be effective April 1, 2019.

The proposed amendment will create a Medicaid Direct Graduate Medical Education payment program for eligible non-government owned teaching hospitals. The non-federal share of the payments will come from local public funds, not general revenue.

The proposed amendment is estimated to result in an increase in annual aggregate expenditures of \$55,091,907 for federal fiscal year (FFY) 2019, consisting of \$31,997,389 in federal funds and \$23,094,527 in non-federal funds. For FFY 2020, the estimated increase in annual aggregate expenditures is \$110,183,814, consisting of \$63,994,759 in federal funds and \$46,189,055 in non-federal funds.

Copy of Proposed Amendment. Interested parties may obtain a copy of the proposed amendment and/or additional information about the amendment by contacting Beren Dutra, State Plan Coordinator, by mail at the Texas Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 428-1932; by facsimile at (512) 730-7472; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of the proposed amendment will be available for review at the local county offices of the Texas Health and Human Services Commission (which were formerly the local offices of the Department of Aging and Disability Services).

Written Comments. Written comments and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax or email:

U.S. Mail:

Texas Health and Human Services Commission

Attention: Rate Analysis Department, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery:

Texas Health and Human Services Commission

Attention: Rate Analysis Department, Mail Code H-400 Brown-Heatly Building

4900 North Lamar Blvd.

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax: Attention: Rate Analysis Department at (512) 730-7475

Published on March 29, 2019

TRD-201900839

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Texas Lottery Commission

Scratch Ticket Game Number 2126 "Wild 10s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2126 is "WILD 10s". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2126 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2126.

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, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 10X SYMBOL, WILD SYMBOL, \$10.00, \$20.00, \$40.00, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$250,000.

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. 2126 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
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
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
10X SYMBOL	WINX10
WILD SYMBOL	WIN
\$10.00	TEN\$
\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10 TH
\$250,000	TPPZ

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2126), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2126-0000001-001.

H. Pack - A Pack of the "WILD 10s" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

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 "WILD 10s" Scratch Ticket Game No. 2126.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "WILD 10s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 66 (sixty-six) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "WILD" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 66 (sixty-six) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, 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 66 (sixty-six) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 66 (sixty-six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 66 (sixty-six) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$10,000 and \$250,000 will each appear at least once, except on Tickets winning thirty (30) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 20 and \$20, 40 and \$40, and 50 and \$50).

I. On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

J. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

K. The "WILD" (WIN) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

L. The "WILD" (WIN) Play Symbol will never appear on a Non-Winning Ticket.

M. The "WILD" (WIN) Play Symbol will never appear more than once on a Ticket.

N. The "WILD" (WIN) and "10X" (WINX10) Play Symbols will never appear on the same Ticket.

O. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

Q. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

R. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "WILD 10s" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$40.00, \$50.00, \$100, \$200 or \$500 a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$40.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "WILD 10s" Scratch Ticket Game prize of \$1,000, \$10,000 or \$250,000 the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "WILD 10s" 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 "WILD 10s" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "WILD 10s" 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 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2126. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2126 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10	680,000	8.82
\$20	620,000	9.68
\$30	62,500	96.00
\$40	95,300	62.96
\$50	97,500	61.54
\$100	66,250	90.57
\$200	16,050	373.83
\$500	1,500	4,000.00
\$1,000	200	30,000.00
\$10,000	20	300,000.00
\$250,000	5	1,200,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.66. 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. 2126 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. 2126, 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-201900821
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 18, 2019



Scratch Ticket Game Number 2164 "\$100,000 VIP Cashword"

Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2164 is "\$100,000 VIP CASHWORD". The play style is "crossword".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2164 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2164.

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: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, BLACKENED SQUARE 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. Crossword and Bingo style games do not typically have Play

Symbol Captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2164 - 1.2D

PLAY SYMBOL	CAPTION
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	
N	
O	
P	
Q	
R	
S	
T	
U	
V	
W	
X	
Y	
Z	
BLACKENED SQUARE SYMBOL	
\$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-Scratch Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2164), 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: 2164-0000001-001.

H. Pack - A Pack of "\$100,000 VIP CASHWORD" Scratch Ticket Game contains 075 Tickets, 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 the 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 "\$100,000 VIP CASHWORD" Scratch Ticket Game No. 2164.

