
TEXAS REGISTER

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Makinzy Almand

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.

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Open Meetings

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

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

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

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

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

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

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

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

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

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

THE GOVERNOR

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

Appointments

Appointments for January 12, 2017

Appointed to the Texas Racing Commission as Presiding Officer, for a term to expire at the pleasure of the Governor, John T. Steen, III of Houston (replacing Rolando Pablos of El Paso).

Appointed to the Texas Medical Board as President, for a term to expire at the pleasure of the Governor, Sherif Zaafran, M.D. of Houston (replacing Michael R. Arambula, M.D. of San Antonio).

Appointments for January 17, 2017

Appointed to the State Board of Veterinary Medical Examiners as Presiding Officer, for a term to expire at the pleasure of the Governor, Jessica S. Quillivan, D.V.M. of Magnolia (replacing Roland Lenarduzzi, D.V.M.).

Appointments for February 2, 2017

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Eleesha E. Blackwell of College Station (replacing Neissa Brown Springmann of Austin whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Norma Castilla-Blackwell of Canyon Lake (replacing Jolene Miller of Huntsville whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, David W. Chapman of

Midland (replacing Kathleen I. "Kathy" Wood of Austin whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Linda A. Fernandez of Austin (replacing Homer D. Trevino of Waco whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Vanessa S. Nip of Austin (replacing Leslie L. Timmerman of Austin whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Renee L. Tuggle of Austin (replacing Sheri Krause of Austin whose term expired).

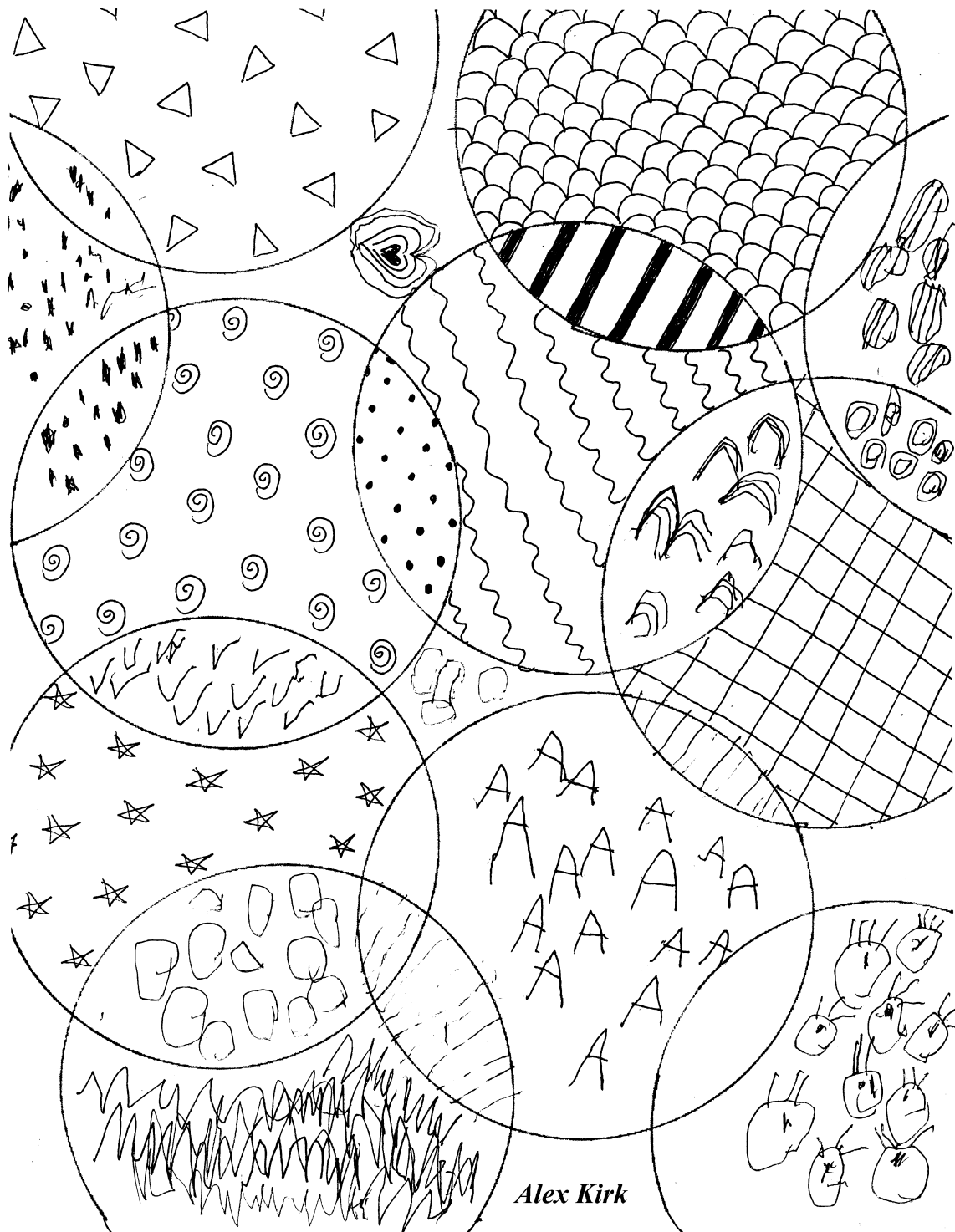
Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Michael P. Wilson, Ph.D. of Austin (replacing Judith Ann "Judy" Chambers of Austin whose term expired).

Appointed to the State Employee Charitable Campaign Advisory Committee for a term to expire January 1, 2018, Elaine M. Zavala of Buda (replacing Paul D. Urban of Kerrville whose term expired).

Greg Abbott, Governor

TRD-201700469





Alex Kirk

THE ATTORNEY GENERAL

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

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

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

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

Requests for Opinions

RQ-0147-KP

Requestor:

The Honorable James M. Tirey

Hale County Attorney

500 Broadway, Suite 340

Plainview, Texas 79072

Re: Whether relatives of public officials may perform uncompensated work for the official's office without violating nepotism laws if the relatives receive reimbursement of actual expenses or a per diem expense payment.

Briefs requested by March 6, 2017

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

TRD-201700521

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: February 7, 2017



Opinions

Opinion No. KP-0132

The Honorable Timothy J. Mason

Andrews County Attorney

121 Northwest Avenue A

Andrews, Texas 79714

Re: Authority of a reserve deputy sheriff to act as a surety on a bail bond (RQ-0123-KP)

S U M M A R Y

Chapter 17 of the Code of Criminal Procedure establishes the eligibility requirements for sureties on a bail bond made in Andrews County. Assuming a surety satisfies these requirements, we are not aware of any authority that would prohibit a reserve deputy sheriff in Andrews County from acting as a surety on a bail bond or prohibit a sheriff from accepting such a bond.

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

TRD-201700546

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: February 7, 2017





Alex Kirk

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 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 139. EXEMPTIONS BY RULE OR ORDER

7 TAC §139.25

The Texas State Securities Board proposes an amendment to §139.25, concerning intrastate crowdfunding exemption. Subsection (f) would be amended to permit the use of a segregated account in lieu of an escrow account for offerings up to \$1 million conducted pursuant to this exemption.

The financial institution that has acted as escrow agent for most of the intrastate crowdfunding offerings has decided to stop providing that service and the staff is unaware of another financial institution that has opted to generally enter this area. This would leave crowdfunding offerings seeking to raise between \$100,000 and \$1 million without access to an escrow account as required by the rule. The proposed amendment would permit these offerings to use a segregated account in lieu of an escrow account.

Clint Edgar, Director, Registration Division, has determined that for the first five-year period the rule is in effect there will be no foreseeable fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Edgar also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to keep intrastate crowdfunding viable in Texas for offerings over \$100,000. There will be no effect on micro- or small businesses. Since the rule will have no adverse economic effect on micro- or small businesses, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

Comments on the proposal must be in writing and will be accepted for 30 days following publication of the proposed section in the *Texas Register*. Written comments should be submitted to Marlene K. Sparkman, General Counsel, State Securities Board, P.O. Box 13167, Austin, Texas 78711 3167 or faxed to (512) 305 8336. Comments may also be submitted electronically to proposal@ssb.texas.gov. In order to be considered by the Board at adoption, comments must be received no later than 30 days following publication.

The amendment is proposed under Texas Civil Statutes, Article 581-28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules

and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposal affects Texas Civil Statutes, Articles 581-12, 581-13, 581-14, 581-15, and 581-18.

§139.25. *Intrastate Crowdfunding Exemption.*

(a) - (e) (No change.)

(f) Escrow or segregated account to safeguard investor and issuer funds.

(1) (No change.)

(2) A segregated account may be used in lieu of an escrow account if the maximum offering amount is \$1 million [~~\$100,000~~] or less.

(3) - (6) (No change.)

(g) - (m) (No change.)

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

Filed with the Office of the Secretary of State on February 6, 2017.

TRD-201700490

John Morgan
Securities Commissioner
State Securities Board

Earliest possible date of adoption: March 19, 2017

For further information, please call: (512) 305-8301

TITLE 22. EXAMINING BOARDS

PART 29. TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

CHAPTER 661. GENERAL RULES OF PROCEDURES AND PRACTICES

SUBCHAPTER C. DEFINITIONS OF TERMS

22 TAC §661.31

The Texas Board of Professional Land Surveying (Board) proposes amendments to §661.31, concerning Definitions. The proposed amendment to paragraph (12), adds the word "electronic" to permissible seal designs in the definition of seals.

Marcelino A. Estrada, Executive Director, has determined that for the first five-year period the amended rule is in effect there

will be no additional cost to state or local governments as a result of enforcing or administering the amended section.

Mr. Estrada has determined that for each year of the first five-year period the rule is in effect there will be no local employment impact as a result of adoption of the proposed rule.

Mr. Estrada has determine that for each of the first five years the rule is in effect, the anticipated public benefit will be that the Board's rules will be more consistent and precise. Mr. Estrada has determined that there will be no economic cost to individuals required to be subject to the rule. Mr. Estrada has determined that there will be no measurable effect on small businesses and micro-businesses. There is no anticipated difference in cost of compliance between small and large businesses.

The Board invites comments on the proposal from any member of the public. A written statement should be submitted to Marcelino A. Estrada, Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Bldg. A., Ste. 156, MC-230, Austin, Texas 78753. Comments may also be submitted electronically to tony.estrada@txls.texas.gov or faxed to (512) 239-5253.

The amendment is proposed under Texas Occupations Code, §1071.151, which authorizes the Board to adopt and enforce reasonable and necessary rules.

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

§661.31. Definitions.

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

(1) - (11) (No change.)

(12) Seal--An embossed, [øf] stamped, or electronic design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice land surveying services to the public in the State of Texas and has legal consequence when applied.

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 January 30, 2017.

TRD-201700419

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Earliest possible date of adoption: March 19, 2017

For further information, please call: (512) 239-5263



CHAPTER 663. STANDARDS OF PROFESSIONAL RESPONSIBILITY AND RULES OF CONDUCT

SUBCHAPTER B. PROFESSIONAL AND TECHNICAL STANDARDS

22 TAC §§663.13, 663.16, 663.18

The Texas Board of Professional Land Surveying (Board) proposes amendments to §663.13, concerning Introduction, §663.16, concerning Boundary Construction, and §663.18, concerning Certification.

The proposed amendment to §663.13 corrects a reference to a rule number that was changed in a prior rule revision. The correct rule reference should be to §663.20, concerning Descriptions for Political Subdivisions and not §663.16, concerning Boundary Construction.

The proposed amendment to §663.16, paragraph (3), adds new subparagraph (D). This language was in rule §663.19, subsection (f) but would more appropriately be found in §663.16. The new subparagraph (D) addresses citing adjoining boundaries in the land surveyor's drawing and prepared description, if appropriate.

The proposed amendment to §663.18 adds a new subsection (b) which permits the use of electronic signatures on survey drawings when certain conditions are met. Due to the addition of the new subsection, existing subsections following the proposed new subsection are re-lettered accordingly.

Marcelino A. Estrada, Executive Director, has determined that for the first five-year period the amended rule is in effect there will be no additional cost to state or local governments as a result of enforcing or administering the amended section.

Mr. Estrada has determined that for each year of the first five-year period the rule is in effect there will be no local employment impact as a result of adoption of the proposed rule.

Mr. Estrada has determine that for each of the first five years the rule is in effect, the anticipated public benefit will be that the Board's rules will be more consistent and precise. Mr. Estrada has determined that there will be no economic cost to individuals required to be subject to the rule. Mr. Estrada has determined that there will be no measurable effect on small businesses and micro-businesses. There is no anticipated difference in cost of compliance between small and large businesses.

The Board invites comments on the proposed amendments from any member of the public. A written statement should be submitted to Marcelino A. Estrada, Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Bldg. A., Ste. 156, MC-230, Austin, Texas 78753. Comments may also be submitted electronically to tony.estrada@txls.texas.gov or faxed to (512) 239-5253.

The amendment is proposed under Texas Occupations Code, §1071.151, which authorizes the Board to adopt and enforce reasonable and necessary rules.

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

§663.13. Introduction.

The Board establishes these minimum standards of practice to better serve the general public in regulating the practice of professional land surveying in Texas. Professional land surveying performed in Texas, unless otherwise specifically exempted herein, shall meet or exceed the requirements of these standards. The Board considers any survey, the purpose of which is to delineate, segregate, separate, or partition any interest in real property of any kind, under these standards except when prepared pursuant to §663.20 [~~§663.16~~] of this title (relating to Descriptions for Political Subdivisions [~~Boundary Construction~~]).

§663.16. Boundary Construction.

When delineating a boundary line as an integral portion of a survey, the land surveyor shall:

(1) - (2) (No change.)

(3) Follow the documented records of the land title affecting the boundaries being surveyed;

(A) - (C) (No change.)

(D) Shall review the record instrument that defines the location of the adjoining boundaries and if appropriate to the chain of title of the tract being surveyed, cite the record instrument on the drawing and prepared description.

(4) - (5) (No change.)

§663.18. *Certification.*

(a) (No change.)

(b) An electronic seal and signature are permitted to be used in lieu of an original seal and signature when the following criteria, and all other requirements of the General Rules of Procedures and Practices are met:

(1) It is a unique identification of the professional;

(2) It is verifiable; and

(3) It is under the professional's direct control.

(c) ~~[(b)]~~ If the land surveyor certifies, or otherwise indicates, that his/her product or service meets a standard of practice in addition to that promulgated by the Texas Board of Professional Land Surveying, then the failure to so meet both standards may be considered by the Board, for disciplinary purposes, to be misleading the public.

(d) ~~[(e)]~~ Preliminary documents released from a land surveyor's control shall identify the purpose of the document, the land surveyor of record and the land surveyor's registration number, and the release date. Such preliminary documents shall not be signed or sealed and shall bear the following statement in the signature space or upon the face of the document: "Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document". Preliminary documents released from the land surveyor's control which include this text in place of the land surveyor's signature need not comply with the other minimum standards promulgated in this chapter.

(e) ~~[(d)]~~ A land surveyor shall certify only to factual information that the land surveyor has knowledge of or to information within his professional expertise as a land surveyor unless otherwise qualified.

(f) ~~[(e)]~~ Registered professional land surveyors may certify, using the registrant's signature and official seal, services which are not within the definition of professional land surveying as defined in the Act, provided that such certification does not violate any Texas or federal law.

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 January 30, 2017.

TRD-201700421

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Earliest possible date of adoption: March 19, 2017

For further information, please call: (512) 239-5263



22 TAC §663.19

The Texas Board of Professional Land Surveying (Board) proposes amendments to §663.19, concerning Survey Draw-

ing/Written Description/Report. The proposed amendment removes subsection (f). The language is moved to §663.16(3) as new subparagraph (D). This new location is more appropriate because it pertains to boundary location. The subsections that follow the proposed removed subsection would be re-lettered.

Marcelino A. Estrada, Executive Director, has determined that for the first five-year period the amended rule is in effect there will be no additional cost to state or local governments as a result of enforcing or administering the amended section.

Mr. Estrada has determined that for each year of the first five-year period the rule is in effect there will be no local employment impact as a result of adoption of the proposed rule.

Mr. Estrada has determine that for each of the first five years the rule is in effect, the anticipated public benefit will be that the Board's rules will be more consistent and precise. Mr. Estrada has determined that there will be no economic cost to individuals required to be subject to the rule. Mr. Estrada has determined that there will be no measurable effect on small businesses and micro-businesses. There is no anticipated difference in cost of compliance between small and large businesses.

The Board invites comments on the proposal from any member of the public. A written statement should be submitted to Marcelino A. Estrada, Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Bldg. A., Ste. 156, MC-230, Austin, Texas 78753. Comments may also be submitted electronically to tony.estrada@txls.texas.gov or faxed to (512) 239-5253.

The amendment is proposed under Texas Occupations Code, §1071.151, which authorizes the Board to adopt and enforce reasonable and necessary rules.

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

§663.19. *Survey Drawing/Written [.]Description/Report.*

(a) - (e) (No change.)

~~[(f)] A reference shall be cited on the drawing and prepared description, to the record instrument that defines the location of adjoining boundaries.]~~

(f) ~~[(g)]~~ If any report consists of more than one part, each part shall note the existence of the other part or parts.

(g) ~~[(h)]~~ If a land surveyor provides a written narrative in lieu of a drawing/sketch to report the results of a survey, the written narrative shall contain sufficient information to demonstrate the survey was conducted in compliance with the Act and rules of the Board

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 January 30, 2017.

TRD-201700420

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

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For further information, please call: (512) 239-5263



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 57. FISHERIES

The Texas Parks and Wildlife Department proposes amendments to §§57.117, 57.120, 57.252, 57.392, 57.395, 57.399, and 57.951, concerning Fisheries. The proposed amendments are a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires a state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The proposed amendment to §57.117, concerning Exotic Species Permit: Application Requirements, would alter subsection (a)(5) to waive the permit fee for persons removing prohibited nuisance aquatic vegetation in accordance with an approved treatment proposal. Because such activity is consistent with department goals, department-approved, and is not undertaken at department expense, the department believes that a fee waiver is appropriate.

The proposed amendment to §57.120, concerning Exotic Species Permit: Expiration and Renewal, would alter subsection (a) to clarify that permits allowing removal of prohibited plants from a public water body in accordance with an approved treatment proposal may share the same period of validity with the treatment proposal. The proposed amendment will increase efficiency and prevent confusion regarding the removal of exotic plants pursuant to approved treatment proposals.

The proposed amendment to §57.252, concerning General Provisions, would alter subsection (d) to provide that a period of permit validity other than 60 days may be specified in the terms and conditions of the permit, which is intended to enhance efficiency and compliance in instances in which repeated introductions are scheduled over a period of time longer than 60 days or when a project is delayed.

The proposed amendment to §57.392, concerning General Rules, would alter subsection (a) to eliminate the reference to a saltwater stamp. A valid recreational fishing license now includes a freshwater stamp, saltwater stamp, or both. The language proposed for elimination is an artifact and predates the implementation of the freshwater stamp.

The proposed amendment to §57.395, concerning Broodfish Permits; Fees, Terms of Issuance, would alter subsection (d) to eliminate the reference to the \$25 fee for a broodfish permit. The fees for such permits are established in §53.15(h)(3).

The proposed amendment to §57.399, concerning Permit Denial Review, would alter paragraph (3)(C) to afford additional latitude in the composition of panels that review agency decisions to deny issuance or renewal of permits. The current rules require the Deputy Executive Director for Natural Resources, the Director of the Coastal Fisheries Division, and the Deputy Director of the Coastal Fisheries Division to function as the review panel. In practice this is problematic, because such personnel are typically not in the same place at the same time very often, making the scheduling of review panels difficult. Therefore, the proposed amendment would require a review panel to be consist of three agency employees at the level of program director or above who have knowledge of the affected resources, to be appointed by the Executive Director or the Chief Operating Officer.

The proposed amendment to §57.951, concerning Definitions, would alter the definitions of "Agent" in paragraph (1) and "Applicant" in paragraph (2) to clarify that an "Applicant" includes the applicant's agent.

Ken Kurzawski, Regulations and Information Programs Director, Inland Fisheries Division, has determined that for each of the first five years that the rules as proposed are in effect, there will be fiscal implications to state or local governments as a result of administering or enforcing the proposed amendment to §57.117, consisting of approximately \$108 per year, based on the historical permit issuance to entities removing exotic species under a department-approved proposal. The department issues approximately four permits per year at \$27 per permit to entities removing exotic species from public water under a department approved proposal. There are no other fiscal implications to units of state or local governments as a result of the proposed rules.

Mr. Kurzawski also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be clearer, better organized, and more accurate regulations governing the processes and entities administered under the provisions of Chapter 57.

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

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that the rules will not directly affect small businesses and/or micro-businesses. Therefore, the department has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

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

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

Comments on the proposed rules may be submitted to Robert Macdonald, Regulations Coordinator, e-mail: robert.macdonald@tpwd.texas.gov. Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/.

SUBCHAPTER A. HARMFUL OR POTENTIALLY HARMFUL FISH, SHELLFISH, AND AQUATIC PLANTS

31 TAC §§57.117, §57.120

The amendments are proposed under the authority of Parks and Wildlife Code, §66.0072, which authorizes the commission to regulate by rule or permit the importation, possession, sale, and placement into the public water of this state exotic harmful or potentially harmful aquatic plants.

The proposed amendments affect Parks and Wildlife Code, Chapter 66.

§57.117. *Exotic Species Permit: Application Requirements.*

(a) To be considered for an exotic species permit, the applicant shall:

(1) - (4) (No change.)

(5) remit to the department all applicable fees except that fees shall be waived for:

(A) a public school meeting the conditions established in Parks and Wildlife Code, §66.007(c-1); or

(B) a person applying for a permit to physically remove prohibited plants from a public water body in accordance with an approved treatment proposal as established in §57.932(5) of this title (relating to State Aquatic Vegetation Plan).

(b) - (d) (No change.)

§57.120. *Exotic Species Permit: Expiration and Renewal.*

(a) An exotic species permit required by this subchapter [these rules] expires on December 31 of the year issued, except that a permit to physically remove prohibited plants from a public water body in accordance with an approved treatment proposal shall have the same period of validity as the treatment proposal, as defined in the guidance document required by §57.932 of this title (relating to State Aquatic Vegetation Plan).

(b) (No change.)

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

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Ann Bright

General Counsel

Texas Parks and Wildlife Department

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SUBCHAPTER C. INTRODUCTION OF FISH, SHELLFISH AND AQUATIC PLANTS

31 TAC §57.252

The amendment is proposed under the authority of Parks and Wildlife Code, §66.015, which requires the department to establish rules and regulations governing the issuance of permits under that section.

The proposed amendment affects Parks and Wildlife Code, Chapter 66.

§57.252. *General Provisions.*

(a) - (c) (No change.)

(d) Except as provided by the terms and conditions of the permit, a [A] one-time introduction permit, for releases other than those made into an offshore aquaculture facility, is valid for 60 days from the date of issuance or until the permitted introduction has been completed, whichever comes first.

(e) - (h) (No change.)

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

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SUBCHAPTER F. COLLECTION OF BROODFISH FROM TEXAS WATERS

31 TAC §§57.392, 57.395, 57.399

The amendments are proposed under the authority of Parks and Wildlife Code, §43.552, which requires the commission to prescribe by rule the requirements and conditions for issuance of a permit authorized under Parks and Wildlife Code, Chapter 43, Subchapter P.

The proposed amendments affect Parks and Wildlife Code, Chapter 43.

§57.392. *General Rules.*

(a) While collecting broodfish, an aquaculturist or designated agent must be in possession of a valid recreational fishing license in all public waters[; a saltwater fishing stamp in public salt water,] and broodfish permit issued by the department.

(b) (No change.)

§57.395. *Broodfish Permits; Fees, Terms of Issuance.*

(a) - (c) (No change.)

(d) The fee for broodfish permit application shall be as specified in Chapter 53 of this title (relating to Finance) [§25] and is not refundable if a permit is denied.

(e) - (g) (No change.)

§57.399. *Permit Denial Review.*

An applicant for a permit under this subchapter may request a review of a decision of the department to refuse issuance of a permit or permit renewal.

(1) - (2) (No change.)

(3) The request for review shall be presented to a review panel. The review panel shall be designated by the executive director or chief operating officer and shall consist of three agency employees at the level of program director or above who have knowledge of the affected resources or programs. [the following:]

[(A) the Deputy Executive Director for Natural Resources (or his or her designee);]

[(B) the Director of the Coastal Fisheries Division; and]

[(C) the Deputy Director of the Coastal Fisheries Division.]

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

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SUBCHAPTER M. ARTIFICIAL REEFS

31 TAC §57.951

The amendment is proposed under the authority of Parks and Wildlife Code, Chapter 89, which authorizes the commission to adopt rules and guidelines as necessary to implement the chapter.

The proposed amendments affect Parks and Wildlife Code, Chapter 89.

§57.951. Definitions.

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

(1) Agent--A person authorized by an applicant to act on behalf of the applicant. ~~[For the purposes of this subchapter, the use of the term "applicant" also includes the applicant's agent.]~~

(2) Applicant--Any person applying for a PRA. For the purposes of this subchapter, the use of the term "applicant" also includes the applicant's agent.

(3) - (9) (No change.)

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

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SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

The Texas Parks and Wildlife Department proposes amendments to §§57.971, 57.973, 57.981, and 57.992, concerning the Statewide Recreational and Commercial Fishing Proclamations.

The proposed amendment to §57.971, concerning Definitions, would add the Alabama bass to the list of game fishes and make a grammatical correction. In Texas, Alabama bass are known to exist only in Alan Henry Reservoir, and heretofore have been considered a subspecies of spotted bass. However, this fish is now considered a separate species called the Alabama bass. The proposed amendment also makes a nonsubstantive grammatical correction in paragraph (5).

The proposed amendment to §57.973, concerning Devices, Means, and Methods, would prohibit the use of juglines, throwlines, and trot lines on Kirby Lake in Taylor County. Kirby Reservoir is a 740-acre impoundment on Cedar Creek within the city limits of Abilene. In 1965, the City of Abilene passed an ordinance restricting fishing to pole-and-line only with a two-hook maximum per rod and no more than two rods per person. Although most anglers have observed these restrictions, the City of Abilene does not have the statutory authority to have promulgated the ordinance, and repealed it in December of 2016. Catfishes support the most popular fisheries at the reservoir. Allowing the use of juglines, throwlines, and trotlines in this small urban impoundment could negatively impact the quality of the catfish fishery by increasing take of quality-sized and larger catfishes as well as by increasing hooking mortality. Prohibiting the use of these gears at Kirby Reservoir will likely reduce the potential of hooking mortality and provide better protection for the high-quality catfish fishery.

The proposed amendment to §57.973 also would prohibit the use of commercial crab traps in waters north and west of Highway 146 where it crosses the Houston Ship Channel in Harris County. The public waters north of Highway 146 represent a very large geographical expanse and commercial crabbing in the area is not intense (because of a Department of State Health Services consumption advisory).

The proposed amendment to §57.981, concerning Bag, Possession, and Length Limit, would consist of several actions.

Department data indicate decreased angling success for smallmouth bass in the Devils River, which skirts the western edge of the Edwards Plateau. The average number of smallmouth bass caught per angler day in 2015 (6.8 fish) was 37% less than in previous years (10.8 fish). Outfitters, Devils River State Natural Area staff, and anglers have reported an increase in the harvest of black bass for consumption during float trips (i.e., shore meals). The current level of fishing pressure may be having a negative effect on the Devils River black bass populations, resulting in decreased in fishing quality. Therefore, the proposed amendment to §57.981 would restrict the harvest of black bass to catch-and-release only on the Devils River and its tributaries from the State Highway 163 bridge downstream to Big Satan Creek Canyon. The current harvest regulations impose an 18-inch minimum length limit and three-fish daily bag limit on smallmouth bass between the State Highway 163 bridge and Dolan Falls, with the remainder of the river under the statewide standard of a 14-inch minimum length limit and five-fish daily bag limit. The goal of the proposed amendment

is to maintain black bass abundance and angling success by protecting against overharvest. Catch-and-release angling is biologically consistent with the preservation-focused management model implemented on the Devils River.

The proposed amendment also would alter harvest regulations for largemouth bass and sunfish on Bedford Boys Ranch Lake in Tarrant County. Bedford Boys Ranch Lake is a 5.4-acre impoundment and thus automatically designated a Community Fishing Lake (CFL). The reservoir was recently drained and renovated, and habitat was installed to benefit fish population. Department staff are working with the City of Bedford to provide quality fishing opportunities in the local area. Overharvest of fish such as bass and sunfish is a common problem in small urban ponds and CFLs. Protecting these species from harvest will increase abundance and maintain catch rates for those species. Therefore, the proposed amendment would replace the current harvest regulations for largemouth bass (14-inch minimum length limit and five-fish daily bag) and sunfish (no minimum length limit or daily bag) and implement a catch-and-release-only regulation for largemouth bass and sunfish.

The proposed amendment to 57.981 would also make changes to harvest regulations where necessary to accommodate the nomenclature change for Alabama bass discussed earlier in the proposed amendment to §57.971.

The remainder of the proposed amendment to §57.981 and the proposed amendment to §57.992, concerning Bag, Possession, and Length Limits for commercial fishing, would alter bag and possession limits for great, scalloped, and smooth hammerhead sharks and black, gag, and Nassau grouper. The proposed amendment would prohibit the take of Nassau grouper, which were designated by the federal government as threatened on July 29, 2016 (81 FR 42268). The state cannot pre-empt or modify a federal designation of any species as threatened or endangered.

With respect to great, scalloped, and smooth hammerhead sharks and the two other species of grouper (black and gag), the proposed amendment would implement state regulations to be consistent with federal regulations regarding those species. Federal action in 2013 (81 FR 40318) altered the minimum length and possession limits for great, scalloped, and smooth hammerhead sharks in federal waters and federal action in April of 2016 (81 FR 24039) implemented new bag and possession limits for gag and black grouper in federal waters. The proposed amendment would alter the current size and possession limits for those species to be consistent with the federal regulations, which the department believes will reduce confusion and enhance compliance, administration, and enforcement.

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

Mr. Kurzawski also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be the dispensation of the agency's statutory duty to protect and conserve the fisheries resources of this state, the duty to equitably distribute opportunity for the enjoyment of those resources among the citizens, and the execution of the

commission's policy to maximize recreational opportunity within the precepts of sound biological management practices.

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

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

The department has determined that the rules will not directly affect small businesses and/or micro-businesses. Therefore, the department has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

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

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

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

Comments on the proposal may be submitted to Ken Kurzawski (Inland Fisheries) at (512) 389-4591, e-mail: ken.kurzawski@tpwd.texas.gov; Tiffany Hopper (Coastal Fisheries) at (512) 389-4560, e-mail: tiffany.hopper@tpwd.texas.gov; or Brandi Reeder (Law Enforcement) at (512) 389-4853, e-mail brandi.reeder@tpwd.texas.gov. Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comments/.

DIVISION 1. GENERAL PROVISIONS

31 TAC §57.971, §57.973

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess aquatic animal life in this state; the means, methods, and places in which it is lawful to take, or possess aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the aquatic animal life authorized to be taken or possessed; and the region, county, area, body of water, or portion of a county where aquatic animal life may be taken or possessed; and §67.004, which requires the commission to establish any limits on the taking, possession, propagation, transportation, importation, exportation, sale, or offering for

sale of nongame fish or wildlife that the department considers necessary to manage the species.

The proposed amendments affect Parks and Wildlife Code, Chapters 47, 61, and 67.

§57.971. *Definitions.*

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

(1) - (4) (No change.)

(5) Charter Vessel--A vessel less than 100 gross tons that meets the requirements of the U.S. Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a commercial permit is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than [~~then~~] three persons aboard, including operator and crew.

(6) - (14) (No change.)

(15) Fish--

(A) Game fish--Alabama bass, blue[~~Blue~~] catfish, blue marlin, broadbill swordfish, brown trout, channel catfish, cobia, crappie (black and white), flathead catfish, Guadalupe bass, king mackerel, largemouth bass, longbill spearfish, pickerel, red drum, rainbow trout, sailfish, sauger, sharks, smallmouth bass, snook, Spanish mackerel, spotted bass, spotted seatrout, striped bass, tarpon, tripletail, walleye, white bass, white marlin, yellow bass, and hybrids or subspecies of the species listed in this subparagraph.