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. Each Scratch Ticket contains exactly 196 (one hundred ninety-six) Play Symbols. A prize winner in the "\$100,000 VIP CASHWORD" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose all of the YOUR 20 LETTERS Play Symbols. The player then scratches all the letters found in GAME 1 and GAME 2 that exactly match the YOUR 20 LETTERS Play Symbols. If the player has scratched at least 3 complete WORDS within a GAME, the player wins the prize found in the corresponding PRIZE LEGEND. WORDS revealed in one GAME cannot be combined with WORDS revealed in another GAME. Each GAME is played separately. Only one prize paid per GAME. Only letters within the same GAME that are matched with the YOUR 20 LETTERS Play Symbols can be used to form a complete WORD. In each GAME, every lettered square within an unbroken horizontal (left to right) or vertical (top to bottom) sequence must be matched with the YOUR 20 LETTERS Play Symbols to be considered a complete WORD. Words revealed in a diagonal sequence are not considered valid WORDS. Words within WORDS are not eligible for a prize. Words that are spelled from right to left or bottom to top are not eligible for a prize. A complete WORD must contain at least three (3) letters. GAME 1 can win by revealing 3 to 11 complete WORDS. GAME 2 can win by revealing 3 to 5 complete WORDS. VIP WORD: The player must scratch all the letters in the VIP WORD that exactly match the YOUR 20 LETTERS. If the player scratches a complete VIP WORD, the player wins the VIP WORD PRIZE. A completed VIP WORD cannot be used to win in GAME 1 or GAME 2. Each GAME and the VIP WORD are played separately. 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 196 (one hundred ninety-six) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption; Crossword and Bingo games do not typical have Play Symbol Captions;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly 196 (one hundred ninety-six) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 196 (one hundred ninety-six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 196 (one hundred ninety-six) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket 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 Play Symbols or Prize Symbols.

B. GENERAL: There is no correlation between any exposed data on a Ticket and its status as a winner or non-winner.

C. GENERAL: Each Ticket in a Pack will have different GAMES.

D. CROSSWORD GAMES: No matching words on a Ticket.

E. CROSSWORD GAMES: All words used will be from the TEXAS APPROVED WORD LIST CASHWORD/CROSSWORD v.1.2, dated December 4, 2017.

G. CROSSWORD GAMES: All words will contain a minimum of three (3) letters.

H. CROSSWORD GAMES: All words will contain a maximum of nine (9) letters.

I. CROSSWORD GAMES: There will be a minimum of three (3) vowels in the YOUR 20 LETTERS play area. Vowels are considered to be A, E, I, O, U.

J. CROSSWORD GAMES: No matching Play Symbols in the YOUR 20 LETTERS play area.

K. CROSSWORD GAMES: At least fifteen (15) of the letters in the YOUR 20 LETTERS play area will open at least one (1) letter in GAME 1 (11x11), GAME 2 (7x7) and VIP WORD play areas.

L. CROSSWORD GAMES: The presence or absence of any letter or combination of letters in the YOUR 20 LETTERS play area will not be indicative of a winning or Non-Winning Ticket.

M. CROSSWORD GAMES: Words from the TEXAS REJECTED WORD LIST v.2.3, dated December 4, 2017, will not appear horizontally in the YOUR 20 LETTERS play area when read left to right or right to left.

N. CROSSWORD GAMES: There will be a random distribution of all Play Symbols on the Ticket, unless restricted by other parameters, play action or prize structure.

O. CROSSWORD GAMES: On Non-Winning Tickets, GAME 1 and GAME 2 will have two (2) completed words in each grid.

P. CROSSWORD GAMES: No consonant will appear more than nine (9) times, and no vowel will appear than fourteen (14) times in GAME 1 (11X11).

Q. CROSSWORD GAMES: No consonant will appear more than seven (7) times, and no vowel will appear more than ten (10) times in GAME 2 (7X7).

R. CROSSWORD GAMES: GAME 1 (11X11) will not have more than eleven (11) words completed.

S. CROSSWORD GAMES: GAME 2 (7X7) will not have more than five (5) words completed.

T. CROSSWORD GAMES: Vowels will appear randomly in the YOUR 20 LETTERS play area.

U. CROSSWORD GAMES: GAME 1 (11X11) will have exactly twenty-two (22) WORDS and seventy-eight (78) letters on all Tickets.

V. CROSSWORD GAMES: GAME 2 (7X7) will have exactly nine (9) WORDS and thirty-one (31) letters on all Tickets.

W. VIP WORD: The VIP WORD will be completed as indicated by the prize structure.

X. VIP WORD: Non-winning VIP WORD Prize Symbols will appear randomly.

Y. VIP WORD: On winning Tickets when only the VIP WORD is completed, two (2) completed words will be revealed in each of the non-winning GAME 1 and GAME 2 grids.