(B) (No change.)

(16) - (48) (No change.)

§57.973. *Devices, Means and Methods.*

(a) - (f) (No change.)

(g) Device restrictions. Devices legally used for taking fresh or saltwater fish or shrimp may be used to take crab as authorized by this subchapter.

(1) - (2) (No change.)

(3) Crab trap. It is unlawful to:

(A) - (I) (No change.)

(J) fish a crab trap within 200 feet of a marked navigable channel in Aransas County; and in the water area of Aransas Bay within one-half mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine Mile Point, past the town of Rockport to a point at the east end of Talley Island including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula or possess, use or place:

(i) for recreational purposes, more than three crab traps in waters north and west of Highway 146 where it crosses the Houston Ship Channel in Harris County; or

(ii) for commercial purposes, a crab trap in waters north and west of Highway 146 where it crosses the Houston Ship Channel in Harris County.

(K) - (N) (No change.)

(4) - (8) (No change.)

(9) Jugline. For use in fresh water only. Non-game fish, channel catfish, blue catfish and flathead catfish may be taken with a jugline. It is unlawful to use a jugline:

(A) - (C) (No change.)

(D) in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, Gibbons Creek Reservoir in Grimes County, Kirby Lake in Taylor County, Lake Naconiche in Nacogdoches County, and Tankersley Reservoir in Titus County.

(10) - (20) (No change.)

(21) Throwline. For use in fresh water only.

(A) (No change.)

(B) It is unlawful to use a throwline in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, Gibbons Creek Reservoir in Grimes County, Kirby Lake in Taylor County, Lake Naconiche in Nacogdoches County, and Tankersley Reservoir in Titus County.

(C) (No change.)

(22) Trotline.

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

(C) In fresh water, it is unlawful to use a trotline:

(i) (No change.)

(ii) in Gibbons Creek Reservoir in Grimes County, Lake Bastrop in Bastrop County, Lakes Coffee Mill and Davy Crockett in Fannin County, Fayette County Reservoir in Fayette County, Pinkston Reservoir in Shelby County, Lake Bryan in Brazos County, Bellwood Lake in Smith County, Dixieland Reservoir in Cameron County, Boerne City Park Lake in Kendall County, Kirby Lake in Taylor County, Lake Naconiche in Nacogdoches County, and Tankersley Reservoir in Titus County.

(D) (No change.)

(23) (No change.)

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

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DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

31 TAC §57.981

The amendment is proposed under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to

regulate the periods of time when it is lawful to take or possess aquatic animal life in this state; the means, methods, and places in which it is lawful to take or possess aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the aquatic animal life authorized to be taken or possessed; and the region, county, area, body of water, or portion of a county where aquatic animal life may be taken or possessed.

The proposed amendment affects Parks and Wildlife Code, Chapter 61.

§57.981. *Bag, Possession, and Length Limits.*

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

(c) There are no bag, possession, or length limits on game or non-game fish, except as provided in this subchapter.

(1) - (4) (No change.)

(5) Except as provided in subsection (d) of this section, the statewide daily bag and length limits shall be as follows.

(A) (No change.)

(B) Bass:

(i) The daily bag limit for largemouth, smallmouth, spotted, Alabama, and Guadalupe is 5, in any combination.

(ii) Alabama, Guadalupe, and spotted.

(I) - (III) (No change.)

(iii) - (v) (No change.)

(C) - (I) (No change.)

(J) Grouper.

(i) Black.

(I) Daily bag limit: 4.

(II) Minimum length limit: 24 inches.

(III) No maximum length limit.

(ii) [(~~h~~)] Gag.

(I) Daily bag limit: 2.

(II) Minimum length limit: 24 [22] inches.

(III) No maximum length limit.

(iii) [(~~h~~)] Goliath. The take of Goliath grouper is prohibited.

(iv) Nassau. The take of Nassau grouper is prohibited.

(K) - (O) (No change.)

(P) Shark: all species (including hybrids and subspecies).

(i) all species other than [~~Atlantic sharpnose, blacktip, and bonnethead and~~] the species listed in clauses (ii) - (iv) [item (ii)(IV)] of this subparagraph:

(I) - (III) (No change.)

(ii) Atlantic sharpnose, blacktip, and bonnethead:

(I) - (III) (No change.)

(iii) great, scalloped, and smooth hammerhead:

(I) Daily bag limit: 1.

(II) Minimum length limit: 99 inches.

(III) No maximum length limit.

(iv) [(IV)] The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time:

(I) [(~~a~~)] Atlantic angel;

(II) [(~~b~~)] Basking;

(III) [(~~c~~)] Bigeye sand tiger;

(IV) [(~~d~~)] Bigeye sixgill;

(V) [(~~e~~)] Bigeye thresher;

(VI) [(~~f~~)] Bignose;

(VII) [(~~g~~)] Caribbean reef;

(VIII) [(~~h~~)] Caribbean sharpnose;

(IX) [(~~i~~)] Dusky;

(X) [(~~j~~)] Galapagos;

(XI) [(~~k~~)] Longfin mako;

(XII) [(~~l~~)] Narrowtooth;

(XIII) [(~~m~~)] Night;

(XIV) [(~~n~~)] Sandbar;

(XV) [(~~o~~)] Sand tiger;

(XVI) [(~~p~~)] Sevengill;

(XVII) [(~~q~~)] Silky;

(XVIII) [(~~r~~)] Sixgill;

(XIX) [(~~s~~)] Smalltail;

(XX) [(~~t~~)] Whale; and

(XXI) [(~~u~~)] White.

(Q) - (X) (No change.)

(d) Exceptions to statewide daily bag, possession, and length limits shall be as follows:

(1) Freshwater species.

(A) Bass: largemouth, smallmouth, spotted, and Guadalupe (including their hybrids and subspecies). Devils River (Val Verde County) from State Highway 163 bridge crossing (Bakers Crossing) to the confluence with Big Satan Creek including all tributaries within these boundaries and all waters in the Lost Maples State Natural Area (Bandera County). [~~In all waters in the Lost Maples State Natural Area (Bandera County):~~]

(i) Daily bag limit: 0.

(ii) No minimum length limit.

(iii) Catch [All angling is limited to catch] and release only.

(B) Bass: largemouth and Alabama [~~spotted~~].

(i) Lake Alan Henry (Garza County).

(I) Daily bag limit: 5 largemouth or Alabama [~~spotted~~] bass in any combination.

(II) - (III) (No change.)

(ii) - (iv) (No change.)

(C) Bass: largemouth.

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

(v) Bedford Boys Ranch Lake (Tarrant County), Buck Lake (Kimble County), Lake Kyle (Hays County), and Nelson Park Lake (Taylor County).

(I) - (III) (No change.)

(vi) - (xi) (No change.)

~~[(D) Bass: smallmouth.]~~

~~[(i) Devil's River (Val Verde County) from State Highway 163 bridge crossing near Juno downstream to Dolan Falls.]~~

~~[(ii) Daily bag limit: 3.]~~

~~[(iii) Minimum length limit: 18 inches.]~~

(D) ~~[(E)]~~ Bass: striped and white bass their hybrids and subspecies.

(i) Sabine River (Newton and Orange counties) from Toledo Bend dam to I.H. 10 bridge and Toledo Bend Reservoir (Newton, Sabine, and Shelby counties).

(I) Daily bag limit: 5.

(II) Minimum length limit: No limit.

(III) No more than 2 striped bass 30 inches or greater in length may be retained each day.

(ii) Lake Texoma (Cooke and Grayson counties).

(I) Daily bag limit: 10 (in any combination).

(II) Minimum length limit: No limit.

(III) No more than 2 striped or hybrid striped bass 20 inches or greater in length may be retained each day. Striped or hybrid striped bass caught and placed on a stringer in a live well or any other holding device become part of the daily bag limit and may not be released. Possession limit is 20.

(iii) Red River (Grayson County) from Denison Dam downstream to and including Shawnee Creek (Grayson County).

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: No limit.

(III) Striped bass caught and placed on a stringer in a live well or any other holding device become part of the daily bag limit and may not be released.

(iv) Trinity River (Polk and San Jacinto counties) from the Lake Livingston dam downstream to the F.M. 3278 bridge.

(I) Daily bag limit: 2 (in any combination).

(II) Minimum length limit: 18 inches.

(E) ~~[(F)]~~ Bass: white. Lakes Caddo (Harrison and Marion counties), Texoma (Cooke and Grayson counties), and Toledo Bend (Newton Sabine and Shelby counties) and Sabine River (Newton and Orange counties) from Toledo Bend dam to I.H. 10 bridge.

(i) Daily bag limit: 25.

(ii) Minimum length limit: No limit.

(F) ~~[(G)]~~ Carp: common. Lady Bird Lake (Travis County).

(i) Daily bag limit: No limit.

(ii) Minimum length limit: No limit.

(iii) It is unlawful to retain more than one common carp of 33 inches or longer per day.

(G) ~~[(H)]~~ Catfish: blue. Lakes Lewisville (Denton County), Richland-Chambers (Freestone and Navarro counties), and Waco (McLennan County).

(i) Daily bag limit: 25 (in any combination with channel catfish).

(ii) Minimum length limit: 30-45-inch slot limit.

(iii) It is unlawful to retain blue catfish between 30 and 45 inches in length. No more than one blue catfish 45 inches or greater in length may be retained each day.

(H) ~~[(I)]~~ Catfish: channel and blue catfish, their hybrids and subspecies.

(i) Lake Kyle (Hays County).

(I) Daily bag limit: 0.

(II) Minimum length limit: No limit.

(III) Catch and release and only.

(ii) Lake Livingston (Polk, San Jacinto, Trinity, and Walker counties).

(I) Daily bag limit: 50 (in any combination).

(II) Minimum length limit: 12 inches.

(iii) Trinity River (Polk and San Jacinto counties) from the Lake Livingston dam downstream to the F.M. 3278 bridge.

(I) Daily bag limit: 10 (in any combination).

(II) Minimum length limit: 12 inches.

(III) No more than 2 channel or blue catfish 24 inches or greater in length may be retained each day.

(iv) Lakes Kirby (Taylor County) and Palestine (Cherokee, Anderson, Henderson, and Smith counties).

(I) Daily bag limit: 50 (in any combination).

(II) Minimum length limit: No limit.

(III) No more than five catfish 20 inches or greater in length may be retained each day.

(IV) Possession limit is 50.

(v) Lakes Caddo (Harrison and Marion counties) and Toledo Bend (Newton Sabine and Shelby counties) and the Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge.

(I) Daily bag limit: 50 (in any combination)

(II) Minimum length limit: No limit.

(III) No more than five catfish 30 inches or greater in length may be retained each day.

(IV) Possession limit is 50.

(vi) Lake Texoma (Cooke and Grayson counties).

(I) Daily bag limit: 15 (in any combination).

(II) Minimum length limit: 12 inches.

(III) No more than one blue catfish 30 inches or greater in length may be retained each day.

(vii) Canyon Lake Project #6 (Lubbock County), North Concho River (Tom Green County) from O.C. Fisher Dam to Bell Street Dam, and South Concho River (Tom Green County) from Lone Wolf Dam to Bell Street Dam.

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: No limit.

(viii) Community fishing lakes.

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: No limit.

(ix) Bellwood (Smith County), Dixieland (Cameron County), and Tankersley (Titus County).

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: 12 inches.

(x) Lake Tawakoni (Hunt, Rains, and Van Zandt counties).

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: No limit.

(III) No more than seven blue or channel catfish 20 inches or greater may be retained each day, and of these, no more than two can be 30 inches or greater in length.

(I) [~~(J)~~] Catfish: flathead.

(i) Lake Texoma (Cooke and Grayson counties) and the Red River (Grayson County) from Denison Dam to and including Shawnee Creek (Grayson County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 20 inches.

(ii) Lakes Caddo (Harrison and Marion counties) and Toledo Bend (Newton, Sabine, and Shelby) and the Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge.

(I) Daily bag limit: 10.

(II) Minimum length limit: 18 inches.

(III) Possession limit: 10.

(J) [~~(K)~~] Crappie: black and white crappie their hybrids and subspecies.

(i) Caddo Lake (Harrison and Marion counties), Toledo Bend Reservoir (Newton Sabine and Shelby counties), and the Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge.

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: No limit.

(ii) Lake Fork (Wood, Rains, and Hopkins counties) and Lake O' The Pines (Camp, Harrison, Marion, Morris, and Upshur counties).

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: 10 inches.

(III) From December 1 through the last day in February there is no minimum length limit. All crappie caught during this period must be retained.

(iii) Lake Texoma (Cooke and Grayson counties).

(I) Daily bag limit: 37 (in any combination).

(II) Minimum length limit: 10 inches.

(III) Possession limit is 50.

(K) [~~(L)~~] Drum, red. Lakes Braunig and Calaveras (Bexar County), Coletto Creek Reservoir (Goliad and Victoria counties), and Fairfield (Freestone County).

(i) Daily bag limit: 3.

(ii) Minimum length limit: 20.

(iii) No maximum length limit.

(L) [~~(M)~~] Gar, alligator. Falcon International Reservoir (Starr and Zapata counties).

(i) Daily bag limit: 5.

(ii) No minimum length limit.

(iii) No maximum length limit.

(iv) The provisions of this subparagraph expire on September 1, 2020.

(M) [~~(N)~~] Shad gizzard and threadfin. Trinity River below Lake Livingston (Polk and San Jacinto counties).

(i) Daily bag limit: 500 (in any combination).

(ii) No minimum length limit.

(iii) Possession limit: 1000 (in any combination).

(N) [~~(O)~~] Sunfish: all species. Lake Kyle (Hays County).

(i) Daily bag limit: 0.

(ii) Minimum length limit: No limit.

(iii) Catch and release and only.

(O) [~~(P)~~] Trout: rainbow and brown trout (including hybrids and subspecies).

(i) Guadalupe River (Comal County) from the second bridge crossing on the River Road upstream to the easternmost bridge crossing on F.M. 306.

(I) Daily bag limit: 1.

(II) Minimum length limit: 18 inches.

(ii) Guadalupe River (Comal County) from the easternmost bridge crossing on F.M. 306 upstream to 800 yards below the Canyon Lake dam.

(I) Daily bag limit: 5.

(II) Minimum length limit: 12 - 18 inch slot limit.

(III) It is unlawful to retain trout between 12 and 18 inches in length. No more than one trout 18 inches or greater in length may be retained each day.

(P) [~~(Q)~~] Walleye. Lake Texoma (Cooke and Grayson counties).

(i) Daily bag limit: 5.

(ii) Minimum length limit: 18.

(2) Saltwater species. There are no exceptions to the provisions established in subsection (c)(5) of this section.

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

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Ann Bright

General Counsel

Texas Parks and Wildlife Department

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

DIVISION 3. STATEWIDE COMMERCIAL FISHING PROCLAMATION

31 TAC §57.992

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

The proposed amendment affects Parks and Wildlife Code, Chapter 61.

§57.992. *Bag, Possession, and Length Limits.*

(a) (No change.)

(b) There are no bag, possession, or length limits on game fish, non-game fish, or shellfish, except as otherwise provided in this subchapter.

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

(4) The statewide daily bag and length limits for commercial fishing shall be as follows.

(A) - (F) (No change.)

(G) Grouper.

(i) Black.

(I) Daily bag limit: 4.

(II) Minimum length limit: 24 inches.

(III) No maximum length limit.

(ii) [†] Gag.

(I) Daily bag limit: 2.

(II) Minimum length limit: 24 [22] inches.

(III) No maximum length limit.

(iii) [††] Goliath. The take of Goliath grouper is prohibited.

(iv) Nassau. The take of Nassau grouper is prohibited.

(H) - (I) (No change.)

(J) Shark: all species (including hybrids and subspecies).

(i) all species other than [Atlantic sharpnose, blacktip, and bonnethead and] the species listed in items (ii) - (iv) [item (ii)(IV)] of this subparagraph:

(I) - (III) (No change.)

(ii) Atlantic sharpnose, blacktip, and bonnethead:

(I) - (III) (No change.)

(iii) great, scalloped, and smooth hammerhead:

(I) Daily bag limit: 1.

(II) Minimum length limit: 99 inches.

(III) No maximum length limit.

(iv) [(IV)] The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time:

(I) [(-a-)] Atlantic angel;

(II) [(-b-)] Basking;

(III) [(-c-)] Bigeye sand tiger;

(IV) [(-d-)] Bigeye sixgill;

(V) [(-e-)] Bigeye thresher;

(VI) [(-f-)] Bignose;

(VII) [(-g-)] Caribbean reef;

(VIII) [(-h-)] Caribbean sharpnose;

(IX) [(-i-)] Dusky;

(X) [(-j-)] Galapagos;

(XI) [(-k-)] Longfin mako;

(XII) [(-l-)] Narrowtooth;

(XIII) [(-m-)] Night;

(XIV) [(-n-)] Sandbar;

(XV) [(-o-)] Sand tiger;

(XVI) [(-p-)] Sevengill;

(XVII) [(-q -)] Silky;

(XVIII) [(-r-)] Sixgill;

(XIX) [(-s-)] Smalltail;

(XX) [(-t-)] Whale; and

(XXI) [(-u-)] White.

(K) - (N) (No change.)

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

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Ann Bright
General Counsel
Texas Parks and Wildlife Department
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For further information, please call: (512) 389-4775



CHAPTER 58. OYSTERS, SHRIMP, AND FINFISH

SUBCHAPTER B. STATEWIDE SHRIMP FISHERY PROCLAMATION

31 TAC §58.165

The Texas Parks and Wildlife Department proposes an amendment to §58.165, concerning Noncommercial (Recreational) Shrimping. The proposed amendment is a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires a state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The proposed amendment would eliminate subsection (c)(3)(D), which would provide for consistency with commercial shrimping regulations, by eliminating the count and size requirements during the Fall season. The proposed amendment also would alter subsection (d)(3) to provide consistency with commercial shrimping regulations by clarifying that legal shrimping hours are 30 minutes before sunrise to 30 minutes after sunset.

Ann Bright, General Counsel, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the proposed amendment.

Ms. Bright also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be clearer, better organized, and more accurate regulations governing the processes and entities administered under the provisions of Chapter 58.

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

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that the rule will not directly affect small businesses and/or micro-businesses. Therefore, the department has

not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

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

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

Comments on the proposed rule may be submitted to Robert Macdonald, Regulations Coordinator, e-mail: robert.macdonald@tpwd.texas.gov. Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/.

The amendment is proposed under the authority of Parks and Wildlife Code. The amendments are adopted under Parks and Wildlife Code, Chapter 77, which provides the Commission with authority to regulate the catching, possession, purchase, and sale of shrimp.

The proposed amendments affect Parks and Wildlife Code, Chapter 77.

§58.165. *Non-commercial (Recreational) Shrimping.*

- (a) - (b) (No change.)
- (c) Shrimping for personal use--Inside waters.

(1) - (2) (No change.)

(3) Fall open season.

(A) - (C) (No change.)

~~[(D) Size limits:]~~

~~[(i) From August 15 through October 31, the legal shrimp count is 50 heads on per pound.]~~

~~[(ii) From November 1 through December 15 there are no count or size requirements.]~~

- (d) Shrimping for bait--Inside waters.

(1) - (2) (No change.)

(3) Legal shrimping hours are 30 minutes before sunrise to 30 minutes after sunset.

~~[(A) From August 15 through March 31 legal shrimping hours are 30 minutes before sunrise to 30 minutes after sunset.]~~

~~[(B) From April 1 through August 14 legal shrimping hours are 30 minutes before sunrise to 30 minutes after sunset.]~~

(4) - (5) (No change.)

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

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TRD-201700496

Ann Bright
General Counsel

Texas Parks and Wildlife Department

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

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CHAPTER 65. WILDLIFE

SUBCHAPTER A. STATEWIDE HUNTING PROCLAMATION

The Texas Parks and Wildlife Department (the department, or TPWD) proposes the repeal of §§65.26, 65.28, 65.34, and 65.42; amendments to §§65.7, 65.9, 65.10, 65.24, 65.25, and 65.33; and new §65.42, concerning the Statewide Hunting Proclamation. The proposed repeals, amendments, and new section are a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires a state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The proposed repeal of §65.26, concerning Managed Lands Deer Permits (MLDP)—White-tailed Deer; §65.28, concerning Landowner Assisted Management Permit System (LAMPS); and §65.34, concerning Managed Lands Deer Permits (MLDP)—Mule Deer and the proposed amendments to §65.7, concerning Harvest Log; §65.9, concerning Open Seasons: General Rules; §65.10, concerning Possession of Wildlife Resources; §65.24, concerning Permits; §65.25, concerning Wildlife Management Plan (WMP); and §65.33, concerning Mandatory Check Stations, are necessary to accommodate the provisions of §65.29, concerning Managed Lands Deer (MLD) Programs. In 2014, the department adopted new §65.29 (41 TexReg 806), concerning Managed Lands Deer Program (MLDP) to replace the current MLDP programs for white-tailed and mule deer and the Landowner Assisted Management Program (LAMPS) for white-tailed deer. Those rules were adopted with an effective date that would allow program implementation beginning with the 2017-2018 deer seasons. In order to prevent regulatory conflict, references to and provisions of the programs being replaced, therefore, need to be removed or altered.

The proposed repeal of §65.42, concerning Deer, and proposed new §65.42, concerning Deer, would remove references to deer permit programs that no longer exist and reorganize the remaining provisions of the current rule to make it more concise and user-friendly. As discussed earlier in this preamble, a single MLD program will take effect for the 2017-2018 hunting seasons; therefore, references and provisions regarding the previous permit programs must be removed from the current rule or altered to conform to the new rule. In addition, the proposed rule also rewords the roadway definition that delineates the north and south deer zones in Val Verde County in the interests of clarity. Finally, proposed new §65.42 would nonsubstantively reorganize and restructure existing provisions to eliminate repetition and categorize regulatory provisions in a more consistent fashion.

The proposed repeals, amendments, and new section are a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires a state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

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

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

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

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

The department has determined that the proposed rule will not directly affect small businesses or micro-businesses. Therefore, the department has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

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

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

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

Comments on the proposed rules may be submitted by phone or e-mail to Robert Macdonald (512) 389-4775; e-mail: robert.macdonald@tpwd.state.tx.us, or Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Comments also may be submitted via the department's website at http://www.tpwd.state.tx.us/business/feedback/public_comment/.

DIVISION 1. GENERAL PROVISIONS

31 TAC §§65.7, 65.9, 65.10, 65.24, 65.25, 65.33

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 42, which allows the department to issue tags for deer during each year or season; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity,

age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The proposed amendments affect Parks and Wildlife Code, Chapters 42 and 61.

§65.7. Harvest Log.

(a) The provisions of this subsection apply only to a person in possession of a license purchased through an automated point-of-sale system.

(1) A person who kills a white-tailed deer shall complete, in ink, the harvest log on the back of the hunting license immediately upon kill.

(2) Completion of the harvest log is not required for deer taken:

(A) under the provisions of §65.29 of this title (relating to Managed Lands Deer Program) [§65.26 of this title (relating to Managed Lands Deer (MLD) Permits)];

{(B) under the provisions of §65.28 of this title (relating to Landowner Assisted Management Permits (LAMPS));}

(B) [(C)] by special permit under the provisions of Subchapter H of this chapter (relating to Public Lands Proclamation) on department lands;

(C) [(D)] on department-leased lands under the provisions of Parks and Wildlife Code, §11.0272; or

(D) [(E)] by special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(b) (No change.)

§65.9. Open Seasons: General Rules.

(a) (No change.)

(b) No antlerless deer permit is required to take an antlerless white-tailed deer during the archery-only open season, except on lands enrolled in the Managed Lands Deer Program [for which Managed Lands Deer permits have been issued].

(c) (No change.)

§65.10. Possession of Wildlife Resources.

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

(c) A person who lawfully takes a deer is exempt from the tagging requirements of Parks and Wildlife Code, §42.018 if the deer is taken:

(1) under the provisions of §65.29 of this title (relating to Managed Lands Deer Program) [§65.26 of this title (relating to Managed Lands Deer Permits (MLDP)—White-tailed Deer)];

{(2) under the provisions of §65.34 of this title (relating to Managed Lands Deer Permits (MLDP)—Mule Deer);}

{(3) under the provisions of §65.28 of this title (relating to Landowner Assisted Management Permits (LAMPS));}

(2) [(4)] under an antlerless mule deer permit issued under §65.32 of this title (relating to Antlerless Mule Deer Permits);

(3) [(5)] by special permit under the provisions of Subchapter H of this chapter (relating to Public Lands Proclamation);

(4) [(6)] on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271; or

(5) [(7)] by special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(d) - (g) (No change.)

(h) No additional proof of sex is required for a deer that is lawfully tagged in accordance with:

(1) the provisions of §65.29 [§65.26] of this title;

{(2) the provisions of §65.34 of this title;}

{(3) the provisions of §65.28 of this title;}

(2) [(4)] the provisions of §65.32 of this title; or

(3) [(5)] on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271.

(i) - (l) (No change.)

§65.24. Permits and Tags.

(a) Except as specifically provided in this subchapter, permits and tags issued under the provisions of this subchapter [Permits] shall be issued only to the landowner.

(b) Except as provided in §65.29 of this title (relating to Managed Lands Deer Program or §65.30 of this title (relating to Pronghorn Antelope Permits) [§65.26 of this title (relating to Managed Lands Deer Permits (MLDP)—White-tailed Deer and §65.34 of this title (relating to Managed Lands Deer Permits (MLDP)—Mule Deer)], no person may hunt white-tailed deer, mule deer, desert bighorn sheep, or antelope when a permit or tag is [permits are] required unless that person has received from the landowner and has in possession a valid permit or tag issued by the department.

(c) When a permit or tag is [permits are] required to hunt or possess the wildlife resources listed in subsection (b) of this section, it is unlawful to:

(1) use a permit or tag more than once;

(2) use a permit or tag on a tract of land other than the tract for which the permit or tag was issued;

(3) falsify or fail to fully complete any information required by a permit or tag application; or

(4) possess the wildlife resource without attaching a valid, properly executed permit or tag, except as may be otherwise provided in this subchapter [§65.26 and §65.34 of this title], which shall remain attached until the wildlife resource reaches its final destination.

(d) (No change.)

{(e) An applicant for a permit issued under §65.26 of this title or §65.34 of this title may request a review of a decision by the department to deny issuance of those permits;}

{(1) An applicant seeking review of a decision of the department under this subsection shall contact the department within ten working days of being notified by the department of permit denial;}

{(2) The department shall conduct the review and notify the applicant of the results within ten working days of receiving a request for a review;}

{(3) The request for review shall be presented to a review panel. The review panel shall consist of the following;}

{(A) the Director of the Wildlife Division;}

{(B) the Regional Director with jurisdiction;}

{(C) the Big Game Program Director; and}

{(D) the White-tailed Deer or Mule Deer program leader, as appropriate.}

{(4) The decision of the review panel is final.}

{(5) The department shall report on an annual basis to the White-tailed Deer Advisory Committee the number and disposition of all reviews under this subsection that involve white-tailed deer.}

§65.25. *Wildlife Management Plan (WMP).*

(a) Deer.

(1) An approved WMP, specifying a harvest quota for antlerless deer or both buck and antlerless deer, is required for participation in the Conservation Option of the Managed Lands Deer Program under the provisions of §65.29 of this title (relating to Managed Lands Deer Program [the issuance of Managed Lands Deer Permits].

{(2) MLD permit issuance shall be determined by the WMP as follows:}

{(A) Level 1 MLD permits shall be issued to a landowner whose WMP includes current deer population data.}

{(B) Level 2 MLD permits shall be issued to a landowner whose WMP includes:}

{(i) deer population data for both the current year and the immediately preceding year;}

{(ii) deer harvest data from the immediately preceding year; and }

{(iii) at least two recommended habitat management practices.}

{(C) Level 3 MLD permits shall be issued to a landowner whose WMP includes:}

{(i) deer population data for the current year and the immediately preceding two years;}

{(ii) deer harvest data from the immediately preceding two years; and}

{(iii) at least four recommended habitat management practices.}

(2) [(3)] A WMP is not valid unless it is:

(A) consistent with Parks and Wildlife Code, §61.053 and §61.056; and

(B) signed by a Wildlife Division biologist or technician. A WMP is valid for one year following the date of such signature.

(b) (No change.)

§65.33. *Mandatory Check Stations.*

(a) (No change.)

(b) Except as required under §65.40 of this title (relating to Pronghorn Antelope: Open Seasons and Bag Limits) or Subchapter B of this chapter, the [The] entire wildlife resource, with head and hide/plumage attached, except that internal and sexual organs may be removed (field-dressed), of any designated wildlife resource taken in a county in which mandatory check stations have been established must be presented:

(1) - (2) (No change.)

(c) - (d) (No change.)

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

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Ann Bright

General Counsel

Texas Parks and Wildlife Department

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



31 TAC §§65.26, 65.28, 65.34

The repeals are proposed under the authority of Parks and Wildlife Code, Chapter 42, which allows the department to issue tags for deer during each year or season; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The proposed repeals affect Parks and Wildlife Code, Chapters 42 and 61.

§65.26. *Managed Lands Deer Permits (MLDP)--White-tailed Deer.*

§65.28. *Landowner Assisted Management Permit System (LAMPS).*

§65.34. *Managed Lands Deer Permits (MLDP)--Mule Deer.*

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

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DIVISION 2. OPEN SEASONS AND BAG LIMITS

31 TAC §65.42

The repeal is proposed under the authority of Parks and Wildlife Code, Chapter 42, which allows the department to issue tags for deer during each year or season; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful

to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The proposed repeal affects Parks and Wildlife Code, Chapters 42 and 61.

§65.42. Deer.

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

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31 TAC §65.42

The new section is proposed under the authority of Parks and Wildlife Code, Chapter 42, which allows the department to issue tags for deer during each year or season; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The proposed new section affects Parks and Wildlife Code, Chapters 42 and 61.

§65.42. Deer.

(a) General.

(1) No person may exceed the applicable county bag limit or the annual bag limit of five white-tailed deer (no more than three bucks) and two mule deer (no more than one buck), except as provided by:

(A) §65.29 of this title (relating to Managed Lands Deer Program);

(B) use of an antlerless mule deer permit issued under §65.32 of this title (relating to Antlerless Mule Deer Permits);

(C) use of a special permit under the provisions of Subchapter H of this chapter (relating to Public Lands Proclamation); or

(D) use of special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(2) During an archery-only open season, deer may be taken only by the means described in §65.11(2) and (3) of this title (relating to Lawful Means).

(3) The issuance and use of MLDP tags is prescribed by §65.29 of this title.

(b) White-tailed deer. The open seasons and bag limits for white-tailed deer shall be as follows.

(1) South Zone. The general open season for the counties listed in this subparagraph is from the first Saturday in November through the third Sunday in January.

(A) In Aransas, Bee, Brooks, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney (south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (south of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), Webb, Willacy, Zapata, and Zavala counties, there is a general open season. The bag limit is five deer, no more than three bucks.

(B) In Atascosa County there is a general open season.

(i) The bag limit is five deer, no more than two bucks; and

(ii) antler restrictions apply.

(2) North Zone. The general open season for the counties listed in this subparagraph is from the first Saturday in November through the first Sunday in January.

(A) In Bandera, Baylor, Bexar, Blanco, Burnet, Callahan, Coke, Coleman, Comal (west of Interstate 35), Concho, Crockett, Edwards, Gillespie, Glasscock, Haskell, Hays (west of Interstate 35), Howard, Irion, Jones, Kendall, Kerr, Kimble, Kinney (north of U.S. Highway 90), Knox, Llano, Mason, McCulloch, Medina (north of U.S. Highway 90), Menard, Mitchell, Nolan, Pecos, Real, Reagan, Runnels, San Saba, Schleicher, Shackelford, Sterling, Sutton, Taylor, Terrell, Throckmorton, Tom Green, Travis (west of Interstate 35), Upton, Uvalde (north of U.S. Highway 90), Val Verde (north of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), and Wilbarger counties, the bag limit is five deer, no more than two bucks.

(B) In Archer, Bell (west of IH 35), Bosque, Brown, Clay, Coryell, Hamilton, Hill, Jack, Lampasas, McLennan, Mills, Palo Pinto, Somervell, Stephens, Wichita, Williamson (west of IH 35) and Young counties:

(i) the bag limit is five deer, no more than two bucks; and

(ii) the antler restrictions described in paragraph (3) of this subsection apply.

(C) In Armstrong, Borden, Briscoe, Carson, Childress, Collingsworth, Cottle, Crosby, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hemphill, Hutchinson, Kent, King, Lipscomb, Motley, Ochiltree, Roberts, Scurry, Stonewall, and Wheeler counties, the bag limit is five deer, no more than two bucks.

(D) In Brewster, Culberson, Jeff Davis, Presidio, and Reeves counties, the bag limit is four deer, no more than two bucks

(E) In Comanche, Cooke, Denton, Eastland, Erath, Hood, Johnson, Montague, Parker, Tarrant, and Wise counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) on USFS, Corps of Engineers, and river authority lands, the take of antlerless deer shall be by MLDP tag only, except on USFS lands in Montague and Wise counties, where antlerless deer may be taken without MLDP tags from Thanksgiving Day through the Sunday immediately following Thanksgiving Day. On all other tracts of land, no MLDP tag is required to hunt antlerless deer unless MLDP antlerless tags have been issued for the tract of land.

(F) In Angelina, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Goliad (south of U.S. Highway 59), Hardin, Harris, Houston, Jackson (south of U.S. Highway 59), Jasper, Jefferson, Liberty, Matagorda, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, Victoria (south of U.S. Highway 59), Walker, and Wharton (south of U.S. Highway 59) counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) antlerless deer may be taken without MLDP tags from opening day through the Sunday immediately following Thanksgiving Day. From the Monday immediately following Thanksgiving Day until the end of the season, antlerless deer may be taken by MLDP tag only.

(G) In Anderson, Bowie, Brazos, Camp, Cass, Gregg, Grimes, Harrison, Henderson, Lamar, Leon, Madison, Marion, Morris, Nacogdoches, Panola, Red River, Robertson, Rusk, Sabine, San Augustine, Shelby, and Upshur counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply.

(iii) on USFS, Corps of Engineers, and river authority lands the take of antlerless deer shall be by MLDP tag only; and

(iv) on all other tracts of land, antlerless deer may be taken without MLDP tags during the first 16 days of the season. After the first 16 days of the season, antlerless deer may be taken by MLDP tag only.

(H) In Bell (East of IH 35), Bureson, Delta, Ellis, Falls, Fannin, Franklin, Freestone, Hopkins, Hunt, Kauffman, Limestone, Milam, Navarro Rains, Smith, Titus, Van Zandt, Williamson (East of IH 35), and Wood counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) on USFS, Corps of Engineers, and river authority lands, the take of antlerless deer shall be by MLDP tag only, except in Fannin County; and

(iv) on all other tracts of land, antlerless deer may be taken without MLDP tag from Thanksgiving Day through the Sunday immediately following Thanksgiving Day. At all other times, antlerless deer may be taken by MLDP tag only.

(I) In Collin, Dallas, Grayson, and Rockwall counties there is a general open season:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) lawful means are restricted to lawful archery equipment and crossbows only, including properties for which MLDP tags have been issued.

(J) In Austin, Bastrop, Caldwell, Colorado, Comal (east of IH 35), De Witt, Fayette, Goliad (north of U.S. Highway 59), Gonzales, Guadalupe, Hays (east of IH 35), Jackson (north of U.S. Highway 59), Karnes, Lavaca, Lee, Travis (east of IH 35), Victoria (north of U.S. Highway 59), Waller, Washington, Wharton (north of U.S. Highway 59), and Wilson counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) antlerless deer may be taken by MLDP tag only.

(K) In Andrews, Bailey Castro, Cochran, Dallam, Dawson, Deaf Smith, Gaines, Hale, Hansford, Hartley, Hockley, Lamb, Lubbock, Lynn, Martin, Moore, Oldham, Parmer, Potter, Randall, Sherman, Swisher, Terry, and Yoakum counties, the bag limit is three deer, no more than one buck and no more than two antlerless.

(L) In Crane, Ector, Loving, Midland, Ward, and Winkler counties:

(i) the bag limit is three deer, no more than one buck and no more than two antlerless; and

(ii) antlerless deer may be taken by MLDP tag only.

(M) In all other counties, there is no general open season.

(3) Antler Restrictions. In any county for which antler restrictions are imposed under the provisions of this subsection:

(A) a legal buck is a buck deer with at least one unbranched antler or an inside spread of 13 inches or greater; and

(B) no person may take more than one buck with an inside spread of 13 inches or greater.

(4) Special Late General Seasons.

(A) There is a special late general season during which harvest is restricted to antlerless and unbranched antlered deer, as follows:

(i) in the counties listed in paragraph (1)(A) and (B) of this subsection: 14 consecutive days starting the first Monday following the third Sunday in January;

(ii) in the counties listed in paragraph (2)(A)-(C) and (E) of this subsection: 14 consecutive days starting the first Monday following the first Sunday in January; and

(iii) in all other counties there is no special late general season.

(B) The bag limit during a special late general season is the bag limit established for the county for the general open season and is not in addition to any other bag limit.

(5) Archery-only open seasons.

(A) The open season is from the Saturday closest to September 30 for 35 consecutive days.

(B) The bag limit in any given county is as provided for that county during the general open season.

(C) No tag is required to hunt antlerless deer unless MLDP tags have been issued for the property.

(6) Muzzleloader-only open seasons, and bag and possession limits shall be as follows. In Anderson, Angelina, Austin, Bastrop, Bell (East of IH 35), Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Camp, Cass, Chambers, Cherokee, Colorado, Comal (East of IH 35), Culberson, Delta, DeWitt, Ellis, Fannin, Falls, Fayette, Fort Bend, Franklin, Freestone, Galveston, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Hays (East of IH 35), Henderson, Hopkins, Houston, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Presidio, Rains, Red River, Reeves, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Travis (East of IH 35), Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Wharton, Williamson (East of IH 35), Wilson and Wood counties, there is an open season during which deer may be taken only with a muzzleloader.

(A) The open season is 14 consecutive days starting the first Monday following the first Sunday in January.

(B) The bag limit is as specified in this section for the general season in the county in which take occurs.

(C) Special provisions:

(i) Buck deer. In any given county, all restrictions established in this subsection for the take of buck deer during the general season remain in effect.

(ii) Antlerless deer. No MLDP tag is required for the take of antlerless deer, except:

(I) on properties for which antlerless MLDP tags have been issued; and

(II) in the counties listed in paragraph (2)(J) of this subsection.

(7) Special Youth-Only Seasons. There shall be special youth-only general hunting seasons in all counties where there is a general open season for white-tailed deer.

(A) The early open season is the Saturday and Sunday immediately before the first Saturday in November.

(B) The late open season is 14 consecutive days starting the first Monday following the first Sunday in January.

(C) Bag limits, provisions for the take of antlerless deer, and special requirements in the individual counties listed in paragraph (2)(A) - (J) of this subsection shall be as specified for the first two days of the general open season in those counties, except as provided in subparagraph (D) of this paragraph.

(D) Provisions for the take of antlerless deer in the individual counties listed in paragraph (2)(H) of this subsection shall be as specified in those counties for the period of time from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(E) Other than properties where MLDP tags have been issued under the provisions of §65.29(c)(2), only licensed hunters 16

years of age or younger may hunt deer during the seasons established by this paragraph, and any lawful means may be used.

(F) The stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I, does not apply during the seasons established by this paragraph.

(G) Antlerless deer may be taken without an MLDP tag on USFS lands.

(c) Mule deer. The open seasons and bag limits for mule deer shall be as follows:

(1) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Scurry, Sherman, Stonewall, Swisher, and Wheeler counties:

(A) the Saturday before Thanksgiving for 16 consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken only by Antlerless Mule Deer permit or MLDP tag.

(2) In Crane, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Presidio, Reagan, Reeves, Upton, Val Verde, Ward, and Winkler counties:

(A) the Friday immediately following Thanksgiving for 17 consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken only by antlerless mule deer permit or MLDP tag.

(3) In Brewster, Pecos, and Terrell counties:

(A) the Friday immediately following Thanksgiving for 17 consecutive days;

(B) bag limit: two deer, no more than one buck.

(4) In Andrews, Bailey, Castro, Cochran, Dawson, Gaines, Hale, Hockley, Lamb, Lubbock, Martin, Parmer, Terry, and Yoakum counties:

(A) the Saturday before Thanksgiving for nine consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken by MLDP tag only.

(5) In all other counties, there is no general open season for mule deer.

(6) Archery-only open seasons and bag and possession limits shall be as follows.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Foard, Garza, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hudspeth, Hutchinson, Jeff Davis, Kent, King, Knox, Lipscomb, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Scurry, Sherman, Stonewall, Swisher, Upton, Val Verde, Ward, Wheeler, and Winkler counties:

(i) from the Saturday closest to September 30 for 35 consecutive days; and

(ii) bag limit: one buck.

(B) In Brewster, Pecos, and Terrell counties:

(i) from the Saturday closest to September 30 for 35 consecutive days.

(ii) bag limit: two deer, no more than one buck. Antlerless deer may be harvested without a permit unless MLDP antlerless tags have been issued for the property.

(C) In all other counties, there is no archery-only open season for mule deer.

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

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31 TAC §65.40, §65.64

The Texas Parks and Wildlife Department (the department, or TPWD) proposes amendments to §65.40 and §65.64, concerning the Statewide Hunting Proclamation.

The proposed amendment to §65.40, concerning Pronghorn Antelope, would expand the current experimental season for the take of buck pronghorn antelope to additional areas in the Texas Panhandle. Under Parks and Wildlife Code, §61.057, no person may hunt an antelope without first having acquired an antelope permit issued by the department. Under Parks and Wildlife Code, §61.051, the department is required to conduct scientific studies and investigations of game animals to determine, among other things, supply, sex ratios, and the effects of any factors or conditions causing increases or decreases in supply. Under Parks and Wildlife Code, §61.052, the commission is required to regulate the means, methods, places, and periods of time when it is lawful to hunt or possess game animals. Until 2013, all take of pronghorn antelope was by permit only. The department manages pronghorn antelope populations by the concept of the "herd unit." A herd unit is an area containing similar pronghorn densities (during the timeframe of population surveys) and habitats. Some herd units are bounded by natural or man-made barriers that prevent or inhibit immigration/emigration. Other herd units are bounded by man-made infrastructure that facilitates a descriptive boundary but does allow immigration/emigration. The department conducts population surveys and collects harvest data annually to determine the percentage of each herd unit that may be harvested each year without causing depletion or waste. Permits are then issued to landowners, who distribute them to hunters at their discretion. Over the last 10-15 years, pronghorn antelope populations in portions of the northern Panhandle have increased steadily and continue to expand their range. As a result, permit demand has increased and staff time accommodating that demand has increased accordingly. In response, the department in 2013 implemented an experimental season in three herd units where staff believe that buck populations could sus-

tain additional hunting pressure. Under the experimental regulations, the bag limit and season length were retained; however, no permits for buck pronghorn antelope were issued to the landowners within the areas affected by the experimental season. Instead, the harvest of buck pronghorn antelope in those areas were conducted at the discretion of landowners. The proposed amendment would place additional areas under the effectiveness of the experimental season and would merge current Areas 1 and 3. In order to measure the impact of the experiment and to assist law enforcement personnel in identifying lawfully taken pronghorn antelope, the department would continue to require hunters to obtain a permit from the department, attach it to harvested bucks, and present each harvested buck at a department-designated check station. The intent of the proposed amendment is to reduce the amount of time spent on permit issuance by staff, increase hunter opportunity, and provide greater convenience for landowners, hunters, and outfitters.

The proposed amendment to §65.64, concerning Turkey would clarify eastern turkey seasons on U.S. National Forest lands in Jasper County, correct an error in the late spring youth-only season length, eliminate the option for hunters to present harvested eastern turkey at department-designated check stations, and reword the roadway definition that delineates the north and south turkey zones in Val Verde County in the interests of clarity.

In 2015, the department closed the season for eastern turkey on National Forest lands in Jasper County. The department has since discovered that a small portion of the Sabine National Forest, jointly managed by the department as part of the Moore Plantation Wildlife Management Area, lies within Jasper County and the eastern turkey season was not intended to have been closed. The proposed amendment would correct that oversight. In 2015 the department also extended the length of the fall youth-only turkey season from two days to 14 days, but inadvertently included the late spring youth-only season, which was not intended. The proposed amendment would rectify that oversight as well. Department regulations in effect since 1994 require hunters to report the harvest of eastern turkey. Until 2013, this requirement could only be satisfied by presenting a harvested bird in person at a department-designated check station within 24 hours of take. In 2014 the department altered the regulation to allow hunters the option of complying with the reporting requirement by use of a mobile application, which has been effective to the point that the department no longer has a need to establish physical check stations. Therefore, the proposed amendment would eliminate that option and require all mandatory reporting of harvested eastern turkey to be done via the mobile application.

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

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

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

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

The department has determined that the proposed rule will not directly affect small businesses or micro-businesses. Therefore, the department therefore has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

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

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

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

Comments on the proposed rules may be submitted by phone or e-mail to Robert Macdonald (512) 389-4775; e-mail: robert.macdonald@tpwd.state.tx.us, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Comments also may be submitted via the department's website at http://www.tpwd.state.tx.us/business/feedback/public_comment/.

The amendments are proposed under the authority of Parks and Wildlife Code, Chapter 42, which allows the department to issue tags for animals allowed by law to be killed during each year or season, including antelope and turkey; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

The proposed amendments affect Parks and Wildlife Code, Chapters 42 and 61.

§65.40. Pronghorn Antelope: Open Seasons and Bag Limits.

(a) In all counties there is a general open season for pronghorn antelope for nine consecutive days beginning the Saturday nearest October 1, and the annual bag limit is one pronghorn antelope.

(b) A person who kills a pronghorn antelope shall immediately and legibly complete and attach a pronghorn antelope permit to the

carcass, which shall remain attached until the carcass reaches a final destination.

(c) In any area of this state that is not within an area described in subsection (d) of this section, a person who hunts pronghorn antelope shall acquire the pronghorn antelope permit from the landowner of the property on which the hunting activity occurs.

(d) Within the boundaries of an area described in this subsection, no landowner-issued permit is required to hunt buck pronghorn antelope; however, no person may hunt a buck pronghorn antelope unless that person has obtained a buck pronghorn antelope permit from the department.

(1) Area 1. That portion of the state south of a line beginning at the intersection of U.S. Highway (U.S.) 87 and U.S. 54 in the City of Dalhart in Dallam County; thence northeast along U.S. 54 to U.S. 287 in the City of Stratford in Sherman County; thence southeast along U.S. 287 to the intersection of State Highway (S.H.) 354 in Moore County; thence west along S.H. 354 to U.S. 385 in Hartley County; thence northwest along U.S. 385/87 to intersection of U.S. 87 and U.S. 54 in the City of Dalhart in Dallam County. [That portion of the state north of a line beginning at the intersection of U.S. Highway (U.S.) 87 and Farm to Market Road (F.M.) 281 in Hartley County; thence east along F.M. 281 to U.S. 287 in Moore County; thence north along U.S. 287 to F.M. 2014 in Sherman County; thence southwest along F.M. 2014 to South Cedar Street in the City of Stratford in Sherman County; thence northwest along South Cedar Street to U.S. 54 in Sherman County; thence southwest along U.S. 54 to Elks Road in the City of Dalhart in Dallam County; thence south along Elks Road to Ranch Road (R.R.) 297 in Dalhart, Dallam County; thence east along R.R. 297 to Rawlings Road/Robertson Road; thence south on Rawlings Road/Robertson Road to U.S. 87 in Hartley County; thence south along U.S. 87 to F.M. 281 in Hartley County.]

(2) Area 2. That portion of the state south of a line beginning at the intersection of S.H. 70 and Canadian River in Roberts County; thence east along the Canadian River to U.S. 60 in Hemphill County; thence southwest along U.S. 60/83 to Ranch Road (R.R.) 3367 in Roberts County; thence southeast along R.R. 3367 to County Road (C.R.) W; thence east along C.R. W to Neece Road in Hemphill County; thence south along Neece Road to C.R. Z; thence east along C.R. Z to U.S. 83; thence south along U.S. 83 to C.R. A in Wheeler County; thence west along C.R. A to F.M. 48; thence south along F.M. 48 to S.H. 152/W. Oklahoma Ave; thence west along S.H. 152/W. Oklahoma Ave to R.R. 2857 in Gray County; thence south along R.R. 2857 to Ranch to Market (R.M.) 1321; thence west along R.M. 1321 to S.H. 273; thence west/northwest along S.H. 273 to S.H. 171 Loop; thence north along S.H. 171 Loop to S.H. 70; thence north along S.H. 70 to the Canadian River in Roberts County. [That portion of the state south of a line beginning at the intersection of U.S. 87 and U.S. 385 in Hartley County; thence east along U.S. 87 to S. Twichell Ave. in the City of Dumas in Moore County; thence south along S. Twichell Ave. to W. 16th St.; thence eastward along W. 16th St. to the first unnamed dirt road; thence south and then east along the unnamed dirt road to S. Dumas Ave./U.S. 87/287; thence south along S. Dumas Ave./U.S. 87/287 to State Highway (S.H.) 354; thence west along S.H. 354 to Alabama Ave. in the City of Channing in Hartley County; thence north along Alabama Ave. to E. 4th St.; thence west along E. 4th St. to U.S. 385; thence north along U.S. 385 to the intersection of U.S. 385 and U.S. 87.]

{(3) Area 3. That portion of the state north of a line beginning at the intersection of U.S. 70 and S.H. 171 in Gray County; thence southeast along S.H. 171 to U.S. 60 in Gray County; thence northeast along U.S. 60 to F.M. 282 in Roberts County; thence west along F.M. 282 to F.M. 283 in Roberts County; thence northwest along F.M. 283

to U.S. 70 in Roberts County; thence south along U.S. 70 in Roberts County to S.H. 171 in Gray County.]

(e) The department may establish mandatory check stations in the areas described in subsection (d) of this section. If check stations have been established, a person who kills a buck pronghorn antelope or the person's representative must present the entire, intact head at a check station within 24 hours of take.

§65.64. *Turkey.*

(a) (No change.)

(b) Rio Grande Turkey. The open seasons and bag limits for Rio Grande turkey shall be as follows.

(1) Fall seasons and bag limits:

(A) The counties listed in this subparagraph are in the Fall South Zone. In Aransas, Atascosa, Bee, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kinney (south of U.S. Highway 90), LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde south of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line [(in that southeastern portion located both south of U.S. Highway 90 and east of Spur 239)], Webb, Zapata, and Zavala counties, there is a fall general open season.

(i) - (ii) (No change.)

(B) (No change.)

(C) The counties listed in this subparagraph are in the Fall North Zone. In Archer, Armstrong, Bandera, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Briscoe, Brown, Burnet, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Donley, Eastland, Ector, Edwards, Erath, Fisher, Floyd, Foard, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hood, Howard, Hutchinson, Irion, Jack, Johnson, Jones, Karnes, Kendall, Kent, Kerr, Kimble, King, Kinney (north of U.S. Highway 90), Knox, Lipscomb, Lampasas, Llano, Lynn, Martin, Mason, McCulloch, McLennan, Medina (north of U.S. Highway 90), Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Roberts, Runnels, Sutton, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Uvalde (north of U.S. Highway 90), Ward, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Wise, Val Verde north of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line [(that portion located north of U.S. Highway 90; and that portion located both south of U.S. Highway 90 and west of Spur 239)], and Young counties, there is a fall general open season.

(i) - (ii) (No change.)

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

(4) Special Youth-Only Seasons. Only licensed hunters 16 years of age or younger may hunt during the seasons established by this subsection.

(A) (No change.)

(B) There shall be special youth-only spring general open hunting seasons for Rio Grande turkey in the counties listed in paragraph (3)(A) and (B) of this subsection.

(i) open seasons:

(I) the weekend (Saturday and Sunday) immediately preceding the first day of the general open spring season; and

(II) the weekend (Saturday and Sunday) immediately following the last day of the general open spring season [from the Saturday immediately following the close of the general open spring season for 14 consecutive days].

(ii) (No change.)

(c) Eastern turkey. The open seasons and bag limits for Eastern turkey shall be as follows. In Bowie, Cass, Fannin, Grayson, Jasper (other than the Angelina National Forest [lands]), Lamar, Marion, Nacogdoches, Newton, Panola, Polk, Red River, Sabine, San Augustine, and Upshur counties, there is a spring season during which both Rio Grande and Eastern turkey may be lawfully hunted.

(1) - (2) (No change.)

(3) In the counties listed in this subsection:

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

(C) all turkeys harvested during the open season must be registered via the department's internet or mobile application [or at a designated check station] within 24 hours of the time of kill. The department will publish the internet address and information on obtaining the mobile application in generally accessible locations, including the department internet web site (www.tpwd.texas.gov). Harvested turkeys may be field dressed but must otherwise remain intact.

(d) (No change.)

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

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Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: March 19, 2017

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



SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

31 TAC §§65.314, 65.315, 65.318 - 65.321

The Texas Parks and Wildlife Department (the department) proposes amendments to §§65.314, 65.315, and 65.318 - 65.321, concerning the Migratory Game Bird Proclamation.

The United States Fish and Wildlife Service (Service) issues annual frameworks for the hunting of migratory game birds in the United States. Regulations adopted by individual states may be more restrictive than the federal frameworks, but may not be less restrictive. Responsibility for establishing seasons, bag limits, means, methods, and devices for harvesting migratory game birds within Service frameworks is delegated to the Texas Parks and Wildlife Commission (Commission) under Parks and Wildlife Code, Chapter 64, Subchapter C. Parks and Wildlife Code, §64.022, authorizes the Commission to delegate rulemaking authority to the Executive Director. Department regulations

(31 TAC §65.313(f)) authorize the Executive Director, after notification of the Chairman of the Commission, to engage in rule-making.

The proposed amendment to §65.314, concerning Zones and Boundaries for Early Season Species, would expand the Special White-winged Dove Area (SWWDA) to encompass the entirety of the South Dove Zone. The Service has authorized the provision of four days of hunting opportunity in early September for the entire South Zone, and in keeping with commission policy to pursue the most liberal hunting seasons possible under the federal frameworks (consistent with sound resource management), the proposed amendment would expand the SWWDA to encompass all of the current South Dove Zone in order to provide 4 days of early hunting opportunity everywhere in the South Zone.

The proposed amendment to §65.315, concerning Open Seasons and Bag and Possession Limits - Early Season, would adjust the season dates for early-season migratory game birds to allow for calendar shift (i.e., to ensure that seasons open on the desired day of the week, since dates from a previous year do not fall on the same days in following years), with the exception that the first segment of the South Zone/SWWDA would be shortened by four days (compared to last season) and those days would be added to the end of the second segment to allow for a weekend closure of the second segment. The proposed amendment also would clarify the bag limit for white-fronted dove where necessary, which is nonsubstantive.

The proposed amendment to §65.315 also would implement a 16-day statewide teal season to run from September 9 - 24, 2017. By federal rule, the number of days in the September teal season count against the 107 days of total hunting opportunity allowed for ducks, coots, and mergansers. In addition, the proposed amendment would implement a 16-day early Canada goose season in the Eastern Zone, also to run from September 9 - 24, 2017.

With the exception of a reduction in the bag limit for pintail ducks, the proposed amendment to §65.318, concerning Open Seasons and Bag and Possession Limits - Late Season, would retain the same season structure in both duck zones from last year and adjust the season dates to account for calendar shift while retaining the bag and possession limits from last year. The Service, based on breeding waterfowl population surveys, has determined that recruitment (the survival of young ducks to join the population) in pintail populations has experienced a reduction that under the current harvest strategy triggers a bag limit reduction in the federal frameworks. Therefore, the bag limit for pintails is being reduced from two to one to comply with the federal frameworks.

With respect to geese, the season structure (adjusted for calendar shift) and bag and possession limits from last year are retained.

The proposed amendment would also make the age requirement for youth waterfowl season consistent with the age requirements in effect for other species. Until recently, the federal youth-only season applied to persons 15 years of age and younger; however, because age requirements for youth hunting opportunity vary from state to state, recent federal action (81 FR 17301) allows individual states to establish a minimum participation age not to exceed to 17. In Texas the youth-only seasons for deer, turkey, and squirrel are limited to persons 16 years of age and younger; therefore, the proposed amendment would implement

that standard for the youth-only waterfowl season for the sake of consistency and to eliminate confusion.

The proposed amendment to §65.319, concerning Extended Falconry Season--Early Season Species, would adjust season dates to reflect calendar shift.

The proposed amendment to §65.320, concerning Extended Falconry Season--Late Season Species, would adjust season dates to reflect calendar shift.

The proposed amendment to §65.321, concerning Special Management Provisions, would adjust the dates for the conservation season on light geese to account for calendar shift.

The proposed amendments are generally necessary to implement commission policy to provide the greatest hunter opportunity possible, consistent with hunter and landowner preference for starting dates and segment lengths, under frameworks issued by the Service. It is the policy of the commission to adopt the most liberal provisions possible, consistent with hunter preference, under the Service frameworks in order to provide maximum hunter opportunity.

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

Mr. Wolf also has determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the rules as proposed will be the department's discharge of its statutory obligation to manage and conserve the state's populations of migratory game birds for the use and enjoyment of the public, consistent with the principles of sound biological management.

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

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

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

The department has not filed a local impact statement with the Texas Workforce Commission as required by Government Code,

§2001.022, as the department has determined that the rules as proposed will not impact local economies.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2008, as a result of the proposed rules.

Comments on the proposed rules may be submitted via the department website at www.tpwd.texas.gov or to Robert Macdonald, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas, 78744; (512) 389-4775 or 1-800-792-1112 (e-mail: robert.macdonald@tpwd.state.tx.us).

The amendments are proposed under Parks and Wildlife Code, Chapter 64, which authorizes the Commission and the Executive Director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

The proposed amendments affect Parks and Wildlife Code, Chapter 64.

§65.314. Zones and Boundaries for Early Season Species.

- (a) (No change.)
- (b) Mourning and white-winged doves.
 - (1) - (2) (No change.)

(3) South Zone and Special White-winged Dove Area: That portion of the state south of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to State Loop 1604; thence following Loop 1604 south and east to Interstate Highway 10; thence east along Interstate Highway 10 to the Texas-Louisiana State Line.

~~[(4) Special white-winged dove area: That portion of the state south and west of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to State Loop 1604; thence along Loop 1604 south and east to Interstate Highway 37; thence south along Interstate Highway 37 to U.S. Highway 181 in Corpus Christi; thence north and east along U.S. 181 to the Corpus Christi Ship Channel; thence eastwards along the south shore of the Corpus Christi Ship Channel to the Gulf of Mexico.]~~

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

§65.315. Open Seasons and Bag and Possession Limits--Early Season.

- (a) Rails.

(1) Dates: September 9 - 24, 2017 and November 4 - December 27, 2017 [~~September 10-25, 2016 and November 5 - December 28, 2016~~].

- (2) Daily bag and possession limits:

(A) king and clapper rails: 15 in the aggregate per day; 45 in the aggregate in possession.

(B) sora and Virginia rails: 25 in the aggregate per day; 75 in the aggregate in possession.

- (b) Dove seasons.

- (1) North Zone.

(A) Dates: September 1 - November 12, 2017 and December 15 - 31, 2017 [~~September 1 - November 13, 2016 and December 17, 2016 - January 1, 2017~~].

(B) Daily bag limit: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped doves per day.

(C) Possession limit: 45 mourning doves, white-winged doves, and white-tipped doves (white-fronted) in the aggregate, including no more than 6 white-tipped (white-fronted) doves in possession.

- (2) Central Zone.

(A) Dates: September 1 - November 8, 2017 and December 15 - January 21, 2018 [~~September 1 - November 6, 2016 and December 17, 2016 - January 8, 2017~~].

(B) Daily bag limit: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped (white-fronted) doves per day.

(C) Possession limit: 45 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than 6 white-tipped (white-fronted) doves in possession.

- (3) South Zone and Special White-winged Dove Area.

(A) Dates: September 2, 3, 9, and 10, 2017;

~~[(i) Daily bag limit: 15 white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than two mourning doves and two white-tipped (white-fronted) doves per day.~~

~~[(ii) Possession limit: 45 white-winged doves, mourning doves, and white-tipped (white-fronted) doves in the aggregate to include no more than 6 mourning doves and 6 white-tipped (white-fronted) doves in possession.~~

(B) Dates: September 22 - November 8, 2017; and December 15, 2017 - January 21, 2018 [~~Except in the special white-winged dove area as defined in §65.314 of this title (relating to Zones and Boundaries for Early Season Species), September 23 - November 13, 2016 and December 17, 2016 - January 23, 2017~~].

~~[(i) [(B)] Daily bag limit: 15 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped (white-fronted) doves per day.~~

~~[(ii) [(C)] Possession limit: 45 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than 6 white-tipped (white-fronted) doves in possession.~~

~~[(4) Special white-winged dove area.~~

~~[(A) Dates: 3, 4, 10, and 11, 2016.]~~

~~[(i) Daily bag limit: 15 white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than two mourning doves and two white-tipped doves per day.~~

~~[(ii) Possession limit: 45 white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than 6 mourning doves and 6 white-tipped doves in possession.~~

~~[(B) Dates September 23 - November 9, 2016 and December 17, 2016 - January 23, 2017.~~

~~[(i) Daily bag limit: 15 white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than two white-tipped doves per day;~~

~~[(ii) Possession limit: 45 white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than 6 white-tipped doves in possession.]~~

(c) Gallinules.

(1) Dates: September 9 - 24, 2017 and November 4 - December 27, 2017 [~~September 10-25, 2016 and November 5 - December 28, 2016~~].

(2) Daily bag and possession limits: 15 in the aggregate per day; 45 in the aggregate in possession.

(d) September teal-only season.

(1) Dates: September 9 - 24, 2017 [~~10-25, 2016~~].

(2) Daily bag and possession limits: six in the aggregate per day; 18 in the aggregate in possession.

(e) Red-billed pigeons, and band-tailed pigeons. No open season.

(f) Shorebirds. No open season.

(g) Woodcock: December 18, 2017 - January 31, 2018 [~~December 18, 2016 - January 31, 2017~~]. The daily bag limit is three. The possession limit is nine.

(h) Wilson's snipe (Common snipe): October 28, 2017 - February 11, 2018 [~~October 29, 2015 - February 12, 2017~~]. The daily bag limit is eight. The possession limit is 24.

(i) Canada geese: September 9 - 24, 2017 [~~10-25, 2016~~] in the Eastern Goose Zone as defined in §65.317(b) of this title (relating to Zones and Boundaries for Late Season Species). The daily bag limit is five. The possession limit is 15.

§65.318. Open Seasons and Bag and Possession Limits--Late Season.

Except as specifically provided in this section, the possession limit for all species listed in this section shall be three times the daily bag limit.

(1) Ducks, mergansers, and coots. The daily bag limit for ducks is six, which may include no more than five mallards (only two of which may be hens); three wood ducks; three scaup (lesser scaup and greater scaup in the aggregate); two redheads; one [two] pintail; two canvasbacks; and one "dusky" duck (mottled duck, Mexican like duck, black duck and their hybrids) during the seasons established in subparagraphs (A)(ii), (B)(ii), and (C)(ii) of this paragraph. For all other species not listed, the bag limit shall be six. The daily bag limit for coots is 15. The daily bag limit for mergansers is five, which may include no more than two hooded mergansers.

(A) High Plains Mallard Management Unit:

(i) all species other than "dusky ducks": October 28 - 29, 2017 and November 3, 2017 - January 28, 2018 [~~October 29-30, 2016 and November 4, 2016 - January 29, 2017~~].

(ii) "dusky ducks": November 6, 2017 - January 28, 2018 [~~November 7, 2016 - January 29, 2017~~].

(B) North Zone:

(i) all species other than "dusky ducks": November 11 - 26, 2017 and December 2, 2017 - January 28, 2018 [~~November 12-27, 2016 and December 3, 2016 - January 29, 2017~~].

(ii) "dusky ducks": November 16 - 26, 2017 and December 2, 2017 - January 28, 2018 [~~November 17-27, 2016 and December 3, 2016 - January 29, 2017~~].

(C) South Zone:

(i) all species other than "dusky ducks": November 4 - 26, 2017 and December 9, 2017 - January 28, 2018 [~~November 5-27, 2016 and December 10, 2016 - January 29, 2017~~].