Z. VIP WORD: The VIP WORD will always contain five (5) letters and will not match any word in either GAME 1 or GAME 2 grids.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$100,000 VIP CASHWORD" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100, \$200 or \$500 a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100, \$200 or \$500 Scratch Ticket Game Prize. 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 "\$100,000 VIP CASHWORD" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$100,000 VIP CASHWORD" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the

Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "\$100,000 VIP CASHWORD" 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 "\$100,000 VIP CASHWORD" Scratch Ticket

Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket Game prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 22,080,000 Scratch Tickets in Scratch Ticket Game No. 2164. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2164 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	2,649,600	8.33
\$10	1,177,600	18.75
\$15	883,200	25.00
\$20	441,600	50.00
\$25	294,400	75.00
\$50	220,800	100.00
\$100	57,040	387.10
\$200	7,360	3,000.00
\$500	2,024	10,909.09
\$1,000	368	60,000.00
\$100,000	10	2,208,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.85. 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. 2164 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2164, 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-201900837
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 20, 2019



Lower Rio Grande Valley Workforce Development Board

Request For Proposals (RFP) for Management and Operation of Workforce Solutions Career Centers Services

Workforce Solutions is a non-profit, tax-exempt organization, overseeing workforce development programs and services in Hidalgo, Starr and Willacy Counties. Workforce Solutions receives Workforce Innovation Opportunity Act (WIOA), Temporary Assistance for Needy Families (TANF)/Choices, Supplemental Nutrition Assistance Program, and Child Care Development funds, among others. These federal funds pass through the Texas Workforce Commission to Workforce Solutions. Workforce Solutions is seeking proposals for Management and Operation of Workforce Solutions Career Centers Services.

Detailed information will be in the Request for Proposals (RFP), which will be available on Monday, March 4, 2019, at 12:00 p.m. CST. You may contact Robert Barbosa, Finance Manager of Workforce Solutions, at (956) 928-5000 for more information. The RFP may be obtained in person at the Workforce Solutions' administration office located at 3101 West Business 83, McAllen, Texas 78501.

Responses are due at the Workforce Solutions' administration office located at 3101 West Business 83, McAllen, Texas 78501 on or before April 18, 2019, at 3:00 p.m. CST. Any responses received after the final deadline will not be considered.

Lower Rio Grande Valley Workforce Development Board dba Workforce Solutions is an equal opportunity employer/program and auxiliary aids and services are available upon request to include individuals with disabilities. TTY/TDD via RELAY Texas service at 711 or (TDD) (800) 735-2989/(800) 735-2988 (voice).

TRD-201900815

Robert Barbosa
Finance Manager
Lower Rio Grande Valley Workforce Development Board
Filed: March 15, 2019

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Panhandle Regional Planning Commission

Legal Notice

The Panhandle Regional Planning Commission (PRPC) is seeking proposals from qualified organizations with demonstrated competence, knowledge, qualifications, successful performance, and reasonable fees to implement a "Summer Earn and Learn" program to develop work opportunities for students with disabilities in coordination with the workforce development programs administered in the Panhandle Workforce Development Area (PWDA). The purpose of this solicitation is to enable PRPC to evaluate and select an entity capable of performing these services and to enter into negotiation for a contract at a fair and reasonable price.

Interested proposers may obtain a copy of the solicitation packet by contacting Leslie Hardin, at (806) 372-3381 / (800) 477-4562 or lhardin@theprpc.org. The packet may also be picked up at PRPC's offices located at 415 S.W. 8th Avenue in Amarillo, Texas 79101. The proposals must be submitted to PRPC no later than April 12, 2019.

PRPC as administrative and fiscal agent for the Panhandle Workforce Development Board dba Workforce Solutions Panhandle, a proud partner of the AmericanJobCenter Network, is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: 711

TRD-201900838
Leslie Hardin
WFD Contracts Coordinator
Panhandle Regional Planning Commission
Filed: March 20, 2019

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Public Utility Commission of Texas

Public Notice of Workshop on Projects 48936, 48938, and 49123, Projects to Amend Water and Sewer Class A, B and C Annual Report Forms and Request for Comments

The staff of the Public Utility Commission of Texas (commission) will hold a workshop regarding draft forms for projects to amend water and sewer Class A, B and C Annual Report Forms, on Tuesday, April 16, 2018, at 10:00 a.m. in the Commissioners' Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Project Number 48936, *Project to Amend Class A Water and Sewer Annual Report 2018 and Later Form*, Project Number 48938, *Project to Amend Class B Water and Sewer Annual Report 2018 and Later Form*, and Project Number 49123, *Project to Amend Class C Water and Sewer Annual Report 2018 and Later Form*, have been established for this proceeding. The commission intends to correct errors in the forms and simplify the forms, as appropriate.

After the workshop, the commission requests interested persons file comments on the projects separately for each project, with comments organized in the general order of the forms. Comments may be filed by submitting 16 copies to the commission's filing clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 by April 30, 2019. All comments should reference Project Number 48936, 48938, or 49123 as appropriate. This

notice is not a formal notice of changes to forms, however, the parties' responses to the comments at the workshop and comments filed by April 16, 2019, will assist the commission in developing a commission policy or determining the necessity for other possible changes to the forms.