(ii) "dusky ducks": November 9 - 26, 2017 and December 9, 2017 - January 28, 2018 [~~November 10-27, 2016 and December 10, 2016 - January 29, 2017~~].

(2) Geese.

(A) Western Zone.

(i) Light geese: November 4, 2017 - February 4, 2018 [~~November 5, 2016 - February 5, 2017~~]. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese: November 4, 2017 - February 4, 2018 [~~November 5, 2016 - February 5, 2017~~]. The daily bag limit for dark geese is five, to include no more than two white-fronted geese.

(B) Eastern Zone.

(i) Light geese: November 4, 2017 - January 28, 2018 [~~November 5, 2016 - January 29, 2017~~]. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese:

(I) Season: November 4, 2017 - January 28, 2018 [~~November 5, 2016 - January 29, 2017~~];

(II) Bag limit: The daily bag limit for dark geese is five, to include no more than two white-fronted geese.

(3) Sandhill cranes. A free permit is required of any person to hunt sandhill cranes in areas where an open season is provided under this proclamation. Permits will be issued on an impartial basis with no limitation on the number of permits that may be issued.

(A) Zone A: October 28, 2017 - January 28, 2018 [~~October 29, 2016 - January 29, 2017~~]. The daily bag limit is three. The possession limit is nine.

(B) Zone B: November 24, 2017 - January 28, 2018 [~~November 18, 2016 - January 29, 2017~~]. The daily bag limit is three. The possession limit is nine.

(C) Zone C: December 16, 2017 - January 21, 2018 [~~December 17, 2016 - January 22, 2017~~]. The daily bag limit is two. The possession limit is six.

(4) Special Youth-Only Season. There shall be a special youth-only waterfowl season during which the hunting, taking, and possession of geese, ducks, mergansers, and coots is restricted to licensed hunters 16 [~~15~~] years of age and younger accompanied by a person 18 years of age or older, except for persons hunting by means of falconry under the provisions of §65.320 of this chapter (relating to Extended Falconry Season--Late Season Species). Bag and possession limits in any given zone during the season established by this paragraph shall be as provided for that zone by paragraphs (1) and (2) of this section. Season dates are as follows:

(A) High Plains Mallard Management Unit: October 21 - 22, 2017 [~~October 22-23, 2016~~];

(B) North Zone: November 4 - 5, 2017 [~~November 5-6, 2016~~]; and

(C) South Zone: October 28 - 29, 2017 [~~October 29-30, 2016~~].

§65.319. Extended Falconry Season--Early Season Species.

(a) It is lawful to take the species of migratory birds listed in this section by means of falconry during the following Extended Falconry Seasons:

(1) mourning doves, white-winged doves and white-tipped doves: November 18 - December 4, 2017 [~~November 19 - December 5, 2016~~].

(2) rails and gallinules: January 29 - February 12, 2018 [~~January 30 - February 12, 2017~~].

(3) woodcock: January 29 - February 12, 2018 [~~January 30 - February 12, 2017~~].

(b) The daily bag and possession limits for migratory game birds under this section shall not exceed three and nine birds respectively, singly or in the aggregate.

§65.320. Extended Falconry Season--Late Season Species.

It is lawful to take the species of migratory birds listed in this section by means of falconry during the following Extended Falconry Seasons.

(1) Ducks, coots, and mergansers:

(A) High Plains Mallard Management Unit: no extended season;

(B) North Duck Zone: January 29 - February 12, 2018 [~~January 30 - February 12, 2017~~];

(C) South Duck Zone: January 29 - February 12, 2018 [~~January 30 - February 12, 2017~~].

(2) The daily bag and possession limits for migratory game birds under this section shall not exceed three and nine birds, respectively, singly or in the aggregate.

§65.321. Special Management Provisions.

The provisions of paragraphs (1) - (3) of this section apply only to the hunting of light geese. All provisions of this subchapter continue in effect unless specifically provided otherwise in this section; however, where this section conflicts with the provisions of this subchapter, this section prevails.

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

(4) Special Light Goose Conservation Period.

(A) From January 29 - March 18, 2018 [~~January 30 - March 19, 2017~~], the take of light geese is lawful in Eastern Zone as defined in §65.317 of this title (relating to Zones and Boundaries for Late Season Species).

(B) From February 5 - March 18, 2018 [~~February 6 - March 19, 2017~~], the take of light geese is lawful in the Western Zone as defined in §65.317 of this title.

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

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Texas Parks and Wildlife Department

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

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

**CHAPTER 1. CENTRAL ADMINISTRATION
SUBCHAPTER E. HISTORICALLY
UNDERUTILIZED BUSINESSES**

34 TAC §1.345

The Comptroller of Public Accounts proposes the repeal of §1.345, regarding historically underutilized businesses.

The comptroller proposes to repeal this section because this section adopts by reference rules that no longer exist or are no longer relevant.

Tom Currah, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Currah also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be by removing from the Texas Administrative Code content that does not provide current guidance. The proposed amendment would have no fiscal impact on small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the repeal may be submitted to Amy Comeaux, Statewide Procurement Division, at amy.comeaux@cpa.texas.gov or at P.O. Box 13528, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposals in the *Texas Register*.

The repeal is proposed under Government Code, §2161.0012 and §2161.002(c).

The following statutes are affected by the repeal: Government Code, Chapter 2161.

§1.345. Historically Underutilized Businesses.

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

Filed with the Office of the Secretary of State on February 1, 2017.

TRD-201700448

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: March 19, 2017

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

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 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 109. TRANSACTIONS EXEMPT FROM REGISTRATION

7 TAC §109.7

The Texas State Securities Board adopts an amendment to §109.7, concerning secondary trading exemption under the Texas Securities Act, §5.O, with changes to the proposed text as published in the October 14, 2016, issue of the *Texas Register* (41 TexReg 8159). In the provision concerning the information appearing on the OTC Markets Group website, the text has been changed to use the term "quoted" rather than "listing."

The list of recognized securities manuals enumerated in the rule has been updated.

Registered dealers relying upon the exemption provided by §5.O will have notice of the publications qualifying as "recognized securities manuals" for purposes of the exemption.

A comment was received from Whitaker Chalk questioning the use of the word "listing" since the OTC Markets is a quotation service rather than an exchange. Staff contacted the general counsel for the OTC Markets Group Inc. who commented that he was fine with the original language of the proposal and that a change to use "quoted" would also work. To avoid any confusion, the staff recommended the text of the published proposal be change to use "quoted" instead. The Board agreed and the rule was adopted with this change.

The amendment is adopted under Texas Civil Statutes, Article 581-28-1. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects Texas Civil Statutes, Article 581-5.O.

§109.7. *Secondary Trading Exemption under the Texas Securities Act, §5.O.*

(a) When a withdrawal of an application for registration of securities is allowed and thereafter the applicant files for a secondary trading exemption under the Act, §5.O, the Commissioner may, without a hearing, revoke or suspend the §5.O exemption. The applicant may either accept such action of the Commissioner or request a hearing under the Act, §24.

(b) The language, ". . . at prices reasonably related to the current market price of such securities at the time of such sale," means that the market price of the security in the existing secondary market must have a basis supported by a substantial volume of bona fide sales transactions within or without this state. In the absence of a going market or where there have been only casual transactions, it shall be incumbent on the person filing the §5.O exemption notice to prove to the Commissioner that the securities will have a market price which has been fairly determined and justified at inception with reasonable assurance of continuity of the market into the future, pursuant to which the following criteria will be considered:

(1) the nature and extent of the business operations of the issuer and its predecessor, if any, and the period of time during which the issuer and its predecessor, if any, has been continuously engaged in business;

(2) the net asset value of the stock per share;

(3) if there is a record of earnings for the issuer, the value per share of the stock based upon a reasonable times-earnings factor (setting out the factor used) related to the industry represented by the issuer;

(4) if the value per share of the stock on any other basis has been fully justified;

(5) if the issuer undertakes to furnish to its shareholders and dealers deemed likely to trade the securities of the issuer, financial statements for the three most recent fiscal years ending as of the balance sheet date (or for the period of existence if less than three years) and annual financial statements thereafter for so long as the exemption is maintained by filing statements with the Commissioner;

(6) whether a registered Texas securities dealer who is financially able has made a written undertaking setting out:

(A) his willingness to make a market in the issue of securities;

(B) the price at which he will begin the market; and

(C) the procedures which he intends to follow for the purpose of assuring an orderly market; and

(7) supplementary data to assist in determining the character of the share distribution and the number of publicly-held shares shall be as follows:

(A) identification of 10 largest holders of record, including beneficial owners (if known) of holdings of record by nominees;

(B) list of holdings of 1,000 shares or more in the names of registered dealers and unregistered out-of-state dealers;

(C) number of transfers and shares transferred during the last two years (or period of existence of the issuer, if shorter);

(D) summary, by principal groups, of stock owned or controlled by:

(i) officers or directors and their immediate families; or

(ii) other concentrated holdings of 10% or more;

(E) estimates of number of nonofficer employees owning stock and the total shares held;

(F) company shares held in profit-sharing, savings, pension, or other similar funds or trusts established for the benefit of officers or employees; and

(G) number of round-lot and number of odd-lot holders of record and aggregate numbers of shares so held.

(c) Sales of securities pursuant to the Securities Act, §5.0, may be made by or through securities dealers acting either as principal or agent in the transaction for which the exemption is claimed.

(d) Financial information required pursuant to the Act, §5.0(9)(b) and (c) must be prepared as certified financial statements (consolidated, if applicable) and shall include a balance sheet as of a date within 18 months of the date of such sale and the related statements of income, changes in stockholders' equity, and changes in financial position for the three most recent fiscal years ending as of the balance sheet date, or for the period of the issuer's existence, if less than three years. Such financial statements should disclose dividends paid or declared by each class of stock, for each period for which an income statement is presented.

(e) The term "recognized securities manual" as used in the Texas Securities Act, §5.0(9)(c), is limited to the S&P Capital IQ Standard Corporation Descriptions, Best Insurance Reports Life-Health, any Mergent's Manual, and the OTC Markets Group Inc. website (www.otcmarkets.com) for a company that is currently or has recently been quoted on the OTCQX or OTCQB markets. This designation encompasses both print and electronic data and includes periodic supplements to these publications. The information provided in the recognized securities manual must contain the information specified in subsection (d) of this section. All information provided must be current. The time for determining whether the entries are current is at the date of the particular sale, not the date the manual listings are published. If a listing is not continually updated, the exemption would not be available once the published balance sheet becomes more than 18 months old.

(f) The secondary trading exemption under the Act, §5.0, is not available for the securities of an issuer formed in a manner that constitutes part of a scheme to violate or evade the securities registration provisions of the Act. Depending upon all the facts and circumstances, such a scheme may include the merger of a private corporation with a corporation which has no substantive operations or assets ("shell corporation") when as a result of the merger trading in the secondary market of the shares of the post-merger corporation may be at prices which bear no relationship to the underlying financial condition or operations of the post-merger corporation, and such trading may occur within two years of the date of such merger.

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

Filed with the Office of the Secretary of State on February 6, 2017.

TRD-201700489

John Morgan

Securities Commissioner

State Securities Board

Effective date: February 26, 2017

Proposal publication date: October 14, 2016

For further information, please call: (512) 305-8301



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 55. RULES FOR ADMINISTRATIVE SERVICES

The Texas Commission of Licensing and Regulation (Commission) adopts amendments at 16 Texas Administrative Code (TAC), Chapter 55, Subchapter A, §55.1 and §55.10; and adopts new rules Subchapter F, §55.100 and §55.101, regarding the Rules for Administrative Services, without changes to the proposed text as published in the November 4, 2016, issue of the *Texas Register* (41 TexReg 8705). The rules will not be republished.

The Texas Legislature enacted Senate Bill 20 (S.B. 20), 84th Legislature, Regular Session (2015), which made comprehensive changes to state agency contracting, purchasing, and accounting procedures. In addition, Chapter 2261 of the Texas Government Code requires certain state agencies to establish and adopt by rule a policy that clearly defines the contract monitoring roles and responsibilities, if any, of internal staff and other inspection, investigative, or audit staff. The adopted amendments and new rules are necessary to implement S.B. 20 and bring the Texas Department of Licensing and Regulation (Department) into compliance with Texas Government Code, Chapter 2261.

The adopted amendment to §55.1 adds Texas Government Code, Chapters 2156, 2161, 2260, and 2261 as statutory authority for the rule chapter.

The adopted amendments to §55.10 add definitions for the Department's "Financial Services Division" and "Financial Services Division Director."

The adopted new §55.100 will bring the Department into compliance with §2261.202 of the Government Code, which requires state agencies that make procurements under Chapter 2261 to "establish and adopt by rule a policy that clearly defines the contract monitoring roles and responsibilities, if any, of internal audit staff and other inspection, investigative, or audit staff."

The adopted new §55.101 will bring the Department into compliance with §2261.253(c) of the Government Code, which requires state agencies to adopt procedures to identify contracts requiring enhanced monitoring, report information on those contracts to the agency's governing body, and provide a mechanism for reporting of serious risk to the agency's governing body.

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the November 4, 2016, issue of the *Texas Register* (41 TexReg 8705). The deadline for public comments was December 5, 2016. The Department received three comments on the proposed rules during the 30-day public comment period.

Comment--One commenter inquired about how the proposed rules would affect Barber and Cosmetology schools.

Department Response--The proposed rules affect the duties of the Department's financial services division and should not directly impact the Barber or Cosmetology program or any other Department-administered program. The Department did not make any changes to the proposed rules based on this comment.

Comment--One commenter inquired about if the proposed rules applied to assisted living facilities and requested additional information.

Department Response--The Department does not have the statutory authority to regulate assisted living facilities; therefore this comment is outside the scope of the proposed rules. The Department did not make any changes to the proposed rules based on this comment.

Comment--One commenter expressed concerns over the difficulty of the Barber test and the lack of formal primary education for some test takers.

Department Response--This comment is outside the scope of the proposed rules. The Department did not make any changes to the proposed rules based on this comment.

At its meeting on January 27, 2017, the Commission adopted the proposed rules without changes.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §55.1, §55.10

The amendments are adopted under Texas Occupations Code, Chapter 51, which authorizes the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department. In addition, the amendments are adopted under Texas Government Code, Chapter 2156, which requires state agencies making purchases to adopt the Texas Comptroller of Public Accounts rules related to bid opening and tabulation; Texas Government Code, Chapter 2161, which requires a state agency to adopt the Texas Comptroller of Public Accounts' rules as the agency's own rules for construction projects and purchases of goods and services; Texas Government Code, Chapter 2260, which requires each state agency to develop rules to address contract disputes with vendors and to resolve those disputes through negotiation and/or mediation; and Texas Government Code, Chapter 2261, which sets forth statewide standards for contracting and oversight of agency contracts.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51. In addition, the following statutes may be affected: Texas Agriculture Code, Chapters 301 and 302 (Weather Modification and Control); Texas Education Code, Chapter 1001 (Driver Education and Safety); Texas Health and Safety Code, Chapters 754 (Elevators, Escalators, and Related Equipment) and 755 (Boilers); Texas Government Code, Chapter 469 (Elimination of Architectural Barriers); Texas Labor Code, Chapters 91 (Professional Employer Organizations) and 92 (Temporary Common Worker Employers); and Texas Occupations Code Chapters 203 (Midwives); 401 (Speech-Language Pathologists and Audiologists); 402 (Hearing Instrument Fitters and Dispensers); 403 (Licensed Dyslexia Practitioners and Therapists); 451 (Athletic Trainers); 605 (Orthotists and Prosthetists); and 701 (Dietitians); 802 (Dog or Cat Breeders); 953 (For-Profit Legal Service Contract Com-

panies); 1151 (Property Tax Professionals); 1152 (Property Tax Consultants); 1202 (Industrialized Housing and Buildings); 1302 (Air Conditioning and Refrigeration Contractors); 1304 (Service Contract Providers and Administrators); 1305 (Electricians); 1601 (Barbers); 1602 (Cosmetologists); 1603 (Regulation of Barbering and Cosmetology); 1703 (Polygraph Examiners); 1802 (Auctioneers); 1901 (Water Well Drillers); 1902 (Water Well Pump Installers); 2052 (Combative Sports); 2303 (Vehicle Storage Facilities); 2306 (Vehicle Protection Product Warrantors); 2308 (Vehicle Towing and Booting); and 2309 (Used Automotive Parts Recyclers). No other statutes, articles, or codes are affected by the adoption.

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

Filed with the Office of the Secretary of State on February 6, 2017.

TRD-201700486

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: March 1, 2017

Proposal publication date: November 4, 2016

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



SUBCHAPTER F. CONTRACT MONITORING

16 TAC §55.100, §55.101

The new rules are adopted under Texas Occupations Code, Chapter 51, which authorizes the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department. In addition, the new rules are adopted under Texas Government Code, Chapter 2156, which requires state agencies making purchases to adopt the Texas Comptroller of Public Accounts rules related to bid opening and tabulation; Texas Government Code, Chapter 2161, which requires a state agency to adopt the Texas Comptroller of Public Accounts' rules as the agency's own rules for construction projects and purchases of goods and services; Texas Government Code, Chapter 2260, which requires each state agency to develop rules to address contract disputes with vendors and to resolve those disputes through negotiation and/or mediation; and Texas Government Code, Chapter 2261, which sets forth statewide standards for contracting and oversight of agency contracts.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51. In addition, the following statutes may be affected: Texas Agriculture Code, Chapters 301 and 302 (Weather Modification and Control); Texas Education Code, Chapter 1001 (Driver Education and Safety); Texas Health and Safety Code, Chapters 754 (Elevators, Escalators, and Related Equipment) and 755 (Boilers); Texas Government Code, Chapter 469 (Elimination of Architectural Barriers); Texas Labor Code, Chapters 91 (Professional Employer Organizations) and 92 (Temporary Common Worker Employers); and Texas Occupations Code Chapters 203 (Midwives); 401 (Speech-Language Pathologists and Audiologists); 402 (Hearing Instrument Fitters and Dispensers); 403 (Licensed Dyslexia Practitioners and Therapists); 451 (Athletic Trainers);

605 (Orthotists and Prosthetists); and 701 (Dietitians); 802 (Dog or Cat Breeders); 953 (For-Profit Legal Service Contract Companies); 1151 (Property Tax Professionals); 1152 (Property Tax Consultants); 1202 (Industrialized Housing and Buildings); 1302 (Air Conditioning and Refrigeration Contractors); 1304 (Service Contract Providers and Administrators); 1305 (Electricians); 1601 (Barbers); 1602 (Cosmetologists); 1603 (Regulation of Barbering and Cosmetology); 1703 (Polygraph Examiners); 1802 (Auctioneers); 1901 (Water Well Drillers); 1902 (Water Well Pump Installers); 2052 (Combative Sports); 2303 (Vehicle Storage Facilities); 2306 (Vehicle Protection Product Warrantors); 2308 (Vehicle Towing and Booting); and 2309 (Used Automotive Parts Recyclers). No other statutes, articles, or codes are affected by the adoption.

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

Filed with the Office of the Secretary of State on February 6, 2017.

TRD-201700487

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: March 1, 2017

Proposal publication date: November 4, 2016

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



CHAPTER 70. INDUSTRIALIZED HOUSING AND BUILDINGS

The Texas Commission of Licensing and Regulation (Commission) adopts the repeal of current rules at 16 Texas Administrative Code (TAC), Chapter 70, §70.100 and §70.101; and new rules at 16 TAC, Chapter 70, §70.100, regarding the Industrialized Housing and Buildings program, without changes to the proposed text as published in the November 18, 2016, issue of the *Texas Register* (41 TexReg 9074). The rules will not be republished.

The Commission also adopts new rules at 16 TAC, Chapter 70, §70.101 with changes to the proposed text as published in the November 18, 2016, issue of the *Texas Register* (41 TexReg 9074). The rules will be republished.

Texas Occupations Code §1202.152 requires the Industrialized Building Code Council (Council) to adopt later editions of the codes adopted by the statute if the Council determines that the use of these later code editions is in the public interest and consistent with the purposes of Texas Occupations Code, Chapter 1202. The adopted repeal and new rules are necessary to adopt recent editions of the mandatory building codes in the Industrialized Housing and Buildings program and to make necessary amendments to the respective Codes.

The following codes as amended serve as the standards for design, manufacture and installation of Industrialized Housing and Buildings: the 2015 editions of the International Building Code, International Residential Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Energy Conservation Code, and International Exist-

ing Building Code, and the 2014 edition of the National Electrical Code.

The adopted new §70.100 sets forth that, effective August 1, 2017, all industrialized housing and buildings, modules, and modular components shall be constructed in accordance with codes referenced in each respective subsection (c) through (j). The proposed repeal of current §70.100 is replaced with the new §70.100.

The adopted new subsections under §70.101(c) through (j), Amendments to Mandatory Building Codes, specify in detail the proposed amendments to the international and national codes as adopted in §70.100. The proposed repeal of current §70.101 is replaced with the new §70.101.

The adopted new §70.101(a) requires the council to consider and review approved and recommended ICC amendments to the code, to determine the interest to the public, and that said amendments shall be effective 180 days following the date of the Council's determination or at a later date as set by the Council.

The adopted new §70.101(b) specifies that any amendment proposed by a local building official and determined by the Council to be essential to the health and safety of the public following a public hearing, shall become effective 180 days following the date of the Council's determination or at a later date as set by the Council.

The adopted new §70.101(c) provides amendments to several sections within the 2015 International Building Code, which updates the standards for design and construction of industrialized housing and buildings in Texas.

The adopted new §70.101(d) provides the amendments to several sections within the 2015 International Residential Code, which update the standards for one- and two-family industrialized housing in Texas.

The adopted new §70.101(e) provides the amendments to several sections within the 2015 International Fuel Gas Code, which update the fuel gas standards for industrialized housing and buildings in Texas.

The adopted new §70.101(f) provides the amendments to several sections within the 2015 International Mechanical Code, which update the mechanical standards for industrialized housing and buildings in Texas.

The adopted new §70.101(g) provides the amendments to several sections within the 2015 International Plumbing Code, which update the plumbing standards for industrialized housing and buildings in Texas.

The adopted new §70.101(h) provides the amendments to several sections within the 2015 International Energy Conservation Code, which update the energy conservation standards for industrialized housing and buildings in Texas.

The adopted new §70.101(i) provides the amendments to several sections within the 2015 International Existing Building Code, which update the standards for existing industrialized housing and buildings in Texas.

The adopted new §70.101(j) provides an amendment to the 2014 National Electrical Code, which updates the electrical standards for industrialized housing and buildings in Texas.

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the November 18, 2016, issue of the *Texas*

Register (41 TexReg 9074). The Department received one public comment on the proposed rules during the 30-day public comment period.

Comment--The commenter stated all persons who wish to do business should be registered, especially those who hand out fliers and cards in their neighborhood.

Department Response--The Department registers and licenses a number of types of participants in the Industrialized Housing and Buildings industry in its regulatory role, and investigates reports of unlicensed or unregistered activity. Licensees and registrants are subject to state and local requirements related to soliciting business and to advertising, and the Department is authorized to regulate false, misleading, or deceptive practices. However, the proposed rule changes are limited to the adoption of amendments to mandatory building codes. No change was made to the rules in response to this comment.

The Department's Industrialized Housing and Building Code Council met on August 22, 2016, to consider a draft of these rules. The Council recommended proposing the rules in the *Texas Register* for public comment, and anticipates that the rules will become effective on August 1, 2017. The Council did not find it necessary to meet again to review the comment. At its meeting on January 27, 2017, the Commission adopted the proposed rules with changes.

16 TAC §70.100, §70.101

The repeal is adopted under Texas Occupations Code, Chapter 51, which authorizes the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department. In addition, the new rules are adopted under Texas Occupations Code, Chapter 1202, which requires the Industrialized Building Code Council (Council) to adopt later editions of the codes adopted by the statute if the Council determines that the use of these later code editions is in the public interest and is consistent with the purposes of the Texas Occupations Code, Chapter 1202.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapters 51 and 1202. No other statutes, articles, or codes are affected by the adoption.

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

Filed with the Office of the Secretary of State on February 3, 2017.

TRD-201700470

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

Effective date: August 1, 2017

Proposal publication date: November 18, 2016

For further information, please call: (512) 463-8614



16 TAC §70.100, §70.101

The new rules are adopted under Texas Occupations Code, Chapter 51, which authorizes the Commission, the Department's governing body, to adopt rules as necessary to implement these

chapters and any other law establishing a program regulated by the Department. In addition, the new rules are adopted under Texas Occupations Code, Chapter 1202, which requires the Industrialized Building Code Council (Council) to adopt later editions of the codes adopted by the statute if the Council determines that the use of these later code editions is in the public interest and is consistent with the purposes of the Texas Occupations Code, Chapter 1202.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapters 51 and 1202. No other statutes, articles, or codes are affected by the adoption.

§70.101. Amendments to Mandatory Building Codes.

(a) The council shall consider and review all amendments to these codes which are approved and recommended by ICC, and if they are determined to be in the public interest, the amendments shall be effective 180 days following the date of the council's determination or at a later date as set by the council.

(b) Any amendment proposed by a local *building official*, and determined by the council following a public hearing to be essential to the health and safety of the public on a statewide basis, shall become effective 180 days following the date of the council's determination or at a later date as set by the council.

(c) The 2015 *International Building Code* shall be amended as follows.

(1) Amend *Section 101 General* as follows.

(A) Amend *Section 101.1 Title* to read as follows: "These regulations shall be known as the Building Code of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section 101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(C) Amend *Section 101.2.1 Appendices* by adding the following: "Appendices C, F, and K shall be considered part of this code."

(D) Amend *Section 101.4 Referenced codes* to read as follows: "The other codes listed in Sections 101.4.1 through 101.4.9 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(E) Amend *Section 101.4.7 Existing buildings* to add the following sentence: "Moved industrialized buildings that bear approved certification decals or insignia, and that may also bear an alteration decal, in accordance with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, and that have not been altered or modified since the decal, insignia, or alteration decal was attached, shall be considered to be in compliance with the current mandatory building codes adopted by the Texas Industrialized Building Code Council."

(F) Add new *Section 101.4.8 Electrical* to read as follows: "The provisions of Appendix K shall apply to the installation of electrical systems, including alterations, repairs, replacements, equip-

ment, appliances, fixtures, fittings and appurtenances thereto. Any reference to NFPA 70 or the Electrical Code shall mean the Electrical Code as adopted."

(G) Add new *Section 101.4.9 Accessibility* to read as follows: "Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and the *Texas Accessibility Standards* (TAS). Wherever reference elsewhere in this code is made to ICC A117.1, the TAS of Texas Government Code, Chapter 469, Elimination of Architectural Barriers shall be substituted. Buildings subject to the requirements of the *Texas Accessibility Standards* are described in Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 68."

(2) Amend *Section 104.1 General* by adding the following: "The term *building official* as used in this code, or as used in the codes and standards referenced in this code, shall mean the Texas Commission of Licensing and Regulation, the executive director of the Texas Department of Licensing and Regulation, the Texas Industrialized Building Code Council, or the local *building official* in accordance with the powers and duties assigned to each in Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings."

(3) Amend *Section 107.1 General* by adding the following: "Construction documents depicting the structural design of buildings to be located in hurricane prone regions shall be prepared and sealed by a Texas licensed professional engineer."

(4) Amend *Section 111 Certificate of Occupancy* as follows.

(A) Amend *Section 111.1 Use and occupancy* to read as follows: "A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the local *building official* has issued a certificate of occupancy in accordance with the locally adopted rules and regulations."

(B) Amend *Section 111.2 Certificate issued* to read as follows. "The local *building official* shall issue a certificate of occupancy in accordance with the locally adopted rules and regulations. After the local *building official* inspects the industrialized house or building and does not find violations of the provisions of this code or other laws that are enforced by the department of building safety, the local *building official* shall issue a record of final inspection authorizing the release of the house or building for occupancy."

(C) Delete Items 1 through 12 of *Section 111.2*.

(D) Amend *Section 111.3 Temporary occupancy* to read as follows: "The local *building official* may issue a temporary certificate of occupancy in accordance with locally adopted rules and regulations."

(E) Add new *Section 111.5 Industrialized housing and buildings installed outside the jurisdiction of a municipality or within a municipality without an inspection department* to read as follows: "The installation of buildings installed outside the jurisdiction of a municipality or within a municipality without an inspection department shall comply with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, Administrative Rules Industrialized Housing and Buildings."

(5) Amend *Section 311.3 Low-hazard storage, Group S-2* by adding the following to the list of uses that are covered by this occupancy group: "Equipment shelters or equipment buildings."

(6) Amend *Chapter 11 Accessibility* as follows.

(A) Amend *Section 1101.2 Design* to read as follows: "Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and the *Texas Accessibility Standards* (TAS)"

(B) Delete *Section 1102* through *Section 1111*.

(7) Amend *Chapter 35 Referenced Standards* as follows.

(A) Delete the following standard: "*ICC A117.1-09, Accessible and Usable Buildings and Facilities*."

(B) Add TDLR, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711 as a promulgating agency; add 2012 TAS, *Texas Accessibility Standards* as adopted under 16 Texas Administrative Code, Chapter 68 as the referenced standard; and add code sections 202, 907.5.2.3.3, 1009.8.2, 1009.9, 1009.11, 1010.1.9.7, 1012.1, 1012.6.5, 1012.10, 1013.4, 1023.9, and 1101.2 as the referenced code sections.

(C) Add code section 101.4.8 as a referenced code section for *NFPA Standard 70-14, National Electrical Code*.

(8) Amend *Section K111.1 Adoption* to read as follows: "Electrical systems and equipment shall be designed, constructed and installed in accordance with NFPA 70 except as otherwise provided in this code."

(d) The 2015 *International Residential Code* shall be amended as follows.

(1) Amend *Section R101 General* as follows.

(A) Amend *Section R101.1 Title* to read as follows: "These regulations shall be known as the Residential Code for One- and Two-family Dwellings of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section R101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(2) Amend *Section R102 Applicability* as follows.

(A) Amend *Section R102.4 Referenced codes and standards* to read as follows: "The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each reference and as further regulated in Sections R102.4.1 through R102.4.4. Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(B) Add new *Section R102.4.3 Electrical code* to read as follows: "The provisions of the *National Electrical Code*, NFPA 70, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. Any reference to NFPA 70 or the Electrical Code shall mean the Electrical Code as adopted. Any reference to chapters 34 through 43 of this code shall mean the Electrical Code as adopted."

(C) Add new *Section R102.4.4 TDI Code- Wind design* to read as follows: "The wind design of buildings to be placed in the first tier counties along the Texas coast and designated catastrophe areas as defined by the Texas Department of Insurance (TDI) shall also comply with the current effective code and amendments adopted by

the TDI, hereafter referred to as the TDI Code. Where conflicts occur between the provisions of this code and the TDI Code as they relate to the requirements for wind design, the more stringent requirements shall apply. Where conflicts occur between the provisions of this code and the editions of the codes specified by the Texas Department of Insurance as they relate to requirements other than wind design, this code shall apply."

(D) Amend *Section R102.5 Appendices* by adding the following: "Appendices G, H, K, P, S and U shall be considered part of this code."

(E) Add new *Section R102.8 Moved industrialized housing* to read as follows: "Moved industrialized housing shall comply with the requirements of the local building official for moved buildings."

(3) Amend *Section R104.1 General* by adding the following: "The term *building official* as used in this code, or as used in the codes and standards referenced in this code, shall mean the Texas Commission of Licensing and Regulation, the executive director of the Texas Department of Licensing and Regulation, the Texas Industrialized Building Code Council, or the local *building official* in accordance with the powers and duties assigned to each in Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings."

(4) Amend *Section R106.1 Submittal documents* by adding the following: "Construction documents depicting the structural design of buildings to be located in hurricane prone regions and in the first tier counties along the Texas coast and designated catastrophe areas as defined by the Texas Department of Insurance (TDI) shall be prepared and sealed by a Texas licensed professional engineer."

(5) Amend *Section R110 Certificate of Occupancy* as follows.

(A) Amend *Section R110.1 Use and occupancy* by amending the first sentence to read as follows: "A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the local *building official* has issued a certificate of occupancy in accordance with locally adopted rules and regulations."

(B) Amend *Section R110.2 Change in use* to read as follows: "Changes in the character or use of new industrialized housing are not allowed. Changes in the character or use of existing industrialized housing shall not be made except as authorized by the local *building official*."

(C) Amend *Section R110.3 Certificate issued* to read as follows: "The local *building official* shall issue a certificate of occupancy in accordance with the locally adopted rules and regulations. After the local *building official* inspects the industrialized house or building and does not find violations of the provisions of this code or other laws that are enforced by the department of building safety, then the local *building official* shall issue a record of final inspection authorizing the release of the house or building for occupancy."

(D) Delete Items 1 through 9 of *Section R110.3*.

(E) Amend *Section R110.4 Temporary occupancy* to read as follows: "The local *building official* may issue a temporary certificate of occupancy in accordance with locally adopted rules and regulations."

(F) Add new *Section R110.6 Industrialized housing installed outside the jurisdiction of a municipality or in a municipality without an inspection department* to read as follows: "The installation of industrialized housing installed outside the jurisdiction of a municipality or within a municipality without an inspection department shall

comply with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, Administrative Rules Industrialized Housing and Buildings."

(6) Amend *Section R301.2 Climatic and geographic design criteria* by adding the following sentence: "If no additional criteria have been established, or if there is no local jurisdiction to set the additional criteria, then the additional criteria shall be in accordance with the requirements in the footnotes of Table R301.2(1) and Sections R301.2.1 through R301.8 of this code."

(7) Amend *Section R302.2 Townhouses, Item #2* by adding the following exception: "Exception: Two structurally independent one-hour fire-resistance-rated wall assemblies, tested in accordance with ASTM E 119 or UL 263 with exposure from both sides, may be substituted for a 2-hour fire-resistance-rated common wall assembly. The walls shall be constructed without plumbing or mechanical equipment, ducts or vents in the cavity of the walls. Penetrations of each wall for electrical outlet boxes shall be in accordance with Section R302.4."

(8) Amend *Section R303.9 Required heating* to read as follows: "Every dwelling unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68°F (20°C) at a point 3 feet (914 mm) above the floor and 2 feet (610 mm) from exterior walls in habitable rooms at the design temperature. The installation of one or more portable space heaters shall not be used to achieve compliance with this section."

(9) Amend *Section R313 Automatic Fire Sprinkler Systems* as follows.

(A) Amend *Section R313.1 Townhouse automatic fire sprinkler systems* to read as follows: "The common wall between *townhouses* shall be constructed in accordance with Section R302.2(2) if an automatic residential fire sprinkler system is not installed. The fire-rating of the common wall may be reduced in accordance with Section R302.2(1) if an automatic residential fire sprinkler system is installed in *townhouses*."

(B) Amend *Section R313.2 One- and two-family dwelling automatic fire systems* to read as follows: "*One- and two-family dwelling automatic fire sprinkler systems*. The construction, projections, openings and penetrations of exterior walls of one- and two-family dwellings and accessory buildings shall comply with Table R302.1(1) if an automatic residential fire sprinkler system is not installed. The construction, projections, openings and penetrations of the exterior walls of one- and two-family dwellings and their accessory uses may be constructed in accordance with the requirements of Table R302.1(2) if an automatic residential fire sprinkler system is installed in one- and two-family dwellings."

(10) Amend the second sentence of *Section R902.1 Roofing covering materials* to read as follows: "Class A, B or C roofing shall be installed."

(11) Amend *Chapter 11 Energy Efficiency* as follows.

(A) Replace *N1101.2 Intent* with *N1101.2 Compliance* to read as follows: "Compliance shall be demonstrated by meeting the requirements of the *Residential Provisions* of the *International Energy Conservation Code*."

(B) Delete *Section N1101.3* through *Section N1111*.

(12) Delete *Part VIII- Electrical*, Chapters 34 through 43.

(13) Amend *Chapter 44 Referenced Standards* as follows.

(A) Delete code sections N1101.5 and N1101.13 as referenced code sections for *IECC-15, International Energy Conservation Code*.

(B) Add code section R102.3 and delete code sections E3401.1, E3401.2, E4301.1, Table E4303.2, E4304.3, and E4304.4 as referenced code sections for *NFPA 70-14, National Electrical Code*.

(C) Add TDI, Texas Department of Insurance, Windstorm Inspections Program, 333 Guadalupe Street, Austin, Texas 78701 as a promulgating agency, add *TDI Code, Building Codes adopted by TDI for the Windstorm Inspection Program*, as the referenced standard, and add code sections R102.4.4 and R106.1 as the referenced code sections.

(14) Amend *Section U101.1 General* to read as follows: "These provisions shall be applicable for new construction where solar-ready provisions are provided."

(e) The 2015 *International Fuel Gas Code* shall be amended as follows.

(1) Amend *Section 101 General* as follows.

(A) Amend *Section 101.1 Title* to read as follows: "These regulations shall be known as the Fuel Gas Code of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section 101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(2) Amend *Section 102 Applicability* as follows.

(A) Amend *Section 102.4 Additions, alterations or repairs* by replacing the first sentence with the following: "The provisions of the *International Existing Building Code* shall apply to all matters governing the repair, alterations, or additions of existing previously occupied industrialized buildings that are designed to be transported from one commercial site to another commercial site."

(B) Amend *Section 102.5 Change in occupancy* by adding the following to the beginning of the section: "The provisions of the *International Existing Building Code* shall apply to all matters governing a change in the occupancy of existing previously occupied industrialized buildings that are designed to be transported from one commercial site to another commercial site."

(C) Amend *Section 102.7 Moved buildings* by replacing the first sentence with the following: "Moved industrialized buildings that bear approved certification decals or insignia, and that may also bear an alteration decal, in accordance with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, and that have not been altered or modified since the decal, insignia, or alteration decal was attached, shall be considered to be in compliance with the current mandatory building codes adopted by the Texas Industrialized Building Code Council."

(D) Amend *Section 102.8 Referenced codes and standards* by adding the following: "Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(3) Amend *Chapter 8 Referenced Standards* by adding ICC Standard *IEBC-15, International Existing Building Code*, referenced in code sections 102.4 and 102.5.

(f) The 2015 *International Mechanical Code* shall be amended as follows.

(1) Amend *Section 101 General* as follows.

(A) Amend *Section 101.1 Title* to read as follows: "These regulations shall be known as the Mechanical Code of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section 101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(2) Amend *Section 102 Applicability* as follows.

(A) Amend *Section 102.4 Additions, alterations or repairs* by replacing the first sentence with the following: "The provisions of the *International Existing Building Code* shall apply to all matters governing the repair, alterations, or additions of existing previously occupied industrialized buildings that are designed to be transported from one commercial site to another commercial site."

(B) Amend *Section 102.5 Change in occupancy* by replacing the first sentence with the following: "The provisions of the *International Existing Building Code* shall apply to all matters governing a change in the occupancy of existing previously occupied industrialized buildings that are designed to be transported from one commercial site to another commercial site."

(C) Amend *Section 102.7 Moved buildings* by replacing the first sentence with the following: "Moved industrialized buildings that bear approved certification decals or insignia, and that may also bear an alteration decal, in accordance with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, and that have not been altered or modified since the decal, insignia, or alteration decal was attached, shall be considered to be in compliance with the current mandatory building codes adopted by the Texas Industrialized Building Code Council."

(D) Amend *Section 102.8 Referenced codes and standards* by adding the following: "Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(3) Amend *Chapter 15 Referenced Standards* by adding ICC Standard *IEBC-15, International Existing Building Code*, referenced in code sections 102.4 and 102.5.

(g) The 2015 *International Plumbing Code* shall be amended as follows.

(1) Amend *Section 101 General* as follows.

(A) Amend *Section 101.1 Title* to read as follows: "These regulations shall be known as the Plumbing Code of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section 101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrial-

ized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(2) Amend *Section 102 Applicability* as follows.

(A) Amend *Section 102.4 Additions, alterations or repairs* by replacing the first sentence with the following: "The provisions of the *International Existing Building Code* shall apply to all matters governing the repair, alterations, or additions of existing previously occupied industrialized buildings that are designed to be transported from one commercial site to another commercial site."

(B) Amend *Section 102.5 Change in occupancy* by adding the following to the beginning of the section: "The provisions of the *International Existing Building Code* shall apply to all matters governing a change in the occupancy of existing previously occupied industrialized buildings that are designed to be transported from one commercial site to another commercial site."

(C) Amend *Section 102.7 Moved buildings* to add the following sentence: "Moved industrialized buildings that bear approved certification decals or insignia, and that may also bear an alteration decal, in accordance with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, and that have not been altered or modified since the decal, insignia, or alteration decal was attached, shall be considered to be in compliance with the current mandatory building codes adopted by the Texas Industrialized Building Code Council."

(D) Amend *Section 102.8 Referenced codes and standards* by adding the following: "Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(3) Amend *Section 403 Minimum Plumbing Facilities* as follows.

(A) Add new *Section 403.5 Industrialized housing and buildings exceptions* to read as follows: "Plumbing fixtures for industrialized buildings shall be provided as required by Table 403.1 except as allowed in Sections 403.5.1, 403.5.2 and 403.5.3."

(B) Add new *Section 403.5.1 Buildings that are not normally occupied* to read as follows: "Buildings, such as equipment or communication shelters, that are not normally occupied or that are only occupied to service equipment, shall not be required to provide plumbing facilities. EXCEPTION: Buildings that are not normally occupied that are also classified as a Group H occupancy must be provided with plumbing facilities required for this type of occupancy such as requirements for emergency showers and eyewash stations."

(C) Add new *Section 403.5.2 Other industrialized buildings* to read as follows: "All other industrialized buildings shall contain the minimum plumbing fixtures required in accordance with Table 403.1 unless the building is a non-site specific building and the plans and the data plate contain a special condition/limitation note that the minimum number of required fixtures shall be provided in another building located on the installation site with a path of travel that does not exceed a distance of 500 feet. The plumbing facilities must be accessible to the occupants of the industrialized building. Non-site specific buildings and special condition limitation notes shall be as defined in the 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program."

(D) Add new *Section 403.5.3 Requirements for service sinks for industrialized buildings* to read as follows: "Commercial in-

dustrialized buildings with areas of less than or equal to 1,800 square feet shall not be required to contain a service sink provided that the building contains a lavatory and water closet that can be substituted for the service sink. EXCEPTION: A building of less than 1,800 square feet in area without any plumbing facilities shall comply with section 403.5.2."

(4) Amend *Chapter 13 Referenced Standards* by adding ICC Standard IEBC-15, *International Existing Building Code*, referenced in code sections 102.4 and 102.5.

(h) The 2015 *International Energy Conservation Code* shall be amended as follows.

(1) Amend *Section C101 Scope and General Requirements* and *R101 Scope and General Requirements* as follows.

(A) Amend *Section C101.1 Title* and *Section R101.1 Title* to read as follows: "These regulations shall be known as the Energy Conservation Code of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section C101.2 Scope* and *R101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(2) Amend *Section C102 Alternate Materials - Method of Construction, Design or Insulating Systems* and *R102 Alternate Materials, Design and Methods of Construction and Equipment* as follows.

(A) Add new *Section C102.1.2 Compliance software tools to read* as follows: "The following software tools may be used to demonstrate energy code compliance for commercial buildings. The mandatory requirements of this code apply regardless of the software program that is used to demonstrate compliance. 1. The PLLN/DOE software programs *COMcheck*. 2. Software programs approved by the State Energy Conservation Office. 3. Other software programs if approved by the executive director or the Council."

(B) Add new *Section R102.1.2 Compliance software tools to read* as follows: "The following software tools may be used to demonstrate energy code compliance for commercial buildings. The mandatory requirements of this code apply regardless of the software program that is used to demonstrate compliance. 1. The PLLN/DOE software programs *REScheck*. 2. The Texas Energy Systems Laboratory *International Code Compliance Calculator, IC3*. 3. Software programs approved by the State Energy Conservation Office. 4. Other software programs if approved by the executive director or the Council."

(3) Amend *Section C106.1 Referenced codes and standards* and *Section R106.1 Referenced Codes and Standards* by adding the following: "Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(4) Add new *Section C401.2.2 Buildings for state agencies and institutions of higher education* to read as follows: "Buildings for state agencies and institutions of higher education shall comply with the energy standard adopted pursuant to Texas Government Code, §447.004 by the State Energy Conservation Office (SECO), and implementation through 34 Texas Administrative Code, Chapter 19, Subchapter C, Energy Conservation Design Standards."

(5) Add new *Section C501.7 Moved buildings* to add the following sentence: "Moved industrialized buildings that bear approved certification decals or insignia, and that may also bear an alteration decal, in accordance with the requirements of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70, and that have not been altered or modified since the decal, insignia, or alteration decal was attached, shall be considered to be in compliance with the current mandatory building codes adopted by the Texas Industrialized Building Code Council."

(6) Amend *Chapter C6 Referenced Standards* and *Chapter R6 Referenced Standards* as follows.

(A) Add to *Chapter C6* PNNL/DOE, Pacific Northwest National Laboratory/Department of Energy Conservation, <https://www.energycodes.gov/software-and-webtools>, as a promulgating agency, *COMcheck* Version 4.0.5.2 or later, *Commercial Energy Compliance Software* as the referenced standard, and section C102.1.2 as the referenced code section.

(B) Add to *Chapter R6* PNNL/DOE, Pacific Northwest National Laboratory/Department of Energy Conservation, <https://www.energycodes.gov/software-and-webtools>, as a promulgating agency, *REScheck* Version 4.6.3 or later, *Residential Energy Compliance Software* as the referenced standard, and section R102.1.2 as the referenced code section.

(C) Add to *Chapter R6* the Texas Energy Systems Laboratory, 402 Harvey Mitchell Parkway South, College Station, Texas 77845-3581, as a promulgating agency, IC3, v 3.10 or later, *International Code Compliance Calculator* as the referenced standard, and section R102.1.2 as the referenced code section.

(i) The 2015 *International Existing Building Code* shall be amended as follows.

(1) Amend *Section 101 General* as follows.

(A) Amend *Section 101.1 Title* to read as follows: "These regulations shall be known as the Existing Building Code of the Texas Industrialized Housing and Buildings Program, hereinafter referred to as 'this code.'"

(B) Amend *Section 101.2 Scope* by adding the following: "Where conflicts occur between the provisions of this code and the provisions of Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, or the provisions of 16 Texas Administrative Code, Chapter 70, rules governing the Texas Industrialized Housing and Buildings Program, the provisions of Texas Occupations Code, Chapter 1202 and 16 Texas Administrative Code, Chapter 70 shall control."

(2) Amend *Section 102 Applicability* as follows.

(A) Amend *Section 102.4 Referenced codes and standards* to read as follows: "The codes and standards referenced in this code shall be considered to be part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.4.1 through 102.4.3. Whenever amendments to the referenced codes have been adopted, each reference to said code shall be considered to reference the amendment as well."

(B) Add new *Section 102.4.3 Accessibility for existing buildings* to read as follows: "Wherever reference elsewhere in this code is made to sections in Chapter 11 of the International Building Code or ICC A117.1, the *Texas Accessibility Standards* (TAS) of Texas Government Code, Chapter 469, Elimination of Architectural Barriers shall be substituted."

(3) Amend the first sentence of *Section 1401.2 Applicability* to read as follows: "Structures existing prior to August 1, 2017, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 5 through 13."

(4) Amend *Chapter 15 Referenced Standards* as follows.

(A) Delete the following standard: "*ICC A117.1-09, Accessible and Usable Buildings and Facilities.*"

(B) Add TDLR, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711 as a promulgating agency; add 2012 TAS, *Texas Accessibility Standards* as adopted under 16 Texas Administrative Code, Chapter 68 as the referenced standard; and add code sections 102.4, 410.8.2, 410.8.3, 410.8.10, 705.1.2, and 705.1.3 as the referenced code sections.

(j) The 2014 *National Electrical Code* shall be amended to add the following to *Article 310.1 Scope*: "Aluminum and copper-clad aluminum shall not be used for branch circuits in buildings classified as a residential occupancy. Aluminum and copper-clad aluminum conductors, of size number 4 AWG or larger, may be used in branch circuits in buildings classified as occupancies other than residential."

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

Filed with the Office of the Secretary of State on February 3, 2017.

TRD-201700471

Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-8614



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER T. WORKFORCE EDUCATION COURSE MANUAL ADVISORY COMMITTEE

19 TAC §§1.220 - 1.226

The Texas Higher Education Coordinating Board (Coordinating Board) adopts §§1.220 - 1.226 - Workforce Education Course Manual Advisory Committee, concerning authorizing the Board to create an advisory committee, with changes to the proposed text as published in the October 14, 2016, issue of the *Texas Register* (41 TexReg 8160). The intent of these new sections is to establish the Workforce Education Course Manual (WECM) Advisory Committee. The WECM Advisory Committee will be charged with providing the Board with advice regarding content, structure, currency, and presentation of the Workforce Education Course Manual (WECM) and its courses; recommendations regarding field engagement in processes, maintenance, and use

of the WECM; and assistance in reviewing state policies, procedures, and guidelines.

Three comments were received about these new sections. Coordinating Board staff responses to the comments are below.

Comment: The Coordinating Board received comments from Vernon College, Midland College, and Dallas County Community College District. It was suggested by these three colleges that the word "disciplines" be replaced with the word "programs" in §1.220(b).

Response: Agree to change the word "disciplines" with the word "programs" in §1.220(b).

The new sections are adopted under Texas Education Code, §130.001(a)(5), which provides the Coordinating Board with the authority to develop and establish advisory commissions composed of representatives of public junior colleges and other citizens of the state to provide advice and counsel to the Coordinating Board with respect to public junior colleges and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

§1.220. *Authority and Specific Purposes of the Workforce Education Course Manual Advisory Committee.*

(a) Authority: The authority for this subchapter is provided in the Texas Education Code, §130.001.

(b) Purposes. The Workforce Education Course Manual (WECM) Advisory Committee is created to provide the Board with advice and recommendation(s) regarding content, structure, currency and presentation of the Workforce Education Course Manual (WECM) and its courses; recommendations regarding field engagement in processes, maintenance, and use of the WECM; and assistance in identifying new programs of study, developments within existing programs represented by courses in the manual, vertical and horizontal alignment of courses within programs, and obsolescence of programs of study and courses.

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

Filed with the Office of the Secretary of State on February 2, 2017.

TRD-201700458

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6104



CHAPTER 5. RULES APPLYING TO
PUBLIC UNIVERSITIES, HEALTH-RELATED
INSTITUTIONS, AND/OR SELECTED PUBLIC
COLLEGES OF HIGHER EDUCATION IN
TEXAS
SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §5.5

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §5.5, concerning Uniform Admission Policy, with changes to the proposed text as published in the October 14, 2016, issue of the *Texas Register* (41 TexReg 8161). Specifically, this section is amended to reflect the College Board's new Scholastic Aptitude Test (SAT) college readiness benchmarks for automatic admission to general academic teaching institutions.

No comments were received.

The amendments are adopted under the Texas Education Code, §51.803, which provides the Coordinating Board with the authority to adopt rules for the Uniform Admission Policy.

§5.5. *Uniform Admission Policy.*

(a) Each public university shall admit first-time undergraduate students for each semester in accordance with Texas Education Code, §§51.801 - 51.809. Only The University of Texas at Austin shall admit students under Texas Education Code §51.803(a-1) - (a-5) and subsection (e) of this section.

(b) All applicants from Texas schools accredited by a generally recognized accrediting agency and who graduate in the top 10 percent of their high school class or who graduate in the top 25 percent of their high school class, to the extent the governing board of a general academic teaching institution has adopted such an admission policy, shall be admitted to a general academic teaching institution if the student meets the following conditions:

(1) The student has met one of the following:

(A) Successfully completed the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program from a Texas public high school as outlined under Texas Education Code, §28.025, as well as, 19 TAC §§74.63, 74.64, 74.73, and 74.74 (relating to the distinguished level of achievement under the Foundation, Recommended High School Program, or Distinguished Achievement High School Program--Advanced High School Program);

(B) Successfully completed a curriculum from a high school in Texas other than a public high school that is equivalent in content and rigor to the distinguished level of achievement under the Foundation, the Recommended, or Advanced High School Program as outlined under subsection (c) of this section;

(C) Satisfied ACT's College Readiness Benchmarks on the ACT assessment; or

(D) Earned on the SAT assessment:

(i) if the SAT was administered prior to March 5, 2016, a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the critical reading test; or

(ii) if the SAT was administered on or after March 5, 2016, a minimum score of 480 on the Evidenced-Based Reading and Writing (EBRW) test and a minimum score of 530 on the mathematics test (no combined score); and

(2) The student submitted an official high school transcript or diploma that must, not later than the end of the student's junior year, indicate whether the student has satisfied the requirements outlined under paragraph (1)(A) or (B) of this subsection.

(3) For applicants who graduate in the top 10 percent of their high school class and want to be considered for automatic admission under Texas Education Code, §51.803, the student must:

(A) Submit a complete application defined by the institution before the expiration of the institution's established deadline; and

(B) Have graduated from high school within the two years prior to the academic year for which the student is applying for admission.

(c) A student is considered to have satisfied the requirements of subsection (b)(1)(A) or (B) of this section if the student completed all or the portion of the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program of a curriculum equivalent in content and rigor, as applicable, that was available to the student. A student may be considered to have completed the distinguished level of achievement under the Foundation, Recommended, or Advanced High School curriculum if a student was unable to complete the remainder of the curriculum solely because courses necessary to complete the remainder were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control. The standards for determining whether a student has satisfied the requirements of this subsection include the following:

(1) For a student in a Texas public high school, the public high school providing to a Texas public institution of higher education the Academic Achievement Record or transcript outlined under subsection (b)(2) of this section must indicate, in a form and manner prescribed by the Commissioner of Higher Education, whether the student has completed all or a portion of the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program or of the curriculum equivalent in content and rigor, as applicable, that was available.

(2) For a student in a Texas private high school, the private high school providing to a Texas public institution of higher education the transcript or diploma outlined under subsection (b)(2) of this section must:

(A) Be accredited by the Texas Private School Accreditation Commission or other accrediting organizations recognized by the Texas Education Agency; and

(B) Indicate, in a form and manner prescribed by the Commissioner of Higher Education, whether the student has completed all or a portion of the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program or of the curriculum equivalent in content and rigor, as applicable, that was available.

(d) All applicants from high schools operated by the United States Department of Defense and who graduate in the top 10 percent of their high school class shall be admitted to a general academic teaching institution if the student meets the following conditions, or if subsection (c) of this section applies whether the student has completed the portion of the distinguished level of achievement under the Foundation, recommended, or advanced curriculum or of the curriculum equivalent in content and rigor, as applicable, that was available to the student:

(1) The student graduated from high school within the two years prior to the academic year for which the student is applying;

(2) The student is a Texas resident as defined in Texas Education Code, §54.052 or is entitled to pay tuition and fees at the rate provided for Texas residents for the term or semester to which the student is admitted;

(3) The student submitted a complete application as defined by the institution before the expiration of the institution's established deadline; and

(4) The student meets the curriculum or the ACT/SAT test score requirements as outlined under subsection (b)(1) of this section.

(e) For the period beginning with the 2011-2012 academic year, The University of Texas at Austin is not required to admit applicants under this subchapter in excess of the number needed to fill 75 percent of first-time resident undergraduate students.

(f) High school rank for students seeking automatic admission to a general academic teaching institution on the basis of their class rank is determined and reported as follows:

(1) Most recent available class rank, based on a point in time no earlier than the end of the 11th grade, shall be used for admission decision-making.

(2) The top 10 percent and top 25 percent of a high school class shall not contain more than 10 percent and top 25 percent, respectively, of the total class size.

(3) The student's rank shall be reported by the applicant's high school or school district as a specific number out of a specific number total class size.

(4) Class rank shall be determined by the school or school district from which the student graduated or is expected to graduate.

(g) A general academic teaching institution may limit the number of students admitted under this section if the number of applicants eligible and applying for admission to the institution under this section exceeds by more than 10 percent the average number of first-time freshmen admitted the previous two academic years. If an institution chooses to limit the number of students admitted under this section, it must ensure that:

(1) At least 97 percent of first-time freshmen admitted are in the top 10 percent of their high school class; and

(2) Clear guidelines are established for the selection of students based on one or a specified combination of the following methods:

(A) A lottery in which all students qualified for automatic admission have an equal chance for selection;

(B) Students are selected on a first-come, first-admitted basis following receipt of a complete application; or

(C) At least four or more criteria identified in Texas Education Code, §51.805 are used to select students admitted.

(h) The 18 admissions factors outlined in Texas Education Code, §51.805(b) may be considered by a general academic teaching institution when an applicant is eligible for admission under the "other admissions" provision as described in Texas Education Code, §51.805, but only after the applicant has met the curriculum or the ACT/SAT test score requirements as outlined under subsection (b)(1) of this section. Applicants participating in the minimum, recommended, or advanced high school program may be considered under the "other admissions" provision according to this subsection.

(i) Each public institution of higher education shall admit a student as an undergraduate if the student meets the following conditions:

(1) Is the child of a public servant listed in Texas Government Code, §615.003 who was killed or sustained a fatal injury in the line of duty according to requirements for verification outlined by the institution; and

(2) Meets the minimum admissions requirements established for purposes of this subsection by the governing board of the

institution for high school or prior college-level grade point average and performance on standardized tests.

(j) Each general academic teaching institution shall annually report to the Board the composition of the entering class of first-time freshmen students admitted under this section. The report shall include a demographic breakdown of the class including race, ethnicity, and economic status. Each general academic teaching institution shall provide this report to the Board annually on or before a date set by the Board.

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

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Bill Franz
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6104



SUBCHAPTER C. APPROVAL OF NEW ACADEMIC PROGRAMS AT PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND REVIEW OF EXISTING DEGREE PROGRAMS

19 TAC §5.44

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §5.44, Approval of New Academic Programs at Public Universities, Health-Related Institutions, and Review of Existing Degree Programs, concerning the approval of new academic programs at public universities and health-related institutions, without changes to the proposed text as published in the October 14, 2016, issue of the *Texas Register* (41 TexReg 8162). The intent of these amendments is to clarify and streamline rules regarding the presentation of requests for new programs from public institutions of higher education to the Texas Higher Education Coordinating Board.

No comments were received on the rules as proposed.

The rules are adopted under Texas Education Code, Chapter 61, Subchapter C, §61.0512(a), which authorizes the Coordinating Board to evaluate requests for new degree and certificate programs from public institutions of higher education.

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

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Bill Franz
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CHAPTER 15. NATIONAL RESEARCH UNIVERSITIES SUBCHAPTER B. RESEARCH UNIVERSITY DEVELOPMENT FUND

19 TAC §§15.20 - 15.22

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of §§15.20, 15.21, and 15.22, concerning distribution of Research University Development Fund (RUDF) to research and emerging research universities, without changes to the proposed text as published in the October 14, 2016, issue of the *Texas Register* (41 TexReg 8164). The statute authorizing rules for the RUDF, created by the 81st Texas Legislature, Regular Session, 2009, was deleted effective September 1, 2013, by Senate Bill 215, 83rd Texas Legislature, Regular Session, 2013. Between September 1, 2009, and September 1, 2013, the RUDF was codified as Texas Education Code Title 3, Subtitle B, Subchapter C, §§62.051 - 62.054.

There were no comments concerning the repeal of these sections.

The repeal of these sections is adopted under Texas Education Code, §62.054, and the 83rd Texas Legislature, Regular Session, which authorized the Coordinating Board to adopt rules for the administration of the program.

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

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Bill Franz
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CHAPTER 21. STUDENT SERVICES SUBCHAPTER RR. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

19 TAC §21.2243

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §21.2243, concerning the Texas Armed Services Scholarship Program, without changes to the proposed text as published in the November 11, 2016, issue of the *Texas Register* (41 TexReg 8888). Specifically, this section

is amended to align the language in the Board rules with the eligibility provision in Texas Education Code, §61.9772, by removing the reference to specific SAT and ACT scores.

No comments were received regarding the amendments.

The amendments are adopted under Texas Education Code §61.9774, which authorizes the Coordinating Board to adopt rules to implement the Texas Armed Services Scholarship Program.

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

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Bill Franz

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Texas Higher Education Coordinating Board

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CHAPTER 22. GRANT AND SCHOLARSHIP PROGRAMS

SUBCHAPTER B. PROVISIONS FOR THE TUITION EQUALIZATION GRANT PROGRAM

19 TAC §22.29

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §22.29 (Allocation and Reallocation of Funds), concerning the Provisions for the Tuition Equalization Grant Program, without changes to the proposed text as published in the November 4, 2016, issue of the *Texas Register* (41 TexReg 8708). The intent of the amendments is to incorporate into existing rule changes and provisions developed by the Negotiated Rule-Making Committee. Language has been changed for the methodology used to determine institutional allocations. The newly amended statute will affect students enrolling in private, independent non-profit institutions of higher education. Changes to these sections are made in accordance with Senate Bill 215, passed by the 83rd Texas Legislature, Regular Session, which require the Coordinating Board to engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code, "when adopting a policy, procedure, or rule relating to ...the allocation or distribution of funds, including financial aid or other trusteed funds under §61.07761". Specifically, this section is amended to include the methodology with which institutional allocations will be determined. The amendments to §22.29(a) adds language to indicate that allocations for fiscal year 2019 and prior will use the TEG Need Survey Report provided by institutions to the Coordinating Board. New §22.29(b) adds language as to the methodology used to handle institutions' request for funds and the sources of data used for determining allocations for fiscal year 2020 and later. Section 22.29(b) - (c) have been renumbered accordingly.

No comments were received regarding the proposed amendments.

The amendments are adopted under Texas Education Code, §61.229, which provided the Coordinating Board with the authority to adopt rules to implement the Tuition Equalization Grants Program.

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

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Bill Franz

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Texas Higher Education Coordinating Board

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CHAPTER 27. FIELDS OF STUDY

SUBCHAPTER I. COMPUTER SCIENCE/INFORMATION TECHNOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.261 - 27.267

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§27.261 - 27.267, concerning Computer Science/Information Technology Field of Study Advisory Committee, without changes to the proposed text as published in the October 21, 2016, issue of the *Texas Register* (41 TexReg 8249). The intent of these new rules is to authorize the Board to create an advisory committee to develop a computer science/information technology field of study. The newly added rules will affect students when the computer science/information technology field of study is adopted by the Board.

There were no comments received regarding these new sections.

The new sections are adopted under Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

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

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Bill Franz
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SUBCHAPTER J. CRIMINAL JUSTICE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.281 - 27.287

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§27.281 - 27.287, concerning Criminal Justice Field of Study Advisory Committee, without changes to the proposed text as published in the October 21, 2016, issue of the *Texas Register* (41 TexReg 8250). The intent of these new rules is to authorize the Board to create an advisory committee to develop a Criminal Justice field of study. The newly added rules will affect students when the criminal justice field of study is adopted by the Board.

There were no comments received regarding these new sections.

The new sections are adopted under Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

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

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Bill Franz
General Counsel
Texas Higher Education Coordinating Board
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SUBCHAPTER K. PERFORMING ARTS/DRAMA FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.301 - 27.307

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§27.301 - 27.307, concerning Performing Arts/Drama Field of Study Advisory Committee, without changes to the proposed text as published in the October 21, 2016, issue of the *Texas Register* (41 TexReg 8251). The intent of these new sections is to authorize the Board to create an advisory committee to develop a Performing Arts/Drama field of study. The

newly added sections will affect students when the performing arts/drama field of study is adopted by the Board.

There were no comments received concerning these new sections.

The new sections are adopted under Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

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

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Bill Franz
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Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6104



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 33. STATEMENT OF INVESTMENT OBJECTIVES, POLICIES, AND GUIDELINES OF THE TEXAS PERMANENT SCHOOL FUND SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §33.1001

The Texas Education Agency adopts an amendment to §33.1001, concerning the Charter District Bond Guarantee Reserve Fund. The amendment is adopted without changes to the proposed text as published in the December 16, 2016, issue of the *Texas Register* (41 TexReg 9846) and will not be republished. The adopted amendment changes the method for calculating the amount to be paid by charter holders to the Charter District Bond Guarantee Reserve Fund established under the Texas Education Code (TEC), §45.0571, and clarifies that the payment is withheld during the month of the anniversary date of closing rather than on the anniversary date of closing.