Ten days prior to the workshop the commission shall make available in Central Records under Project Numbers 48936, 48938, and 49123 an agenda for the format of the workshop and a copy of draft forms pertaining to each project.

The commission requests that persons planning on attending the workshop register by email at the following address: water@puc.texas.gov.

Questions concerning the workshop or this notice should be referred to Debi Loockerman, Financial Manager, Water Utility Regulation Division, (512) 936-7000. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1.

TRD-201900812
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 15, 2019

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Texas State Soil and Water Conservation Board

Texas State Technical Advisory Committee Meeting

AGENDA

To: State Technical Advisory Committee and Stakeholders
Subject: State Technical Advisory Committee Meeting
Place: Austin Marriott South, 4415 South IH-35, Austin, Texas
Time: April 2, 2019, 8:00 a.m.

The agenda for the State Technical Advisory Committee Meeting is as follows:

1. Registration
2. Welcome
3. Announcements - Overview of Meeting
4. Farm Bill Programs
5. Break Out Session
6. Break
7. Group Reports from Break Out Session
8. Lunch, on your own
9. Open Discussion
10. USDA-NASS Updates
11. STAC Sub-Committee Reports
12. Break
13. Ecological Sciences Updates / Farm Bill Practice Standards Review
14. Engineering Updates
15. Closing Discussion and Adjourn

If during the course of the meeting any discussion of any item on the agenda should be held in Executive Session or Closed Session, the

Committee will convene in such Executive or Closed Session in accordance with the Open Meeting Act Article 551.001 through 551.146 TX Rev. Civ. Stat. 5.

Notice was posted and remained posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this 15th day of March 2019.

TRD-201900816

Mel Davis

Policy Advisor/Special Projects Coordinator

Texas State Soil and Water Conservation Board

Filed: March 15, 2019

Texas Department of Transportation

Aviation Division - Request for Qualifications (RFQ) for Professional Engineering Services

Cherokee County, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

Current Project: Cherokee County; TxDOT CSJ No.: 1910JACKS. The TxDOT Project Manager is Paul Slusser.

Scope: Provide engineering and design services, including construction administration, to:

Relocate, reconstruct and mark north parallel taxiway;

Reconfigure apron for taxiway tie-in; and

Evaluate in the Preliminary Engineering Report a connector taxiway from north parallel taxiway to north hangar area.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 20%. The goal will be re-set for the construction phase.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at Cherokee County Airport may include the following: relocate, reconstruct, and mark south parallel taxiway; reconfigure apron for south taxiway tie-in; and construct connector taxiway from north parallel taxiway to north hangar area.

Cherokee County reserves the right to determine which of the services listed above may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services listed above. To assist in your qualification statement preparation, the criteria, project diagram, and most recent Airport Layout Plan are available online at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "Cherokee County Airport." The qualification statement should address a technical approach for the

current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects.

AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, (800) 68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/insidetxdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, or submits a cover page with the AVN-550, that provider will be disqualified. Responses to this solicitation WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

The completed Form AVN-550 must be received in the TxDOT Aviation eGrants system no later than April 19, 2019, 11:59 p.m. (CDST). Electronic facsimiles or forms sent by email or regular/overnight mail will not be accepted.

Firms that wish to submit a response to this solicitation must be a user in the TxDOT Aviation eGrants system no later than one business day before the solicitation due date. To request access to eGrants, please complete the Contact Us web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

Step by step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of local government representatives. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at (800) 68-PILOT (74568). For procedural questions, please contact Anna Ramirez. For technical questions, please contact Paul Slusser, Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at (800) 687-4568 or avn-egrantshelp@txdot.gov.

TRD-201900806

Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: March 14, 2019



Workforce Solutions for the Heart of Texas

Request for Quote (RFQ #13190202) - Communications and
Content Management Consultant

The Heart of Texas Workforce Development Board, Inc. solicits quotes
for an independent, qualified consultant to provide communications
and content management.

Issue Date: March 15, 2019

https://www.hotworkforce.com/Contractors_Vendors/

Quote Due Date/Time: Monday, March 25, 2019, no later than 12:00
p.m. (noon) (CST) via mail, hand-delivery or courier delivery to: Heart

of Texas Workforce Development Board, Inc., 801 Washington Av-
enue, Suite 700, Waco, Texas 76701; ATTN: Eunice Williams.

The Heart of Texas Workforce Board, Inc. is an equal opportunity
employer/programs and auxiliary aids and services are available upon
request to include individuals with disabilities. TTY/TDD via RELAY
Texas service at 711 or (TDD) (800) 735-2989/(800) 735-2988 (voice).
A proud partner of the American Job Center network.

TRD-201900813
Anthony Billings
Executive Director
Workforce Solutions for the Heart of Texas
Filed: March 15, 2019



How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "43 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 43 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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