REASONED JUSTIFICATION. TEC, §45.0571, authorizes the commissioner to establish rules related to the Charter District Bond Guarantee Reserve Fund. The statute provides that a charter district that has a bond guaranteed as provided by TEC, Chapter 45, Subchapter C, must annually remit to the commissioner, for deposit in the Charter District Bond Guarantee Reserve Fund, an amount equal to 10% of the savings to the charter district resulting from the lower interest rate on the bond due to the guarantee by the permanent school fund.

The adopted amendment redefines how the savings are calculated using a method that takes into account interest rates spreads that occur with market changes. The adopted amendment also specifies when the commissioner will compute the cost savings and post the information to the agency website. In addition, a clarification was made that annual payments will be withheld during the month of the anniversary date of closing rather than on the anniversary date of closing.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began December 16, 2016, and ended January 17, 2017. No public comments were received.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code, §45.0571, which authorizes the commissioner of education to adopt rules to determine the amount of the statutorily required 10% savings set aside for the Charter District Bond Guarantee Reserve Fund.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §45.0571.

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

Filed with the Office of the Secretary of State on February 3, 2017.

TRD-201700483

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: February 23, 2017

Proposal publication date: December 16, 2016

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



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 122. FEDERAL OPERATING PERMITS PROGRAM

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§122.10, 122.12, 122.120, 122.122, 122.130, 122.132, 122.142, 122.145, and 122.148; and the repeal of §§122.420, 122.422, 122.424, 122.426, and 122.428, *without changes* to the proposal as published in the September 9, 2016, issue of the *Texas Register* (41 TexReg 6931). These sections will not be republished.

The changes adopted in this rulemaking will be submitted to the United States Environmental Protection Agency (EPA) as revisions to the Texas Federal Operating Permits (FOP) Program. A request will be submitted to the EPA to withdraw from consideration the amendments to §122.122 submitted on April 16, 2014, as a revision to the state implementation plan (SIP).

Background and Summary of the Factual Basis for the Adopted Rules

TCEQ is the permitting authority responsible for implementing the FOP Program (also referred to as the Title V Permits Program) in Texas. Chapter 122 contains the framework and criteria that identify which sources are required to obtain a federal operating permit, identify the applicable requirements to be included in the permit, and establish other details about applying for and complying with a federal operating permit. In recent years there have been significant changes to several major federal regulatory initiatives as a result of court actions and new EPA rulemaking. Revisions to Chapter 122 are necessary in order to reflect up-to-date requirements associated with these federal regulations as they relate to the FOP Program.

The purpose of a federal operating permit is to improve compliance with air pollution laws and regulations by recording in one document all the air pollution control requirements that apply to a source. This gives regulators, site owners or operators, and members of the public a clear picture of what the facility is required to do to meet regulatory standards. A federal operating permit also requires the source to make regular reports on how it is meeting its emission control requirements and maintaining compliance with applicable regulations.

The federal initiatives or regulations addressed in this rulemaking include the Clean Air Interstate Rule (CAIR), the Cross-State Air Pollution Rule (CSAPR), and the permitting of greenhouse gases (GHGs) under Prevention of Significant Deterioration (PSD) and under the FOP Program. More specifically, the changes in this rulemaking are intended to address the vacatur of CAIR; the replacement of CAIR with CSAPR; and the 2014 Supreme Court decision which partially struck down certain requirements for the permitting of GHGs.

CAIR and CSAPR

CAIR was a regulation developed by the EPA to address interstate transport of emissions by reducing power plant emissions that the EPA determined were contributing to ozone or fine particle pollution in downwind states. In December 2008, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) found that CAIR did not meet the requirements of the Federal Clean Air Act (FCAA). The DC Circuit struck down CAIR, but left existing CAIR programs in place temporarily while directing EPA to replace them with a new rule consistent with the FCAA. In response, the EPA developed CSAPR, which effectively replaced CAIR when promulgated on August 8, 2011. However, in August 2012, the DC Circuit also vacated CSAPR. In April 2014, the Supreme Court overturned the DC Circuit's 2012 ruling and reinstated CSAPR. Because federal regulations specify that CSAPR is an applicable requirement under the FOP Program, it is necessary to revise Chapter 122 to add CSAPR to the definition of "Applicable requirement." This ensures that TCEQ's FOP Program rules and operating permits issued by TCEQ are consistent with current federal requirements, and ensure that TCEQ maintains overall FOP Program approval.

GHG Permitting under the FOP Program

In March 2014, the TCEQ adopted rules in 30 TAC Chapters 116 and 122 to provide for the permitting of GHGs, as directed by House Bill (HB) 788 (83rd Texas Legislature, 2013). However, in June 2014, the Supreme Court in *Utility Air Regulatory Group v. EPA (UARG)*, 134 S.Ct. 2427 (2014) struck down portions of the EPA's regulations relating to permitting of GHGs. The Supreme Court ruled that the EPA could not require permitting of GHG emissions under the PSD or Title V (FOP) program based on emissions of GHGs alone. However, the Supreme Court

also ruled that if a project triggered PSD review as the result of emissions of non-GHG criteria pollutants, the permit review could include consideration and appropriate limitations on GHG emissions. A source which becomes subject to PSD review for a particular pollutant due to emissions of a different regulated new source review pollutant, is informally known as an "anyway source."

As a result of the Supreme Court ruling, the 2014 revisions to Chapter 122 which established the applicability of federal operating permit requirements for major sources of GHG are no longer applicable. These GHG-related requirements need to be deleted from Chapter 122 to avoid unnecessary confusion, maintain consistency with current federal requirements, and to ensure that TCEQ maintains FOP Program approval. In addition, HB 788 and corresponding Texas Health and Safety Code, §382.05102(e) require that the commission repeal rules requiring the permitting of GHG emissions, if emissions of GHGs are no longer required to be authorized under federal law. The adopted revisions are consistent with that statutory requirement.

Note that the adopted revisions to Chapter 122 relate to the relevance of GHG emissions at the site when determining the applicability of federal operating permit requirements. The adopted revisions are intended to ensure that emissions of GHGs alone do not cause a site to become subject to federal operating permit requirements. However, this does not necessarily mean that a federal operating permit will never contain terms and conditions which relate to emissions of GHGs. In situations where an applicable requirement includes a GHG emission standard, or a project has triggered PSD review due to emissions of criteria pollutants, the permitting authority may still establish GHG-related requirements, and all terms and conditions of a PSD permit (including any limitations or conditions relating to emissions of GHGs) are still considered applicable requirements under the FOP Program.

Other Changes

The commission has also adopted other minor amendments to Chapter 122 to correct outdated or inaccurate references to other commission rules and federal statutes, and to correct various grammatical and style errors.

Section by Section Discussion

§122.10, General Definitions

The commission revises the definition of "Air pollutant" at §122.10(1). The adopted change removes the portion of this definition at §122.10(1)(G) which covers GHGs. The effect of the adopted change is that GHGs will no longer be considered an air pollutant for purposes of determining the applicability of Chapter 122 federal operating permit requirements.

The commission revises the definition of "Applicable requirement" at §122.10(2)(I)(iii). The adopted change to §122.10(2)(I)(iii) removes the reference to the federal CAIR program as an applicable standard or requirement, and replaces it with a reference to the federal CSAPR regulation.

The commission deletes the definition of "Carbon dioxide equivalent (CO_e) emissions" under §122.10(3). This definition is no longer relevant to the applicability of Chapter 122 because the adopted rule changes remove consideration of GHG emissions as a factor when determining applicability of federal operating permit requirements. The commission also renumbers existing definitions §122.10(4) - (30) to maintain correct sequencing after the deletion of existing §122.10(3).

The commission revises the definition of "Major source" under renumbered §122.10(13), to remove language in subparagraphs (C) and (H) which specifies the threshold quantities of GHG emissions which trigger the requirement to obtain a federal operating permit. In addition, to maintain consistency with federal regulations pertaining to federal operating permit requirements, the commission adopts a revision to the list of source categories which are required to include fugitive emissions when determining if a facility is a major source. The revision to renumbered §122.10(13)(C)(xx) clarifies that certain ethanol production facilities which produce ethanol by natural fermentation are excluded from the source category of chemical process plants. The EPA adopted this change to the corresponding 40 Code of Federal Regulations (CFR) Parts 70 and 71 on May 1, 2007 (72 FR 24060).

§122.12, Acid Rain Definitions

The commission deletes the definition of "Clean Air Interstate Rule permit" at §122.12(3). This definition is no longer necessary, as TCEQ will no longer be issuing CAIR permits under this chapter. The commission renumbers existing definition §122.12(4) to account for the deletion of §122.12(3).

§122.120, Applicability

The commission deletes §122.120(a)(5) and (6), which contain language relating to the applicability of Chapter 122 to units covered by CAIR. This language is no longer necessary as CAIR is no longer effective. The commission has not added any references to CSAPR in this applicability language because the requirement to obtain a federal operating permit is not based directly or solely on the CSAPR status of the site.

§122.122, Potential to Emit

The commission adopts a minor grammatical correction to §122.122(a). The commission also deletes language in §122.122(e)(3) which provides for the certified registration of GHG emissions. This language is no longer necessary because, in accordance with the *UARG* decision, a site's GHG emissions would no longer be a sole determining factor for the applicability of federal operating permit requirements, so there would be no need for a site to use this method of limiting potential to emit for GHGs. Section 122.122(e)(3) was originally adopted and submitted to the EPA as a revision to the SIP on April 16, 2014; however, because of the *UARG* decision, the commission requested, and the EPA agreed, to take no action on this rule provision. (79 FR 66626, 66629). TCEQ will submit a formal request to withdraw §122.122(e)(3) as submitted in 2014 from consideration as a SIP revision to ensure that the SIP is consistent with the deletions to the rule text which are adopted in this rulemaking.

§122.130, Initial Application Due Dates

The commission deletes language in §122.130(b)(3) relating to the deadline for the owner or operator of a site to submit a permit application as a result of rulemaking which adds GHG sources to the FOP Program. This language is no longer necessary because emissions of GHGs alone will no longer trigger the requirement for an owner or operator to apply for a federal operating permit.

§122.132, Application and Required Information for Initial Permit Issuance, Reopening, Renewal, or General Operating Permits

The commission deletes §122.132(d) and (e)(7), which contain language relating to an outdated phased permitting option which

was repealed in 2003. The commission re-letters or renumbers the remaining subsections and paragraphs in the section as needed to reflect the adopted deletions and maintain sequential order. The commission also revises re-lettered §122.132(d)(3) to remove a phrase referencing the repealed phased permitting option.

§122.142, *Permit Content Requirements*

The commission deletes language from §122.142(b)(2)(B) and (d) that relates to the phased permitting option repealed in 2003. The commission re-letters the remaining subsections, to reflect the adopted deletion of §122.142(d). The commission also revises re-lettered §122.142(d)(1) and (2) to update cross-references to certain rules within adopted §122.132(d) which has been re-lettered as a result of adopted revisions to that section.

§122.145, *Reporting Terms and Conditions*

The commission revises §122.145(2)(D) to replace outdated references to 30 TAC §101.6 and §101.7. The current corresponding references are 30 TAC §101.201, Emissions Event Reporting and Recordkeeping Requirements, and 30 TAC §101.211, Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements, respectively.

§122.148, *Permit Shield*

The commission revises §122.148(b) to update cross-references to rule subsections and paragraphs within adopted §122.132(d) which have been re-lettered or renumbered as a result of adopted revisions to that section.

Subchapter E, Acid Rain Permits and Clean Air Interstate Rule Division 2, Clean Air Interstate Rule

The commission adopts the repeal of §§122.420, 122.422, 122.424, 122.426, and 122.428 which contain various requirements relating to applications for and contents of CAIR permits. As CAIR is no longer in effect, it is no longer necessary for Chapter 122 to maintain these requirements.

Final Regulatory Impact Analysis Determination

The commission reviewed the adopted rulemaking in light of the regulatory impact analysis requirements of the Texas Government Code, §2001.0225, and determined that the adopted rulemaking does not meet the definition of a "Major environmental rule" as defined in that statute, and in addition, if it did meet the definition, would not be subject to the requirements to prepare a Regulatory Impact Analysis.

A "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The specific intent of the adopted revisions to Chapter 122 is to reflect current applicable requirements associated with federal rulemakings and court decisions as they relate to the FOP Program.

Due to significant changes to several major federal regulations as a result of court actions and EPA rulemaking, revisions to Chapter 122 are necessary in order to reflect up-to-date permitting requirements associated with these new or revised federal regulations. The federal regulations addressed in this rulemaking are CAIR, CSAPR, and GHG permitting. All of these regulations, and the overall FOP Program, were developed by the EPA to implement or satisfy provisions of the FCAA.

The adopted rulemaking revises Chapter 122 to: 1) remove requirements associated with CAIR; which was an emission trading rule that has been vacated by federal courts and replaced with CSAPR; 2) add CSAPR as a new applicable requirement to Chapter 122; and 3) remove references to GHG permitting under Chapter 122, as a 2014 Supreme Court case overturned EPA's regulations requiring a federal operating permit for GHG emissions. Other minor changes to Chapter 122 correct outdated cross-references and grammatical errors. The adopted rule changes are intended to ensure that the Texas FOP Program is consistent with current federal requirements.

Because the rules place no involuntary requirements on the regulated community, the rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Also, none of the amendments place additional financial burdens on the regulated community beyond what is already required by federal regulations relating to the implementation of CSAPR and the FOP Program.

In addition, a regulatory impact analysis is not required because the rules do not meet any of the four applicability criteria for requiring a regulatory analysis of a "Major environmental rule" as defined in the Texas Government Code. Texas Government Code, §2001.0225, applies only to a major environmental rule the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not exceed a standard set by federal law. In addition, this rulemaking does not exceed an express requirement of state law and is not adopted solely under the general powers of the agency but is specifically authorized by the provisions cited in the Statutory Authority section of this preamble. Finally, this rulemaking does not exceed a requirement of a delegation agreement or contract to implement a state or federal program.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments regarding the Draft Regulatory Impact Analysis Determination were received.

Takings Impact Assessment

The commission evaluated the adopted rules and performed an analysis of whether the adopted rules constitute a taking under Texas Government Code, Chapter 2007. The commission's assessment indicates Texas Government Code, Chapter 2007 does not apply.

Under Texas Government Code, §2007.002(5), taking means: "(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at

least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect."

The specific purpose of the adopted rulemaking is to revise Chapter 122 in order to reflect up-to-date requirements associated with these federal regulations as they relate to the FOP Program. This includes removing requirements associated with CAIR; adding CSAPR as a new applicable requirement to Chapter 122; removing references to GHG permitting under Chapter 122; and correcting outdated cross-references and grammatical errors. The adopted rule changes are intended to ensure that the Texas FOP Program is consistent with current federal requirements.

Promulgation and enforcement of the adopted rules would not be a statutory or a constitutional taking of private real property. These rules are not burdensome, restrictive, or limiting of rights to private real property because the adopted rules do not affect a landowner's rights in private real property. These rules do not burden, restrict, or limit the owner's right to property, nor does it reduce the value of any private real property by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, the adopted rules would not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rulemaking and found that the adoption is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 *et seq.*, and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the adopted rules in accordance with Coastal Coordination Act Implementation Rules, 31 TAC §505.22 and found the adopted rulemaking is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(1)). The adopted rulemaking updates rules governing the TCEQ's FOP Program to reflect recent developments in federal regulations and programs such as CAIR, CSAPR, and GHG permitting. The CMP policy applicable to this rulemaking is the policy that commission rules comply with federal regulations in 40 CFR, to protect and enhance air quality in the coastal areas (31 TAC §501.32). This rulemaking complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §505.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the adopted rules are consistent with these CMP goals and policies, and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments regarding the CMP were received.

Effect on Sites Subject to the Federal Operating Permits Program

The adopted rule changes will update the applicability provisions of Chapter 122 to clarify that owners or operators of sites subject to the FOP Program will not be required to obtain federal operating permits as a result of GHG emissions, and that CAIR is no longer an applicable requirement for purposes of the FOP Program. Since the EPA has determined that CSAPR is an applicable requirement under the FOP Program, owners or operators of sites subject to CSAPR will need to revise their federal operating permits to incorporate the applicable CSAPR requirements.

Public Comment

The commission offered a public hearing on the proposed rules in Austin, Texas on October 4, 2016. The comment period closed on October 10, 2016. No oral or written comments on the proposed rules were received.

SUBCHAPTER A. DEFINITIONS

30 TAC §122.10, §122.12

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to operate a federal source and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA; THSC, §382.0515, concerning Application for Permit, which specifies permit application requirements; THSC, §382.054, concerning Federal Operating Permit, which requires sources to obtain a federal operating permit; THSC, §382.0541, concerning Administration and Enforcement of Federal Operating Permit, which authorizes the commission to administer and enforce federal operating permits; THSC, §382.0543, concerning Review and Renewal of Federal Operating Permit, which authorizes the commission to review and renew federal operating permits; and THSC, §382.05102, which relates to the permitting authority of the commission for greenhouse gas emissions. Additional relevant sections are Texas Government Code, §2001.006, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; and Texas Government Code, §2001.142, which provides a time period for presumed notification by a state agency. The amendments are also adopted under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7661- 7661e, which requires states to develop and submit permit programs to the United States Environmental Protection Agency that implement the requirements of the Title V Permits Program.

The adopted amendments implement TWC, §§5.102, 5.103, and 5.105; THSC, §§382.011, 382.017, 382.051, 382.05102,

382.0515, 382.0518, 382.054, 382.0541, and 382.0543; Texas Government Code, §2001.006 and §2001.142; and FCAA, 42 USC, §§7661 - 7661e.

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

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Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-6812



SUBCHAPTER B. PERMIT REQUIREMENTS DIVISION 1. GENERAL REQUIREMENTS

30 TAC §122.120

Statutory Authority

The amendment is adopted under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendment is also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to operate a federal source and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA; THSC, §382.0515, concerning Application for Permit, which specifies permit application requirements; THSC, §382.054, concerning Federal Operating Permit, which requires sources to obtain a federal operating permit; THSC, §382.0541, concerning Administration and Enforcement of Federal Operating Permit, which authorizes the commission to administer and enforce federal operating permits; THSC, §382.0543, concerning Review and Renewal of Federal Operating Permit, which authorizes the commission to review and renew federal operating permits; and THSC, §382.05102, which relates to the permitting authority of the commission for greenhouse gas emissions. Additional relevant sections are Texas Government Code, §2001.006, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; and Texas Government Code, §2001.142, which provides a time period for presumed notification by a state agency. The amendment is also adopted under Federal Clean Air Act (FCAA), 42 United States Code

(USC), §§7661 - 7661e, which requires states to develop and submit permit programs to United States Environmental Protection Agency that implement the requirements of the Title V Permits Program.

The adopted amendment implements TWC, §§5.102, 5.103, and 5.105; THSC, §§382.011, 382.017, 382.051, 382.05102, 382.0515, 382.0518, 382.054, 382.0541, and 382.0543; Texas Government Code, §2001.006 and §2001.142; and FCAA, 42 USC, §§7661 - 7661e.

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

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DIVISION 2. APPLICABILITY

30 TAC §122.122

Statutory Authority

The amendment is adopted under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendment is also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to operate a federal source and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA; THSC, §382.0515, concerning Application for Permit, which specifies permit application requirements; THSC, §382.054, concerning Federal Operating Permit, which requires sources to obtain a federal operating permit; THSC, §382.0541, concerning Administration and Enforcement of Federal Operating Permit, which authorizes the commission to administer and enforce federal operating permits; THSC, §382.0543, concerning Review and Renewal of Federal Operating Permit, which authorizes the commission to review and renew federal operating permits; and THSC, §382.05102, which relates to the permitting authority of the commission for greenhouse gas emissions. Additional relevant sections are Texas Government Code, §2001.006, which authorizes state agencies to adopt

rules or take other administrative action that the agency deems necessary to implement legislation; and Texas Government Code, §2001.142, which provides a time period for presumed notification by a state agency. The amendment is also adopted under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7661 - 7661e, which requires states to develop and submit permit programs to the United States Environmental Protection Agency that implement the requirements of the Title V Permits Program.

The adopted amendment implements TWC, §§5.102, 5.103, and 5.105; THSC, §§382.011, 382.017, 382.051, 382.05102, 382.0515, 382.0518, 382.054, 382.0541, and 382.0543; Texas Government Code, §2001.006 and §2001.142; and FCAA, 42 USC, §§7661 - 7661e.

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

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DIVISION 3. PERMIT APPLICATION

30 TAC §122.130, §122.132

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to operate a federal source and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA; THSC, §382.0515, concerning Application for Permit, which specifies permit application requirements; THSC, §382.054, concerning Federal Operating Permit, which requires sources to obtain a federal operating permit; THSC, §382.0541, concerning Administration and Enforcement of Federal Operating Permit, which authorizes the commission to administer and enforce federal operating permits; THSC, §382.0543, concerning Review and Renewal of Federal Operating Permit,

which authorizes the commission to review and renew federal operating permits; and THSC, §382.05102, which relates to the permitting authority of the commission for greenhouse gas emissions. Additional relevant sections are Texas Government Code, §2001.006, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; and Texas Government Code, §2001.142, which provides a time period for presumed notification by a state agency. The amendments are also adopted under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7661 - 7661e, which requires states to develop and submit permit programs to the United States Environmental Protection Agency that implement the requirements of the Title V Permits Program.

The adopted amendments implement TWC, §§5.102, 5.103, and 5.105; THSC, §§382.011, 382.017, 382.051, 382.05102, 382.0515, 382.0518, 382.054, 382.0541, and 382.0543; Texas Government Code, §2001.006 and §2001.142; and FCAA, 42 USC, §§7661 - 7661e.

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

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Robert Martinez

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For further information, please call: (512) 239-6812



DIVISION 4. PERMIT CONTENT

30 TAC §§122.142, 122.145, 122.148

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to operate a federal source and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA; THSC, §382.0515, concerning Application for Permit, which specifies permit application requirements; THSC, §382.054, concerning Federal Operating Permit, which requires

sources to obtain a federal operating permit; THSC, §382.0541, concerning Administration and Enforcement of Federal Operating Permit, which authorizes the commission to administer and enforce federal operating permits; THSC, §382.0543, concerning Review and Renewal of Federal Operating Permit, which authorizes the commission to review and renew federal operating permits; and THSC, §382.05102, which relates to the permitting authority of the commission for greenhouse gas emissions. Additional relevant sections are Texas Government Code, §2001.006, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; and Texas Government Code, §2001.142, which provides a time period for presumed notification by a state agency. The amendments are also adopted under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7661 - 7661e, which requires states to develop and submit permit programs to the United States Environmental Protection Agency that implement the requirements of the Title V Permits Program.

The adopted amendments implement TWC, §§5.102, 5.103, and 5.105; THSC, §§382.011, 382.017, 382.051, 382.05102, 382.0515, 382.0518, 382.054, 382.0541, and 382.0543; Texas Government Code, §2001.006 and §2001.142; and FCAA, 42 USC, §§7661 - 7661e.

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

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Robert Martinez

Director, Environmental Law Division

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**SUBCHAPTER E. ACID RAIN PERMITS AND
CLEAN AIR INTERSTATE RULE
DIVISION 2. CLEAN AIR INTERSTATE RULE
30 TAC §§122.420, 122.422, 122.424, 122.426, 122.428**

Statutory Authority

The repeal of the sections is adopted under Texas Water Code (TWC), §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The repeal of the sections is also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission

to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue permits to operate a federal source and adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the TCAA; THSC, §382.0515, concerning Application for Permit, which specifies permit application requirements; THSC, §382.054, concerning Federal Operating Permit, which requires sources to obtain a federal operating permit; THSC, §382.0541, concerning Administration and Enforcement of Federal Operating Permit, which authorizes the commission to administer and enforce federal operating permits; THSC, §382.0543, concerning Review and Renewal of Federal Operating Permit, which authorizes the commission to review and renew federal operating permits; and THSC, §382.05102, which relates to the permitting authority of the commission for greenhouse gas emissions. Additional relevant sections are Texas Government Code, §2001.006, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; and Texas Government Code, §2001.142, which provides a time period for presumed notification by a state agency. The repeal of the sections is also adopted under Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7661 - 7661e, which requires states to develop and submit permit programs to the United States Environmental Protection Agency that implement the requirements of the Title V Permits Program.

The adopted repeal of the sections implements TWC, §§5.102, 5.103, and 5.105; THSC, §§382.011, 382.017, 382.051, 382.05102, 382.0515, 382.0518, 382.054, 382.0541, and 382.0543; Texas Government Code, §2001.006 and §2001.142; and FCAA, 42 USC, §§7661 - 7661e.

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

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Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

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TITLE 34. PUBLIC FINANCE

**PART 1. COMPTROLLER OF PUBLIC
ACCOUNTS**

CHAPTER 3. TAX ADMINISTRATION

**SUBCHAPTER JJ. CIGARETTE,
E-CIGARETTE, AND TOBACCO PRODUCTS
REGULATION**

34 TAC §3.1206

The Comptroller of Public Accounts adopts new §3.1206, concerning delivery sales of e-cigarettes, without changes to the proposed text as published in the December 30, 2016, issue of the *Texas Register* (41 TexReg 10516). This section implements Senate Bill 97, 84th Legislature, 2015, amending Health and Safety Code, Chapter 161, Subchapter R (Delivery Sales of Cigarettes and E-Cigarettes). The section is located in Title 34, Chapter 3, Subchapter JJ.

Subsection (a) provides definitions of the terms that relate to delivery sales. Paragraphs (1), (2), and (4) define the terms "delivery sale," "delivery service," and "shipping documents," respectively, using the definitions given in Health and Safety Code, §161.451 (Definitions). The definition of "delivery sale" contains additional language to clarify what is not considered a delivery sale. Paragraph (3) provides the definition of the term "e-cigarettes" given in Health and Safety Code, §161.081(1-a) (Definitions). Paragraph (5) defines the term "seller" in relation to e-cigarettes. The definition is derived from the following sections of the Health and Safety Code: §161.452(c) (Requirements for Delivery Sales), which sets out the compliance responsibilities of a "person taking a delivery sale order;" §161.453(c) (Age Verification Requirements), describing a person who both accepts delivery sale orders and mails or ships e-cigarettes in connection with a delivery sale order; §161.455(a-1) (Shipping Requirements), which applies to a person who mails or ships e-cigarettes in connection with a delivery sale order; and §161.455(b), which applies to a person taking delivery sale orders.

Subsection (b) describes the permitting, registration, and tax collection responsibilities of sellers making delivery sales of e-cigarettes. Paragraph (1) explains that sellers engaged in business in Texas must have sales and use tax permits. This paragraph is consistent with §3.286(b)(1) and (2) of this title (relating to Seller's and Purchaser's Responsibilities, including Nexus, Permits, Returns and Reporting Periods, and Collection and Exemption Rules). Paragraph (2) implements Health and Safety Code, §161.456 (Registration and Reporting Requirements), which requires sellers to file a registration statement with the comptroller before making delivery sales in this state or shipping e-cigarettes in this state in connection with a delivery sale. This paragraph also makes clear that the registration requirement is not limited to sellers engaged in business in Texas. Paragraph (3) describes the collection and tax payment requirements that apply to e-cigarette sellers engaged in business in Texas. This paragraph is based on Health and Safety Code, §161.452(c)(5) (Requirements for Delivery Sales) and §161.457 (Collection of Taxes).

Subsection (c) implements Health and Safety Code, §161.454(b) (Disclosure Requirements) by providing the wording of the disclosure notice sellers must send to purchasers.

Subsection (d) describes the age verification responsibilities of sellers making delivery sales. This is based on Health and Safety Code, §161.452(c)(1), which says that a person taking a delivery sale order of e-cigarettes "shall comply with the age verification requirements prescribed by Section 161.453." The subsection provides the age verification requirements of Health and Safety Code, §161.453(c) and (d).

Subsection (e) explains the notice that sellers must include with the shipping documents for a delivery sale. This subsection implements Health and Safety Code, §161.455.

Subsection (f) provides information on delivery sale reporting requirements. Paragraph (1) specifies the documents that all sell-

ers and persons who deliver e-cigarettes in connection with delivery sales are required to file, as well as the due date for filing the required information. Paragraph (2) is added to implement the exemption from the delivery sale filing requirement provided by Health and Safety Code, §161.456(d) and memorializes the comptroller's understanding that sellers who commit certain violations lose the exemption and are required to submit delivery sale filings for two years following the violation. Paragraph (3) provides information on the prior period filing requirements of a seller who commits a violation, including a seller who commits a violation but does not have two years of prior delivery sales history.

Subsection (g) describes the statutory penalties for violating the requirements of this section. Paragraph (1) implements Health and Safety Code, §161.458 (General Offenses) relating to criminal penalties and implements Health and Safety Code, §161.459 (Knowing Violation), which establishes a criminal penalty for knowingly violating the provisions of this section. Paragraph (2) provides the penalties imposed for failing to pay sales and use tax. This penalty is in addition to any penalty imposed by Tax Code, Chapter 151. This implements Health and Safety Code, §161.460 (Civil Penalty for Non-Payment of Tax). Paragraph (3) implements Health and Safety Code, §161.461 (Forfeiture).

No comments were received regarding adoption of the new section.

The section is adopted under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture) and §111.0022 (Application to Other Laws Administered by Comptroller), which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2, and taxes, fees, or other charges that the comptroller administers under other law.

The section implements legislative changes to Health and Safety Code, Chapter 161, Subchapter H (Distribution of Cigarettes, E-Cigarettes, or Tobacco Products) and Subchapter R (Delivery Sales of Cigarettes and E-Cigarettes).

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

Filed with the Office of the Secretary of State on February 1, 2017.

TRD-201700446

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 60. CONTRACTING TO PROVIDE PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §60.6, the repeal of §60.10, and new §60.10, in Chapter 60, Contracting to Provide Programs of All-Inclusive Care for the Elderly (PACE). The amendment, repeal, and new section are adopted without changes to the proposed text published in the October 28, 2016, issue of the *Texas Register* (41 TexReg 8553) and will not be republished.

BACKGROUND AND PURPOSE

The adopted rules implement Senate Bill (SB) 169, 84th Legislature, Regular Session, 2015, which added Texas Government Code, §531.0931, regarding certain military members and their family members on interest lists. The adopted rules require a PACE provider agency to keep the name of a military family member who resides out of state on an interest list while the military member is on active duty or for up to one year after a former military member's active duty ends. The adopted rules describe how a PACE provider agency maintains an interest list and offers services to an individual. The adopted rules also allow the Department of Aging and Disability Services or its successor agency to remove an individual from the interest list if the individual or legally authorized representative fails to respond to a PACE vacancy offer within 30 days.

COMMENT

The 30-day comment period ended November 27, 2016. During this period, no comments were received regarding the adoption of the repeal, amendment, and new section.

40 TAC §60.6, §60.10

STATUTORY AUTHORITY

The amendment and new section are adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code, §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The amendment and new section implement Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §32.021.

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

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TRD-201700481

Lawrence Hornsby
General Counsel

Department of Aging and Disability Services
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Proposal publication date: October 28, 2016

For further information, please call: (512) 438-2973

40 TAC §60.10

The repeal is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; and Texas Human Resources Code, §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program.

The repeal implements Texas Government Code, §531.0055 and §531.021, and Texas Human Resources Code, §32.021.

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

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Lawrence Hornsby
General Counsel

Department of Aging and Disability Services
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For further information, please call: (512) 438-2973

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 372. PROVISION OF SERVICES

40 TAC §372.1

The Texas Board of Occupational Therapy Examiners adopts an amendment to §372.1, concerning provision of services, with a change to the proposed text as published in the December 2, 2016, issue of the *Texas Register* (41 TexReg 9448). Rule §372.1 is republished below.

The amendment will clarify provisions regarding referrals for occupational therapy services.

The amendment will clarify language in the section regarding the receipt of verbal and written referrals for occupational therapy services and clarify that with regard to medical conditions, a referral must be requested at any time during the evaluation process when necessary to ensure the safety and welfare of the client.

The December 2, 2016, proposed amendment to §372.1 included the following provision in §372.1(d)(2): "If a referral is transmitted verbally, it must be documented by the authorized personnel who receives the referral." The change upon adoption is to add to the provision clarifying language defining "authorized personnel." The addition reads: "In this section, 'authorized personnel' means staff members authorized by the employer or occupational therapist to receive referrals transmitted verbally."

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

§372.1. Provision of Services.

(a) The occupational therapist is responsible for determining whether any aspect of the provision of services may be conducted via telehealth or must be conducted in person.

(b) Medical Conditions.

(1) Occupational therapists may provide consultation or monitored services, or screen or evaluate the client to determine the need for occupational therapy services without a referral. However, a referral must be requested at any time during the evaluation process when necessary to ensure the safety and welfare of the client.

(2) The initial evaluation for a medical condition must be conducted in person and may not be conducted via telehealth.

(3) Intervention for a medical condition by an occupational therapy practitioner requires a referral from a licensed referral source.

(c) Non-Medical Conditions.

(1) Consultation, monitored services, screening, and evaluation for need of services may be provided without a referral.

(2) Non-medical conditions do not require a referral. However, a referral must be requested at any time during the evaluation or intervention process when necessary to ensure the safety and welfare of the client.

(d) Methods of Referral. The referral must be from a licensed referral source in accordance with the Practice Act, §454.213 (relating to Accepted Practice; Practitioner's Referral), and may be transmitted in the following ways:

(1) in a written document, including faxed and emailed documents; or

(2) verbally, either in person or by electronic information/communications technologies. If a referral is transmitted verbally, it must be documented by the authorized personnel who receives the referral. In this section, "authorized personnel" means staff members authorized by the employer or occupational therapist to receive referrals transmitted verbally.

(e) Screening, Consultation, and Monitored Services. A screening, consultation, or monitored services may be performed by an occupational therapy practitioner.

(f) Evaluation.

(1) Only an occupational therapist may perform an initial evaluation or any re-evaluations.

(2) An occupational therapy plan of care must be based on an occupational therapy evaluation.

(3) The occupational therapist must have real time interaction with the client during the evaluation process either in person or via telehealth.

(4) The occupational therapist may delegate to an occupational therapy assistant or temporary licensee the collection of data for the assessment. The occupational therapist is responsible for the accuracy of the data collected by the assistant.

(g) Plan of Care.

(1) Only an occupational therapist may initiate, develop, modify or complete an occupational therapy plan of care. It is a violation of the OT Practice Act for anyone other than the evaluating or treating occupational therapist to dictate, or attempt to dictate, when occupational therapy services should or should not be provided, the nature and frequency of services that are provided, when the client should be discharged, or any other aspect of the provision of occupational therapy as set out in the OT Act and Rules.

(2) The occupational therapist and an occupational therapy assistant may work jointly to revise the short-term goals, but the final determination resides with the occupational therapist. Revisions to the plan of care and goals must be documented by the occupational therapist and/or occupational therapy assistant to reflect revisions at the time of the change.

(3) An occupational therapy plan of care may be integrated into an interdisciplinary plan of care, but the occupational therapy goals or objectives must be easily identifiable in the plan of care.

(4) Only occupational therapy practitioners may implement the written plan of care once it is completed by the occupational therapist.

(5) Only the occupational therapy practitioner may train non-licensed personnel or family members to carry out specific tasks that support the occupational therapy plan of care.

(6) The occupational therapist is responsible for determining whether intervention is needed and if a referral is required for occupational therapy intervention.

(7) The occupational therapy practitioners must have real time interaction with the client during the intervention process either in person or via telehealth.

(8) Devices that are in sustained skin contact with the client (including but not limited to wheelchair positioning devices, splints, hot/cold packs, and therapeutic tape) require the on-site and attending presence of the occupational therapy practitioner for any initial applications. The occupational therapy practitioner is responsible for determining the need to be on-site and attending for subsequent applications or modifications.

(9) Except where otherwise restricted by rule, the supervising occupational therapist may only delegate to an occupational therapy assistant or temporary licensee tasks that they both agree are within the competency level of that occupational therapy assistant or temporary licensee.

(h) Documentation.

(1) The client's records include the medical referral, if required, and the plan of care. The plan of care includes the initial examination and evaluation; the goals and any updates or change of the goals; the documentation of each intervention session by the OT or OTA providing the service; progress notes and any re-evaluations, if required; any written communication; and the discharge documentation.

(2) The licensee providing occupational therapy services must document for each intervention session. The documentation must accurately reflect the intervention, decline of intervention, and/or modalities provided.

(3) The occupational therapy assistant must include the name of a supervising OT in each intervention note. This may not necessarily be the occupational therapist who wrote the plan of care, but an occupational therapist who is readily available to answer questions about the client's intervention at the time of the provision

of services. If this requirement is not met, the occupational therapy assistant may not provide services.

(i) Discharge.

(1) Only an occupational therapist has the authority to discharge clients from occupational therapy services. The discharge is based on whether the client has achieved predetermined goals, has achieved maximum benefit from occupational therapy services, or when other circumstances warrant discontinuation of occupational therapy services.

(2) The occupational therapist must review any information from the occupational therapy assistant(s), determine if goals were met or not, complete and sign the discharge documentation, and/or make recommendations for any further needs of the client in another continuum of care.

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

Filed with the Office of the Secretary of State on February 6, 2017.

TRD-201700485
John P. Maline
Executive Director
Texas Board of Occupational Therapy Examiners
Effective date: March 1, 2017
Proposal publication date: December 2, 2016
For further information, please call: (512) 305-6900



CHAPTER 374. DISCIPLINARY ACTIONS/DETRIMENTAL PRACTICE/COMPLAINT PROCESS/CODE OF ETHICS

40 TAC §374.5

The Texas Board of Occupational Therapy Examiners adopts new rule §374.5, concerning licensure of persons with criminal convictions, without changes to the proposed text as published in the December 2, 2016, issue of the *Texas Register* (41 TexReg 9450). The rule will not be republished.

The adopted rule concerns licensure by the Texas Board of Occupational Therapy Examiners of persons with criminal convictions.

The new rule §374.5 will specify the types of criminal activities that may result in denial, suspension, or revocation of a license in accordance with the Sunset Commission's adopted recommendation that the Texas Board of Occupational Therapy Examiners adopt rules regarding such.

No comments were received regarding adoption of the rule section.

The rule is adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on February 6, 2017.

TRD-201700488
John P. Maline
Executive Director
Texas Board of Occupational Therapy Examiners
Effective date: February 26, 2017
Proposal publication date: December 2, 2016
For further information, please call: (512) 305-6900



TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Texas Higher Education Coordinating Board

Rule Transfer

The Texas Higher Education Coordinating Board (THECB) is transferring 19 TAC Chapter 22, Subchapters N, O, P, R, T and U to 19 TAC Chapter 21, new Subchapters H, I, L, O, Q and Z. Administratively moving the existing subchapters to Chapter 21, Student Services rep-

resents better cataloging for these types of programs. The table below summarizes this administrative change.

The transfer takes effect March 1, 2017.

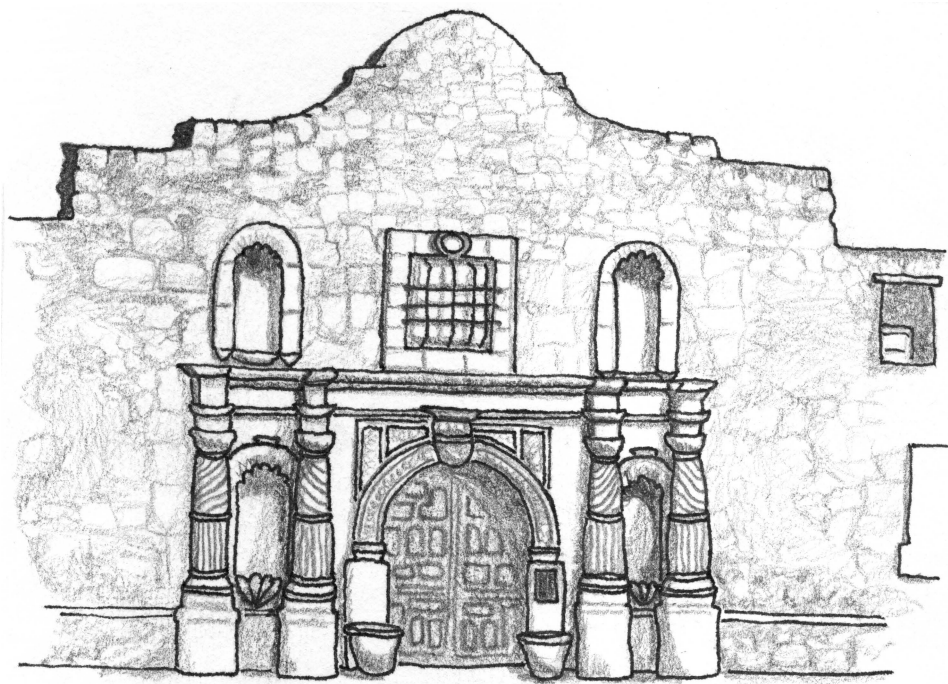
The following table outlines the rule transfer.

Figure: 19 TAC Chapter 22

Current Chapter 22. Grant and Scholarship Programs	Move to Chapter 21. Student Services
Subchapter N 19 TAC §22.280-22.282	Subchapter H 19 TAC §21.191-21.193
Subchapter O 19 TAC §22.292-22.298	Subchapter I 19 TAC §21.213-21.219
Subchapter P 19 TAC §22.302-22.309	Subchapter L 19 TAC §21.309-21.316
Subchapter R 19 TAC §22.401-22.407	Subchapter O 19 TAC §21.468-21.474
Subchapter T 19 TAC §22.518-22.524	Subchapter Z 19 TAC §21.786-21.792
Subchapter U 19 TAC §22.530-22.538	Subchapter Q 19 TAC §21.518-21.525

TRD-201700543





REVIEW OF AGENCY RULES

notices of *intention to review*, which invite 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 Education Agency

Title 19, Part 2

The State Board of Education (SBOE) proposes the review of 19 TAC Chapter 101, Assessment, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 101 are organized under the following subchapters: Subchapter A, General Provisions; Subchapter B, Implementation of Assessments; and Subchapter C, Local Option.

As required by the Texas Government Code, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 101, Subchapters A - C, continue to exist. The comment period begins with the publication of this notice and must last a minimum of 30 days.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494. Comments may also be submitted electronically to rules@tea.texas.gov.

TRD-201700566

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: February 8, 2017



The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 101, Assessment, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the TEA in 19 TAC Chapter 101 are organized under the following subchapters: Subchapter AA, Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments; Subchapter BB, Commissioner's Rules Concerning Grade Advancement and Accelerated Instruction; Subchapter CC, Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program; Subchapter DD, Commissioner's Rules Concerning Substitute Assessments for Graduation; Subchapter EE, Commissioner's Rules Concerning the Statewide Testing Calendar and UIL Participation; and Subchapter FF, Commissioner's Rules Concerning Diagnostic Assessment.

As required by the Texas Government Code, §2001.039, the TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 101, Subchapters AA-FF, continue to exist.

The public comment period on the review of 19 TAC Chapter 101, Subchapters AA-FF, begins February 17, 2017, and ends March 20, 2017.

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.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494. Comments may also be submitted electronically to rules@tea.texas.gov.

TRD-201700567

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: February 8, 2017



The State Board of Education (SBOE) proposes the review of 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 109 are organized under the following subchapters: Subchapter A, Budgeting, Accounting, Financial Reporting, and Auditing for School Districts; Subchapter B, Texas Education Agency Audit Functions; Subchapter C, Adoptions by Reference; and Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract.

As required by the Texas Government Code, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 109, Subchapters A - D, continue to exist. The comment period begins with the publication of this notice and must last a minimum of 30 days.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494. Comments may also be submitted electronically to rules@tea.texas.gov.

TRD-201700565

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: February 8, 2017



The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the TEA in 19 TAC Chapter 109 are organized under the following subchapters: Subchapter AA, Commissioner's Rules Concerning Financial Accountability; Subchapter BB, Commissioner's Rules Concerning Financial Exigency; and Subchapter CC, Commissioner's Rules Concerning Federal Fiscal Compliance and Reporting.

As required by the Texas Government Code, §2001.039, the TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 109, Subchapters AA-CC, continue to exist.

The public comment period on the review of 19 TAC Chapter 109, Subchapters AA-CC, begins February 17, 2017, and ends March 20, 2017. Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494. Comments may also be submitted electronically to rules@tea.texas.gov.

TRD-201700568
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: February 8, 2017



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.

State Auditor's Office

Request for Qualifications - Actuary Specialist

The Texas State Auditor's Office has posted a Request for Qualifications for an Actuary Specialist. The proposal deadline is 5:00 p.m., February 28, 2017. Details can be found on Electronic State Business Daily via the following link - http://204.64.145.14/bid_show.cfm?bidid=130720.

For additional information contact:

Michael Clayton

Email: Michael.Clayton@sao.texas.gov

Address: 1501 N. Congress Avenue, Suite 4.224

Austin, Texas 78701

Phone: (512) 936-9465

Fax: (512) 936-9400

TRD-201700453

Lisa R. Collier

First Assistant State Auditor

State Auditor's Office

Filed: February 2, 2017



Central Texas Council of Governments

Senior Central Texans Wishing to be a Delegate to the Texas Silver-Haired Legislature may begin Filing for Candidacy

PRESS RELEASE

FOR IMMEDIATE RELEASE

February 7, 2017

Local Contact:

Margaret Matthews

Area Agency on Aging of Central Texas

800-447-7169 or (254) 770-2330

SILVER HAired LEGISLATURE GIVES VOICE TO OLDER TEXANS

The Area Agency on Aging of Central Texas (AAACT), a program division of the Central Texas Council of Governments (CTCOG) is pleased to announce that Senior Central Texans wishing to be a delegate to the Texas Silver-Haired Legislature (TSHL) may begin filing for candidacy. The AAACT office is located at 2180 N. Main Street, Belton and will have forms and petitions available through the February 28, 2017 filing deadline. Completed forms must be returned to the AAACT office along with a \$5.00 filing fee by February 28, 2017 at 5:00 p.m.

A total of 123 delegates will be selected through a statewide election to be held April 28, 2017. The TSHL is a non-partisan and non-profit

organization which represents constituents who are sixty years of age and older. TSHL helps members of the Texas Legislature understand the problems facing the senior population and encourages them to seek solutions to those problems.

The goal of the TSHL is to motivate older citizens to realize that legislative involvement is a primary responsibility of effective citizenship: to develop a forum for older persons to discuss and debate pressing issues; to enhance the involvement and advocacy role of older Texans in legislative matters in their local communities; to actively participate in the legislative process through the introduction, discussion and passing of resolutions addressing major concerns and issues relevant to the senior population and to work for the passage of these resolutions in the regular Texas Legislature. TSHL members are not lobbyists, but rather work as non-partisan advocates.

Any individual seeking candidacy must be 60 years or older January 1, 2017, must be a resident of the seven-county CTCOG region (Bell, Coryell, Hamilton, Lampasas, Milam, Mills, and San Saba), must be a registered voter of the State of Texas, and must be willing and able to participate in all activities required and expected of TSH Legislators. All TSHL candidates, if elected as delegates, are responsible for their own expenses.

Interested persons wishing to file for candidacy may contact Margaret Matthews at the Area Agency on Aging of Central Texas at 800-447-7169 or (254) 770-2345 in order to secure a candidacy packet.

TRD-201700564

Kerry Fillip

Director, Area Agency on Aging of Central Texas

Central Texas Council of Governments

Filed: February 8, 2017



Office of Consumer Credit Commissioner

Notice of Rate Bracket Adjustments

The Consumer Credit Commissioner of Texas has ascertained the following brackets and ceilings by use of the formula and method described in TEX. FIN. CODE §341.203.⁽¹⁾

The amounts of brackets in TEX. FIN. CODE §342.201(a) are changed to \$2,070.00 and \$17,250.00, respectively.

The amounts of brackets in TEX. FIN. CODE §342.201(e) are changed to \$3,450.00, \$7,245.00, and \$17,250.00, respectively.

The ceiling amount in TEX. FIN. CODE §§342.251 and 342.259 are changed to \$690.00 and \$1,380.00, respectively.

The amounts of the brackets in TEX. FIN. CODE §345.055 are changed to \$3,450.00 and \$6,900.00, respectively.

The amounts of the bracket in TEX. FIN. CODE §345.103 is changed to \$3,450.00.

The ceiling amount of TEX. FIN. CODE §371.158 is changed to \$17,250.00.

The amounts of the brackets in TEX. FIN. CODE §371.159 are changed to \$207.00, \$1,380.00, and \$2,070.00, respectively.

The above dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 2017, and extending through June 30, 2018.

⁽¹⁾ Computation method: The Reference Base Index (the Index for December 1967) = 101.6. The December 2016 Index = 701.154. The percentage of change is 690.11%. This equates to an increase of 690% after disregarding the percentage of change in excess of multiples of 10%.

TRD-201700541
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: February 7, 2017



Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/13/17 - 02/19/17 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 02/013/17 - 02/19/17 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009³ for the period of 02/01/17 - 02/28/17 is 18% or Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 02/01/17 - 02/28/17 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

³ For variable rate commercial transactions only.

TRD-201700538
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: February 7, 2017



Education Service Center, Region 16

Official Notice for Election of Places 4 and 5

Persons interested in filing for positions on the Board of Directors of Region 16 Education Service Center, an organization that provides educational services to 62 school districts and two charter schools in the north 26 counties of the Texas Panhandle, may do so at the office of the Executive Director (5800 Bell Street, Amarillo, Texas) during regular office hours (8 a.m. to 5 p.m.) Monday through Thursday, (8 a.m. to 4 p.m.) Friday, beginning Wednesday, February 1, 2017. Deadline for filing is Monday, February 20, 2017, at 5 p.m.

Interested persons may file in person or, upon request, may receive a filing form by mail with the return by certified mail postmarked no later than 5 p.m., February 20, 2017.

Phone: (806) 677-5015; Mailing address: 5800 Bell Street, Amarillo, Texas 79109-6230.

The Board of Directors shall be elected by place. The following places (by counties) that are up for election are described as follows:

Place 4: Counties of Hansford, Hemphill, Hutchinson, Lipscomb, Ochiltree, and Roberts

Place 5: That part of Potter and Randall counties included in the boundaries of the Amarillo Independent School District

To hold the office of an Education Service Center Board of Director, one must:

- Be a United States of America citizen;
- Be at least 18 years of age;
- Be a resident of the region served and of the geographic area included in the place designated outlined above;

To hold the office of Board member, one may not:

- Be engaged professionally in education;
- Be a member of a board of any educational agency or institution.

Should there be an uncontested election; the Region 16 ESC Board has determined that no election will be held.

TRD-201700449
Ray Cogburn
Executive Director
Education Service Center, Region 16
Filed: February 1, 2017



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is March 20, 2017. 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 March 20, 2017. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforce-

ment 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: ALEXANDER OIL COMPANY; DOCKET NUMBER: 2016-1960-PST-E; IDENTIFIER: RN101670800; LOCATION: Brenham, Washington County; TYPE OF FACILITY: Common Carrier; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to deposit a regulated substance into a regulated underground storage tank system that was not covered by a valid, current TCEQ delivery certificate; PENALTY: \$1,238; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2016-0862-PWS-E; IDENTIFIER: RN101219947; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on the running annual average; PENALTY: \$345; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Arkema Incorporated; DOCKET NUMBER: 2016-1817-AIR-E; IDENTIFIER: RN100210301; LOCATION: Crosby, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 6271, Special Conditions Number 1, Federal Operating Permit Number O1554, Special Terms and Conditions Number 14, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$3,413; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Christian Life Center of Lubbock; DOCKET NUMBER: 2016-1556-PWS-E; IDENTIFIER: RN101184257; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3) and §290.122(c)(2)(A) and (f), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director (ED) by the tenth day of the month following the end of each quarter for the fourth quarter of 2015 and first quarter of 2016, and by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a DLQOR for the fourth quarter of 2015; 30 TAC §290.117(c)(2)(B), (h), and (i)(1) and §290.122(c)(2)(A) and (f), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2015 - December 31, 2015, monitoring period, and by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples for the January 1, 2015 - December 31, 2015, monitoring period; 30 TAC §290.117(i)(6) and (j), by failing to mail consumer notification of lead tap water monitoring results to persons served at the locations that were sampled and by failing to submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements for the January 1, 2014 - December 31, 2014, monitoring period; 30 TAC §290.109(c)(4)(B), by failing to collect a raw groundwater source *Escherichia coli* sample from the facility's one active source within 24 hours of being notified of a distribu-

tion total coliform-positive result in November 2011; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to conduct routine coliform monitoring for the month of December 2015; PENALTY: \$650; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(5) COMPANY: City of Rising Star; DOCKET NUMBER: 2016-1040-MWD-E; IDENTIFIER: RN103138137; LOCATION: Rising Star, Eastland County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §30.350(d) and §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014515001, Other Requirements Number 1, by failing to employ or contract with one or more licensed wastewater treatment facility operators holding the appropriate level of license to operate a wastewater treatment plant; and 30 TAC §305.125(1) and (11)(B) and §319.7(a) and TPDES Permit Number WQ0014515001, Monitoring and Reporting Requirements Number 3.b., by failing to maintain records of monitoring activities at the facility site or have them readily available for review by a TCEQ representative; PENALTY: \$9,237; ENFORCEMENT COORDINATOR: Ross Luedtke, (512) 239-3157; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(6) COMPANY: Coleman County Special Utility District; DOCKET NUMBER: 2016-1664-PWS-E; IDENTIFIER: RN101212520; LOCATION: Coleman, Coleman County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code (THSC), §341.0315(a), by failing to comply with the acute maximum contaminant level (MCL) of 1 milligram per liter (mg/L) for nitrite; and 30 TAC §290.115(f)(1) and THSC, §341.0315(c), by failing to comply with the MCL of 0.060 mg/L for haloacetic acids, based on the locational running annual average; PENALTY: \$3,243; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(7) COMPANY: EnLink Midstream Services, LLC; DOCKET NUMBER: 2016-1635-AIR-E; IDENTIFIER: RN102700176; LOCATION: Rhome, Wise County; TYPE OF FACILITY: Natural Gas Compressor Station; RULES VIOLATED: 30 TAC §122.145(2)(A), Texas Health and Safety Code, §382.085(b), and Federal Operating Permit Number O3250/General Operating Permit Number 514, Site-wide requirements (b)(2), by failing to report all instances of deviations; PENALTY: \$510; ENFORCEMENT COORDINATOR: Shelby Orme, (512) 239-4575; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2016-1546-AIR-E; IDENTIFIER: RN102926920; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §115.722(c)(1) and §116.115(c), Texas Health and Safety Code (THSC), §382.085(b), and New Source Review Permit Number 6257E, Special Conditions Number 1, by failing to prevent unauthorized emissions and by failing to limit Highly Reactive Volatile Organic Compounds emissions to 1,200 pounds per one-hour block period; and 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b), by failing to submit the initial notification for a reportable emissions event within 24 hours of discovery; PENALTY: \$12,415; ENFORCEMENT COORDINATOR: Shelby Orme, (512) 239-4575; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2016-1388-AIR-E; IDENTIFIER: RN102450756; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: Petroleum Refinery;

RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), and Federal Operating Permit (FOP) Number O2000, Special Terms and Conditions (STC) Number 2.F., by failing to submit the initial notification for a reportable emissions event within 24 hours of discovery; and 30 TAC §§101.20(3), 116.715(a), and 122.143(4), THSC, §382.085(b), FOP Number O2000, STC Number 18, and Flexible Permit Numbers 49138, PSDTX768M1, PSDTX799, PSDTX802, PSDTX932, and PSDTX992M1, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: \$7,001; Supplemental Environmental Project offset amount of \$2,800; ENFORCEMENT COORDINATOR: Shelby Orme, (512) 239-4575; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(10) COMPANY: FLYING STAR TRANSPORT, L.L.C.; DOCKET NUMBER: 2016-2057-PST-E; IDENTIFIER: RN105156608; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: common carrier; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to deposit a regulated substance into a regulated underground storage tank system that was not covered by a valid, current TCEQ delivery certificate; PENALTY: \$1,605; ENFORCEMENT COORDINATOR: Benjamin Sakmar, (512) 239-1704; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(11) COMPANY: Galveston County Water Control and Improvement District Number 8; DOCKET NUMBER: 2016-1621-MWD-E; IDENTIFIER: RN102286341; LOCATION: Santa Fe, Galveston County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010174001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$16,500; Supplemental Environmental Project offset amount of \$13,200; ENFORCEMENT COORDINATOR: Claudia Corrales, (432) 620-6138; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: GUNNYS INCORPORATED dba Gunnys Lakeside Grocery; DOCKET NUMBER: 2016-2018-PST-E; IDENTIFIER: RN102839370; LOCATION: Granbury, Hood County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(b) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month and by failing to provide release detection for the suction piping associated with the UST system; and 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$4,502; ENFORCEMENT COORDINATOR: Benjamin Sakmar, (512) 239-1704; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: Hashem's Quick Mart, Incorporated dba Joe's Quick Stop 2; DOCKET NUMBER: 2017-0037-PST-E; IDENTIFIER: RN102434776; LOCATION: Harlingen, Cameron County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to monitor underground storage tanks for release at least once a month; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(14) COMPANY: ISHAN ENTERPRISES, INCORPORATED dba Guy Food Mart; DOCKET NUMBER: 2016-1575-PST-E; IDENTIFIER: RN101879807; LOCATION: Guy, Fort Bend County; TYPE

OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$4,125; ENFORCEMENT COORDINATOR: Anthony Rios, (512) 239-2557; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: James R. Barclay; DOCKET NUMBER: 2016-1702-WQ-E; IDENTIFIER: RN103204822; LOCATION: Alvord, Wise County; TYPE OF FACILITY: Auto Salvage Yard; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR05BN60, Part III, Section A(1)(a), by failing to develop and implement a Stormwater Pollution Prevention Plan as required by TPDES General Permit Number TXR05BN60; PENALTY: \$1,312; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(16) COMPANY: Lim Hang dba Jons Mini-Mart; DOCKET NUMBER: 2016-1912-PST-E; IDENTIFIER: RN102237815; LOCATION: Sulphur Springs, Hopkins 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: \$3,692; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: Prestige Gunite of North Texas, Limited; DOCKET NUMBER: 2016-1985-WQ-E; IDENTIFIER: RN102453461; LOCATION: Keller, Tarrant County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System General Permit Number TXG111020 Part III, Section A.1, by failing to comply with permitted effluent limitations; PENALTY: \$3,250; ENFORCEMENT COORDINATOR: Christopher Chick, (512) 239-4564; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Quik-Way Retail Associates II, Limited dba Valero Corner Store 0151; DOCKET NUMBER: 2016-1680-PST-E; IDENTIFIER: RN102410255; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(c)(4)(C) and TWC, §26.3475(d), by failing to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years; PENALTY: \$3,903; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(19) COMPANY: S. WILLIAMSON OIL CO., INCORPORATED; DOCKET NUMBER: 2016-2020-PST-E; IDENTIFIER: RN101676815; LOCATION: Itasca, Hill County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; and 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; PENALTY: \$2,109; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(20) COMPANY: SR TILLEY BUILDERS INCORPORATED; DOCKET NUMBER: 2016-1828-MLM-E; IDENTIFIER: RN109160671; LOCATION: Vidor, Orange County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULES VIOLATED: 30 TAC §330.15(a) and (c), by failing to cause, suffer, allow, or permit the unauthorized disposal of MSW; 30 TAC §111.201 and Texas Health and Safety Code, §382.085(b), by failing to cause, suffer, allow, or permit outdoor burning within the state of Texas; and 30 TAC §324.6 and 40 Code of Federal Regulations §279.22(d), by failing to perform cleanup steps upon detection of a release of used oil; PENALTY: \$2,927; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(21) COMPANY: SSAAK USA INCORPORATED dba Time Out Food 2; DOCKET NUMBER: 2016-1777-PST-E; IDENTIFIER: RN102852704; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of fuel; RULES VIOLATED: 30 TAC §334.49(a)(2) and TWC, §26.3475(d), by failing to ensure the corrosion protection system is operated and maintained in a manner that will ensure continuous corrosion protection; 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 that the rectifier and other system components are operating properly; 30 TAC §334.49(c)(4)(C) and TWC, §26.3475(d), by failing to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years; and 30 TAC §334.7(d)(3), by failing to provide amended registration for any change or additional information regarding underground storage tanks within 30 days from the date of the occurrence of the change or addition; PENALTY: \$4,522; ENFORCEMENT COORDINATOR: Steven Stump, (512) 239-1343; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(22) COMPANY: SUNNY DAY ENTERPRISES, INCORPORATED dba Sunrise Grocery 5; DOCKET NUMBER: 2016-1600-PST-E; IDENTIFIER: RN101377893; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once per month; PENALTY: \$3,563; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(23) COMPANY: SUPERIOR CONVENIENT & GAS INCORPORATED dba Superior Convenient Stop; DOCKET NUMBER: 2016-1735-PST-E; IDENTIFIER: RN102008034; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month and by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,504; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(24) COMPANY: Troy G. Waller dba Rockwell Acres Water System; DOCKET NUMBER: 2016-2047-PWS-E; IDENTIFIER: RN101451565; LOCATION: Amarillo, Randall County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director (ED) each quarter by the tenth day of the month following the

end of the quarter; 30 TAC §290.117(c)(2)(C), (h), and (i)(1) and §290.122(c)(2)(A) and (f), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED and by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year and failed to submit to the TCEQ by July 1st of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility, and that the information in the CCR is correct and consistent with the compliance monitoring data; 30 TAC §290.272 and §290.274(a), by failing to meet the adequacy, availability, and/or content requirements for the CCR; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the notification to the ED regarding the failure to submit a DLQOR; PENALTY: \$1,108; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(25) COMPANY: University of Texas at Austin; DOCKET NUMBER: 2016-1959-PST-E; IDENTIFIER: RN102316197; LOCATION: Austin, Travis County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(26) COMPANY: Vicki S. Seyer dba Greenvilla Mobile Home Park and Watson A. Seyer, Jr. dba Greenvilla Mobile Home Park; DOCKET NUMBER: 2016-1658-PWS-E; IDENTIFIER: RN101438182; LOCATION: Dickinson, Galveston County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.109(c)(4)(B), by failing to collect one raw groundwater source *Escherichia coli* sample from the facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample during the months of April 2014, and September 2015; 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites for the July 1, 2015 - December 31, 2015, monitoring period, have the samples analyzed, and report the results to the executive director (ED); 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested and failed to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed for the January 1, 2014 - June 30, 2014, monitoring period; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect increased water samples for coliform analysis during the month of October 2015, to collect routine water samples for coliform analysis during the month of February 2016, and to submit a Disinfectant Level Quarterly Operating Report (DLQOR) for the first and second quarters of 2015; and 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a DLQOR to the ED each quarter by the tenth day of the month following the end of each quarter for the first quarter of 2016; PENALTY: \$1,396; ENFORCEMENT COORDINATOR: Sarah Kim, (512) 239-4728; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-201700527

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: February 7, 2017



Notice of Correction to Agreed Order Number 11

In the October 28, 2016, issue of the *Texas Register* (41 TexReg 8654), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 11 for City of Savoy.

The reference to penalty should be corrected to read: "PENALTY: \$26,500." Also, the reference to Supplemental Environmental Project should be corrected to read: "Supplemental Environmental Project offset amount of \$21,200."

The corrections are to the notice as submitted by the commission. For questions concerning this error, please contact Michael Parrish at (512) 239-2548.

TRD-201700529
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: February 7, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of Donovan Clark and Jennifer Clark

SOAH Docket No. 582-17-2461

TCEQ Docket No. 2015-1703-MSW-E

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

10:00 a.m. - March 2, 2017

William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 8, 2016, concerning assessing administrative penalties against and requiring certain actions of RL Gordon, Donovan Clark, and Jennifer Clark, for violations in Upshur County, Texas, of: 30 Tex. Admin. Code §328.60(a) and §330.15(c). Donovan Clark and Jennifer Clark filed an Answer and Hearing Request on October 6, 2016. RL Gordon did not file an Answer or Hearing Request.

The hearing will allow Donovan Clark and Jennifer Clark, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Donovan Clark and Jennifer Clark, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not

be held on the date of this preliminary hearing. Upon failure of Donovan Clark and Jennifer Clark to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. Donovan Clark and Jennifer Clark, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and ch. 7, Tex. Health & Safety Code ch. 361, and 30 Tex. Admin. Code chs. 70, 328, and 330; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §70.108 and §70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

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

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

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

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

TRD-201700551
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of NNP Trading, Inc. DBA Easy Food Mart

SOAH Docket No. 582-17-2459

TCEQ Docket No. 2016-1352-PST-E

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

10:00 a.m. - March 2, 2017

William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed December 5, 2016, concerning assessing administrative penalties against and requiring certain actions of NNP TRADING, INC. dba Easy Food Mart, for violations in Tarrant County, Texas, of: Tex. Water Code §26.3475(c)(1), (c)(2), and (d), and 30 Tex. Admin. Code §§334.49(a)(1), 334.50(b)(1)(A), and 334.51(b)(2).

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

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

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

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

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

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

TRD-201700552
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of Rijal Traders, Inc. dba Mercado Food & Fuels

SOAH Docket No. 582-17-582-17-2584

TCEQ Docket No. 2016-0136-PST-E

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

10:00 a.m. - March 9, 2017

William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed October 31, 2016, concerning assessing administrative penalties against and requiring certain actions of RIJAL TRADERS, INC. dba Mercado Food & Fuels, for violations in Montgomery County, Texas, of: Tex. Water Code §26.3475(a), (c)(1), and (d) and 30 Tex. Admin. Code §§334.49(a)(1), 334.50(b)(1)(A), (b)(2)(A)(i)(III), (b)(2)(A)(ii), and (d)(1)(B), and 334.602(a).

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

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

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

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

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

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

TRD-201700553
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of South Texas Electric Cooperative, Inc.

SOAH Docket No. 582-17-2462
TCEQ Docket No. 2015-1685-IWD-E

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

10:00 a.m. - March 2, 2017
William P. Clements Building
300 West 15th Street, 4th Floor
Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 20, 2016 concerning assessing administrative penalties against and requiring certain actions of SOUTH TEXAS ELECTRIC COOPERATIVE, INC., for violations in Victoria County, Texas, of: Texas Water Code §26.121(a)(1); 30 Texas Admin. Code §305.125(1) and (9)(A); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001521000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 301, and Monitoring and Reporting Requirements No. 7.c.

The hearing will allow SOUTH TEXAS ELECTRIC COOPERATIVE, INC., the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred,

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

Legal Authority: Texas Water Code §7.054 and chs. 7 and 26 and 30 Texas Admin. Code chs. 70 and 305; Texas Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Admin. Code §§70.108 and 70.109 and ch. 80, and 1 Texas Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting J. Amber Ahmed, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-1204. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

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

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

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

Issued: February 2, 2017
TRD-201700550
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of Ty Osmani DBA Lucky Truck Stop

SOAH Docket No. 582-17-2460

TCEQ Docket No. 2016-1036-PST-E

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

10:00 a.m. - March 2, 2017

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed December 5, 2016, concerning assessing administrative penalties against and requiring certain actions of Ty Osmani dba Lucky Truck Stop, for violations in Grayson County, Texas, of: Tex. Health & Safety Code §382.085(b) and 30 Tex. Admin. Code §§115.221, 334.45(c)(3)(A), and 334.602(a)(4).

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

Legal Authority: Tex. Water Code §7.054, Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and 30 Tex. Admin. Code chs. 70, 115, and 334; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §70.108 and §70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

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

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

contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

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

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

TRD-201700554

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2017



Notice of Receipt of Application and Intent to Obtain a New Municipal Solid Waste Permit Proposed Permit No. 2395

APPLICATION. City of Big Spring, 310 Nolan Street, Big Spring, Howard County, Texas 79720, owner/operator of a proposed Type I Municipal Solid Waste Landfill, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit authorizing the acceptance of residential and commercial municipal solid waste, as well as some non-hazardous Class 2 and Class 3 industrial waste. The landfill will be located approximately 1 mile South and 0.5 miles East of the intersection of Highway 350 and Old Colorado City Highway, Big Spring, Howard County, Texas 79720. The TCEQ received this application on December 23, 2016. The permit application is available for viewing and copying at the City of Big Spring, City Hall, 310 Nolan Street, Big Spring, Howard County, Texas 79720, and may be viewed online at <http://www.team-psc.com/engineering-sector/solid-waste/tceq-permits/>. The following website which provides an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <https://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.299166&lng=-101.430833&zoom=13&type=r>. For exact location, refer to application.

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

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

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed

to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

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

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

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

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

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted either electronically at www.tceq.texas.gov/about/comments.html or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040. Further information may also be obtained from the City of Big Spring at the address stated above or by calling Mr. Nicholas Ybarra, Project Manager with Parkhill, Smith, & Cooper Inc. at (915) 533-6811.

TRD-201700548

Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 8, 2017



Revised Notice of Application and Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Registration Application No. 40289

Application. Waste Corporation of Texas, L.P., 14115 Davis Estates Road, Needville, Texas, 77461, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Registration 40289, to construct and operate a Type V municipal solid waste transfer station. The proposed facility, Tall Pines Transfer Station will be located at 18710 East Hardy Road within the Tall Pines Disposal Facility, approximately 0.7 miles northeast from the intersection of East Hardy Road and Farrell Road, 77073, in Harris County. The Applicant is requesting authorization to transfer and store municipal solid waste which includes putrescible waste, rubbish, yard waste, construction or demolition waste, Class 2 industrial wastes, and Class 3 wastes. The registration application is available for viewing and copying at the Baldwin Boettcher Branch Library at Mercer Park, 22248 Aldine Westfield Road, Humble, Texas 77338, and may be viewed online at <http://www.scsengineers.com/State>. The following website which provides an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <https://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.98499&lng=-95.3842&zoom=12&type=r>. For exact location, refer to application.

Public Comment/Public Meeting. Written public comments or written requests for a public meeting must be submitted to the Office of Chief Clerk at the address included in the information section below. If a public meeting is held, comments may be made orally at the meeting or submitted in writing by the close of the public meeting. A public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the development is to be located, or if there is a substantial public interest in the proposed development. The purpose of the public meeting is for the public to provide input for consideration by the commission, and for the applicant and the commission staff to provide information to the public. A public meeting is not a contested case hearing. The executive director will review and consider public comments and written requests for a public meeting submitted during the comment period. The comment period shall begin on the date this notice is published and end 60 calendar days after this notice is published. The comment period shall be extended to the close of any public meeting. The executive director is not required to file a response to comments.

Executive Director Action. The executive director shall, after review of an application for registration, determine if the application will be approved or denied in whole or in part. If the executive director acts on an application, the chief clerk shall mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion to overturn the executive director's decision. The chief clerk shall mail this notice to the owner and operator, the public interest counsel, to adjacent landowners as shown on the required land ownership map and landowners list, and to other persons who timely filed public comment in response to public notice. Not all persons on the mailing list for this notice will receive the notice letter from the Office of the Chief Clerk.

Information. Written public comments or requests to be placed on the permanent mailing list for this application should be submitted to the Office of the Chief Clerk mail code MC 105, TCEQ, P.O.

Box 13087, Austin, Texas 78711-3087 or electronically submitted to <http://www14.tceq.texas.gov/epic/eComment/>. If you choose to communicate with the TCEQ electronically, please be aware that your e-mail address, like your physical mailing address, will become part of the agency's public record. For information about this application or the registration process, individual members of the general public may call the TCEQ Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Further information may also be obtained from the Waste Corporation of Texas, L.P. at the address stated above or by calling Marcos Elizondo, Regional Director of Landfill Operations & Engineering at (281) 808-5262.

TRD-201700549

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 8, 2017

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 Michelle Gonzales at (512) 463-5800.

Deadline: 8-Day Pre-Election Report due October 31, 2016 for Candidates and Officeholders

John T. Floyd III, 2927 Dixon Ct., Pearland, Texas 77584

Ronald E. Reynolds, 6140 Hwy. 6 South, Ste. 233, Missouri City, Texas 77459-3802

Judith Sanders-Castro, 9122 Autumn Skies, San Antonio, Texas 78254-01929

Patrick D. Wentworth, 3804 Levee Cir. East 253, Benbrook, Texas 76109

Deadline: Semiannual Report due July 15, 2015 for Committees

Joseph Ramirez, Nueces County Democratic Executive Committee (CEC), P.O. Box 853, Corpus Christi, Texas 78403

Deadline: Monthly Report due September 6, 2016 for Committees

Regina A. Tyroch, Whistle Political Committee Incorporated d/b/a Whistle PAC, 17424 West Grand Parkway S., Ste. 160, Sugar Land, Texas 77479-2564

Deadline: Lobby Activities Report due November 10, 2016

John Kroll, 1212 Guadalupe, Ste. 1003, Austin, Texas 78701

Pamela McPeters, 1417 Westmoor Dr., Austin, Texas 78723

Michael K. Stewart, 502 W. 13th St., Austin, Texas 78701

Deadline: Lobby Activities Report due December 12, 2016

Courtney Boswell, 919 Congress Ave., Ste. 535, Austin, Texas 78701

Kathy Green, 6500 Metropolis, Austin, Texas 78744

Court Koenning, P.O. Box 700073, Houston, Texas 77270

Gabriel G. Sepulveda, 1122 Colorado St., Ste. 200, Austin, Texas 78701

TRD-201700517

Ian Steusloff

Interim Executive Director

Texas Ethics Commission

Filed: February 7, 2017

Texas Facilities Commission

Request for Proposals #303-7-20591

The Texas Facilities Commission (TFC), on behalf of the Texas Commission on Environmental Quality (TCEQ), announces the issuance of Request for Proposals (RFP) #303-7-20591 Angleton. TFC seeks a five (5) or ten (10) year lease of approximately 2,218 square feet of office space in Angleton, Texas.

The deadline for questions is February 27, 2017 and the deadline for proposals is March 10, 2017 at 3:00 p.m. The award date is April 19, 2017. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=130876.

TRD-201700556

Kay Molina

General Counsel

Texas Facilities Commission

Filed: February 8, 2017

Request for Proposals #303-8-20595

The Texas Facilities Commission (TFC), on behalf of the Texas Department of Criminal Justice (TDCJ), announces the issuance of Request for Proposals (RFP) #303-8-20595. TFC seeks a five (5) or ten (10) year lease of approximately 8,988 square feet of office space in Abilene, Taylor County or Jones County, Texas.

The deadline for questions is February 28, 2017 and the deadline for proposals is March 14, 2017 at 3:00 p.m. The award date is April 19, 2017. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=130873.

TRD-201700555

Kay Molina

General Counsel

Texas Facilities Commission

Filed: February 8, 2017

Request for Proposals #303-8-20596

The Texas Facilities Commission (TFC), on behalf of the Texas Department of Criminal Justice (TDCJ), announces the issuance of Re-

quest for Proposals (RFP) #303-8-20596. TFC seeks a five (5) or ten (10) year lease of approximately 8,876 square feet of office space in McAllen, Texas.

The deadline for questions is March 9, 2017, and the deadline for proposals is March 23, 2017, at 3:00 p.m. The award date is April 19, 2017. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=130859.

TRD-201700547

Kay Molina

General Counsel

Texas Facilities Commission

Filed: February 7, 2017

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Texas Health and Human Services Commission

Public Notice: Texas State Plan for Medical Assistance Amendment

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 proposed amendment is effective March 1, 2017.

The purpose of this amendment is to update the fee schedule in the current state plan by adjusting fees, rates, or charges for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies.

The proposed amendment is estimated to result in an aggregate expenditure of \$513,406 for the remainder of federal fiscal year (FFY) 2017, consisting of \$288,431 in federal funds and \$224,975 in state general revenue. For FFY 2018, the estimated expenditure is \$797,204, consisting of \$453,450 in federal funds and \$343,754 in state general revenue. For FFY 2019, the estimated expenditure is \$819,300, consisting of \$466,018 in federal funds and \$353,282 in state general revenue.

Further detail on specific rates and percentage changes is available on the HHSC Rate Analysis website under the first proposed effective date at: <http://www.hhsc.state.tx.us/Rad/rate-packets.shtml>.

Rate Hearing. A rate hearing was held on February 16, 2017, at 1:30 p.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the February 3, 2017, issue of the *Texas Register* at page 508-509 at <http://www.sos.state.tx.us/texreg/index.shtml>.

Copy of Proposed Amendment. Interested parties may obtain a free copy of the proposed amendment or additional information about the amendment by contacting Doneshia Ates, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 428-1963; by facsimile at (512) 730-7472; or by e-mail at Doneshia.Ates@hhsc.state.tx.us. Copies of the proposed amendment will be available for review at the local county offices of the Texas 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, 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, 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 at (512) 730-7475

Email RADAcuteCare@hhsc.state.tx.us

TRD-201700561

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: February 8, 2017

◆ ◆ ◆
Public Notice - Texas State Plan for Medical Assistance Amendments

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendments are effective April 1, 2017.

The purpose of these amendments is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for the following:

Durable Medical Equipment, Prosthetics, Orthotics, and Supplies;

Early and Periodic Screening, Diagnosis, and Treatment Services (EPSDT); and

Physicians and Other Practitioners.

The proposed amendments are estimated to result in an aggregate cost savings of \$1,798,229 for the remainder of federal fiscal year (FFY) 2017, consisting of \$1,010,245 in federal funds and \$787,984 in state general revenue. For FFY 2018, the estimated cost savings is \$3,578,647, consisting of \$2,035,534 in federal funds and \$1,543,113 in state general revenue. For FFY 2019, the estimated cost savings is \$3,583,343 consisting of \$2,038,205 in federal funds and \$1,545,138 in state general revenue.

Further detail on specific rates and percentage changes is available on the HHSC Rate Analysis website under the first proposed effective date at: <http://www.hhsc.state.tx.us/Rad/rate-packets.shtml>.

Rate Hearing. A rate hearing was held on February 16, 2017, at 1:30 p.m. in Austin, Texas. Information about the proposed rate changes and the hearing can be found in the February 3, 2017, issue of the *Texas Register* at pages 507-509 at <http://www.sos.state.tx.us/texreg/index.shtml>.

Copy of Proposed Amendments. Interested parties may obtain a free copy of the proposed amendments or additional information about the amendments by contacting Doneshia Ates, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 428-1963; by facsimile at (512) 730-7472; or by e-mail at Doneshia.Ates@hhsc.state.tx.us. Copies of the proposed amendments will be available for review at the local county offices of the Texas 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, 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, 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 at (512) 730-7475

Email RADAcuteCare@hhsc.state.tx.us

TRD-201700562

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: February 8, 2017



Public Notice - Waiver Amendment to the Home and Community-Based Services Program

The Texas Health and Human Services Commission (HHSC) is submitting to the Centers for Medicare & Medicaid Services (CMS) a request for an amendment of the Home and Community based-Services (HCS) waiver program, a waiver implemented under the authority of section 1915(c) of the Social Security Act. CMS has approved this waiver through August 31, 2018. The proposed effective date for the amendment is July 1, 2017, with changes to cost neutrality.

This amendment request proposes to make the following changes:

1. Add High Medical Needs Support registered nurse (RN), High Medical Needs Support licensed vocational nurse (LVN), and High Medical Needs Support services, including the consumer directed services option (Appendices C, E and J).
2. Update "Methods for Remediation/Fixing Individual Problems" and add administrative penalties as an additional method of remediation for program providers who do not comply with the HCS rules (Appendices C, D and G).
3. Update "Methods of State Oversight and Follow-up" and add administrative penalties as an additional method of remediation for program providers who do not comply with the HCS rules (Appendix G-3).

The waiver provides services and supports to individuals with intellectual disabilities who live in their own homes, a family member's home, or community settings such as small three and four person homes. To be eligible for the waiver, individuals must meet financial eligibility criteria and meet the level of care required for admission into an intermediate care facility for individuals with intellectual disabilities.

An individual may obtain a free copy of the proposed waiver amendment, including the HCS settings transition plan, or to ask questions, obtain additional information, or submit comments regarding this amendment or the HCS settings transition plan, by contacting Jacqueline Pernell by U.S. mail, telephone, fax, or email. Comments will be accepted for 30 days from the date of this public notice. The addresses are as follows:

U.S. Mail

Texas Health and Human Services Commission

Attention: Jacqueline Pernell, Waiver Coordinator, Policy Development Support

PO Box 13247

Mail Code H-600

Austin, Texas 78711-3247

Telephone

(512) 428-1931

Fax

Attention: Jacqueline Pernell, Waiver Coordinator, at (512) 730-7477

Email

TX_Medicaid_Waivers@hhsc.state.tx.us.

In addition, the HHSC local offices will post this notice for 30 days. The complete waiver amendment request can be found online on the Health and Human Services website at <http://www.dads.state.tx.us/providers/HCS/>.

TRD-201700539

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: February 7, 2017



Department of State Health Services

Correction of Error

The Department of State Health Services (department), adopted amendments to 25 TAC §412.108, §412.303 and §412.322, concerning local mental health authority responsibilities. The amended rules were published in the February 10, 2017, issue of the *Texas Register*.

In §412.303(35)(E), the rule text was published as "an advanced practice nurse (APRN)." The word "registered" was inadvertently omitted in the rule text in §412.303(35)(E) as submitted by the department and should be corrected to "an advanced practice registered nurse (APRN)."

TRD-201700457

Lisa Hernandez

General Counsel

Department of State Health Services

Filed: February 2, 2017



Correction of Error for the Certification Limited Liability Report

The Texas Department of State Health Services (department) published a Certification Limited Liability Report in the February 3, 2017, issue of the *Texas Register*. The date of December 31, 2015, in the notice was incorrect as submitted by the department. The publication of this correction of error corrects the date to December 31, 2016.

The Hospital Survey Program in the Center for Health Statistics, Texas Department of State Health Services has completed its analysis of hospital data for the purpose of certifying nonprofit hospitals or hospital systems for limited liability in accordance with the Health and Safety Code, §311.0456. Thirteen hospitals requested certification. In accordance with §311.0456, each of the requesting hospitals will be notified, by mail, on the determination of whether certification requirements were met. The certification issued under Health and Safety Code, §311.0456 to a nonprofit hospital or hospital system takes effect on December 31, 2016, and expires on the anniversary of that date.

Certified: One non-profit hospital system (6 hospitals) and 5 non-profit hospitals were determined to be eligible for certification based on in-

formation that they provided i.e., charity care in an amount equal to or greater than eight percent of their net patient revenue and that they provided 40 percent or more of the charity care in their counties.

1. Seton Healthcare System (Travis County only)
 - a. Dell Children's Medical Center in Travis County
 - b. Seton Medical Center Austin in Travis County
 - c. Seton Northwest Hospital in Travis County
 - d. Seton Shoal Creek Hospital in Travis County
 - e. Seton Southwest Hospital in Travis County
 - f. University Medical Center at Brackenridge in Travis County
2. Seton Edgar B Davis in Caldwell County
3. Providence Health Center in McLennan County
4. Seton Highland Lakes in Burnet County
5. Seton Medical Center Hays in Hays County
6. Seton Medical Center Williamson in Williamson County

Not Certified: Two non-profit hospitals were not certified because, based on their survey data, they did not provide charity care in an amount equal to or greater than eight percent of their net patient revenue nor did they provide 40 percent of the charity care in their counties.

1. Seton Smithville Regional Hospital in Burnet County
2. Shannon West Texas Memorial Hospital

For further information about this report, please contact Dwayne Collins or Andria Orbach in the Center for Health Statistics at (512) 776-7261.

TRD-201700563
Lisa Hernandez
General Counsel
Department of State Health Services
Filed: February 8, 2017

Texas Department of Insurance

Company Licensing

Application for CENTRAL UNITED LIFE INSURANCE COMPANY, a foreign life, accident and/or health company, to change its name to MANHATTANLIFE ASSURANCE COMPANY OF AMERICA. The home office is in Little Rock, Arkansas.

Application for SOMPO JAPAN FIRE & MARINE INSURANCE COMPANY OF AMERICA, a foreign fire and/or casualty company, to change its name to SOMPO AMERICA FIRE & MARINE INSURANCE COMPANY. The home office is in New York, New York.

Application for SOMPO JAPAN INSURANCE COMPANY OF AMERICA, a foreign fire and/or casualty company, to change its name to SOMPO AMERICA INSURANCE COMPANY. The home office is in New York, New York.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Jeff Hunt, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201700557
Norma Garcia
General Counsel
Texas Department of Insurance
Filed: February 8, 2017

Texas Lottery Commission

Scratch Ticket Game Number 1835 "Cash Fortune"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1835 is "CASH FORTUNE". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1835 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 1835.

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, 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, COIN SYMBOL, 2X SYMBOL, 10X SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250, \$500, \$1,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1835 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
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	TRV
36	TRSX
37	TRSV
38	TRET
39	TRNI

40	FRTY
41	FRON
42	FRT0
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
COIN SYMBOL	WIN
2X SYMBOL	WINX2
10X SYMBOL	WINX10
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$250	TOFF
\$500	FVHN
\$1,000	ONTH
\$100,000	100TH

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

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

G. Pack - Scratch Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1835), 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: 1835 - 0000001 - 001.

H. Pack - A Pack of the "CASH FORTUNE" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink - wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink - wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order

will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

I. Non - Winning 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 "CASH FORTUNE" Scratch Ticket Game No. 1835.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "CASH FORTUNE" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If a player reveals a "Coin" Play Symbol, the player wins the prize for that symbol instantly. If a player reveals a "2X" Play Symbol, the player wins DOUBLE the

prize for that symbol. If a 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 45 (forty-five) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack - Scratch Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non - activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack - Scratch Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack - Scratch Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 45 (forty-five) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack - Scratch Ticket Number must be printed in the Pack - Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

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

C. A Ticket can win up to twenty (20) times.

D. On winning and Non - Winning Tickets, the top cash prizes of \$1,000 and \$100,000 will each appear at least once, except on Tickets winning twenty (20) times.

E. No matching non - winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Non - winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

G. 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., 5 and \$5, 10 and \$10, 15 and \$15, 20 and \$20, 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 "COIN" (WIN) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

L. The "COIN" (WIN) Play Symbol will never appear more than once on a Ticket.

M. The "COIN" (WIN) Play Symbol will never appear on a Non - Winning Ticket.

N. The "COIN" (WIN) Play Symbol may appear on multi - win Tickets in conjunction with "2X" (WINX2) or "10X" (WINX10) Play Symbols.

O. The "2X" (WINX2) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. The "2X" (WINX2) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the prize structure.

Q. The "2X" (WINX2) Play Symbol will never appear more than once on a Ticket.

R. The "2X" (WINX2) Play Symbol will never appear on a Non - Winning Ticket.

S. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

T. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

U. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

V. The "10X" (WINX10) Play Symbol will never appear on a Non - Winning Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "CASH FORTUNE" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250 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, \$250 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 "CASH FORTUNE" 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 "CASH FORTUNE" 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 "CASH FORTUNE" 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 "CASH FORTUNE" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 8,280,000 Scratch Tickets in Scratch Ticket Game No. 1835.

The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1835 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	864,800	9.57
\$10	625,600	13.24
\$15	349,600	23.68
\$20	147,200	56.25
\$50	85,100	97.30
\$100	33,350	248.28
\$250	1,748	4,736.84
\$500	1,311	6,315.79
\$1,000	200	41,400.00
\$100,000	5	1,656,000.00

*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 3.93. 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. 1835 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 Instant 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. 1835, 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-201700523
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: February 7, 2017

◆ ◆ ◆
North Central Texas Council of Governments

Request for Information - Diesel Air Pollution Problems

The North Central Texas Council of Governments (NCTCOG) is seeking information to identify potential diesel emissions reduction projects

as well as sites, companies or agencies operating diesel-powered vehicles or equipment involved in disproportionate idling activity in the North Texas region. This information will help NCTCOG target air pollution from older on-road, non-road, and/or off-road diesel vehicles or equipment through outreach and education, and possibly incentives for replacement or repower of diesel vehicles or equipment. While all input will be considered, submittal of information is not a guarantee that NCTCOG will pursue any specific suggestion. Information and suggestions should be sent to AQfunding@nctcog.org. Entities interested in providing input and/or partnering with NCTCOG for this on this topic should provide responses by April 14, 2017.

NCTCOG encourages participation by minority business enterprises and women's business enterprises, and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-201700542
 R. Michael Eastland
 Executive Director
 North Central Texas Council of Governments
 Filed: February 7, 2017

◆ ◆ ◆
Request for Information - Electrified Parking Space Implementation

The North Central Texas Council of Governments (NCTCOG) is seeking information and feedback with regard to how best to implement electrified parking space/truck stop electrification projects in the Dallas-Fort Worth (DFW) ten-county ozone nonattainment region. Exist-

ing funding is available to offset 25 percent of capital costs (equipment purchase, construction, and installation) under the Environmental Protection Agency's Clean Diesel Funding Assistance Program, and additional resources may be offered. A list of specific questions for which feedback is requested can be obtained online at www.nctcog.org/aq-funding.

Information must be received no later than 5:00 p.m., CDT, on Friday, March 17, 2017, to Bailey Muller at TransRFPS@nctcog.org.

NCTCOG encourages participation by minority business enterprises and women's business enterprises, and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-201700540

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: February 7, 2017



Texas Parks and Wildlife Department

Notice of Proposed Real Estate Transactions

Acquisition of Land - Blanco County

Approximately 300 Acres at Pedernales Falls State Park

In a meeting on March 23, 2017 the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 300 acres of land from a willing seller adjacent to the Pedernales Falls State Park in Blanco County. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Acquisition of Land - Matagorda County

Approximately 453 Acres at the Perry R. Bass Marine Fisheries Research Station

In a meeting on March 23, 2017 the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 453 acres of land from a willing seller adjacent to the Perry R. Bass Marine Fisheries Research Station in Matagorda County for conservation and future expansion of facilities. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Acquisition of Land - Aransas County

Approximately 1 Acre at Goose Island State Park

In a meeting on March 23, 2017 the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the acquisition of approximately 1 acre of land from a willing seller for addition to Goose Island State Park in Aransas County. At this meeting, the public will have an opportunity to comment on the proposed transaction

before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Trey Vick, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at trey.vick@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Exchange of Land - Anderson County

Approximately 75 Acres at Big Lake Bottom Wildlife Management Area

In a meeting on March 23, 2017 the Texas Parks and Wildlife Commission (the Commission) will consider authorizing the exchange of approximately 75 acres of land for approximately 75 acres of land with a willing adjacent landowner at the Big Lake Bottom Wildlife Management Area (WMA) in Anderson County. The exchange will facilitate improvements to visitor accommodations at the WMA. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Stan David, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at stan.david@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

TRD-201700558

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Filed: February 8, 2017



Plateau Water Planning Group

Notice of Application for Regional Water Planning Grant Funding to Complete the Fifth Cycle of Regional Water Planning

Notice is hereby given that the Plateau Water Planning Group will submit by 12:00 p.m. on February 21, 2017, a grant application for financial assistance to the Texas Water Development Board (TWDB) on behalf of Region J, to carry out planning activities to develop the 2021 Region J Regional Water Plan as part of the state's Fifth Cycle (2017 - 2021) of Regional Water Planning.

The Plateau Water Planning Group (Region J) includes the following counties: Bandera, Edwards, Kerr, Kinney, Real and Val Verde.

Copies of the grant application may be obtained from the Upper Guadalupe River Authority when it becomes available or online at <http://www.ugra.org/>. Written comments from the public regarding the grant application must be submitted to the Plateau Water Planning Group and TWDB by no later than March 13, 2017. Comments can be submitted to Plateau Water Planning Group and the TWDB as follows:

Mr. Jonathan Letz

Chairman for Region J

Plateau Water Planning Group

700 Main Street, Ste. 101

Kerrville, Texas 78028

Jeff Walker

Executive Administrator

Texas Water Development Board

P.O. Box 13231

Austin, Texas 78711-3231

For additional information, please contact *Mr. Jonathan Letz, Chairman, Plateau Water Planning Group, c/o Region J; 700 Main Street, Ste. 101, Kerrville, Texas 78028, (830) 739-1699, jletz@co.kerr.tx.us, or David Carter, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711, Contracts@twdb.texas.gov.*

TRD-201700491

Jonathan Letz

PWPG Chair

Plateau Water Planning Group

Filed: February 6, 2017

◆ ◆ ◆
Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on February 2, 2017, to amend a state-issued certificate of franchise authority, under Public Utility Regulatory Act §§66.001 - 66.016.

Project Title and Number: Application of Friendship Cable of Texas, Inc. d/b/a Suddenlink Communications for Amendment to its State-Issued Certificate of Franchise Authority, Project Number 46823.

The requested amendment is to expand the service area footprint to include the municipal boundaries of the Town of Blossom, Texas.

Information on the application may be obtained by contacting the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Project Number 46823.

TRD-201700545

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 7, 2017

◆ ◆ ◆
Notice of Application for Amendment to Certificated Service Area Boundary

Notice is given to the public of an application filed on January 30, 2017, with the Public Utility Commission of Texas for an amendment to a certificated service area boundary in Rusk and Harrison Counties, Texas.

Docket Style and Number: Application of Eastex Telephone Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a Minor Service Area Boundary Change in Rusk and Harrison Counties. Docket Number 46815.

The Application: The minor boundary amendment is being filed to realign the boundary between Eastex's Oakhill exchange boundary and Elysian Fields exchange boundary and two small areas contiguous to its current certificated service area.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas by February 17, 2017, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at

(512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46815.

TRD-201700451

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 1, 2017

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

Notice is given to the public of an application filed with the Public Utility Commission of Texas on January 31, 2017, to amend a certificate of convenience and necessity for a proposed transmission line in Nacogdoches County, Texas.

Docket Style and Number: Application of Tex-La Electric Cooperative of Texas, Inc. to Amend its Certificate of Convenience and Necessity for a 138-kV Transmission Line within Nacogdoches County, Docket Number 46750.

The Application: The application of Tex-La Electric Cooperative of Texas, Inc. for a proposed 138-kV transmission line in Nacogdoches County is designated as the Martinsville to Chireno 138-kV Transmission Line Project. The new transmission line would extend from Deep East Texas Electric Cooperative's existing Martinsville substation to Tex-La's proposed Chireno switching station. The project includes upgrading four existing substations plus the new Chireno switching station. The total estimated cost for the project ranges from approximately \$17,346,000 to \$20,208,000 depending on the route chosen.

The proposed project is presented with seventeen alternate routes and is estimated to be approximately 10.7 to 13.4 miles in length. Any of the routes or route segments presented in the application could, however, be approved by the Commission.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is March 17, 2017. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46750.

TRD-201700478

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: February 3, 2017

◆ ◆ ◆
Notice of Application to Amend a Service Provider Certificate of Operating Authority

On February 2, 2017, NextEra FiberNet, LLC d/b/a FPL FiberNet filed an application with the Public Utility Commission of Texas (commission) to amend service provider certificate of operating authority number 60870, reflecting a name change.

Docket Style and Number: Application of NextEra FiberNet, LLC d/b/a FPL FiberNet for an Amendment to a Service Provider Certificate of Operating Authority, Docket Number 46824.

Persons wishing to comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than February 24, 2017. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46824.

TRD-201700559
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 8, 2017



Notice of Application to Amend Service Provider Certificates of Operating Authority

On January 30, 2017, Broadwing Communications, LLC, Global Crossing Local Services, Inc., Level 3 Communications, LLC, Level 3 Telecom of Texas, LLC, TelCove Operations, LLC, and CenturyLink, Inc. requested amendment to service provider certificates of operating authority Nos. 60232, 60148, 60661, 60124, and 60219, respectively, to recognize a parent level merger.

Docket Style and Number: Application of Broadwing Communications, LLC, Global Crossing Local Services, Inc., Level 3 Communications, LLC, Level 3 Telecom of Texas, LLC, TelCove Operations, LLC, and CenturyLink, Inc. for Amendment to Service Provider Certificates of Operating Authority, Docket Number 46810.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477 no later than February 24, 2017. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46810.

TRD-201700468
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 2, 2017



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

Notice is given to the public of the filing with the Public Utility Commission of Texas on February 3, 2017, a petition to amend a certificate of convenience and necessity by expedited release in Travis County, Texas.

Docket Style and Number: Petition of Carma Easton, LLC to Amend Creedmoor-Maha Water Supply Corporation's Certificate of Convenience and Necessity by Expedited Release in Travis County, Docket Number 46829.

The Petition: Carma Easton, LLC seeks the expedited release of 119.5 acres from Creedmoor-Maha Water Supply Corporation's water certificate of convenience and necessity No. 11029 in Travis County under Texas Water Code §13.254(a-5) and 16 Texas Administrative Code §24.113(r).

Persons wishing to comment on the action sought should contact the commission no later than March 3, 2017, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free

at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46829.

TRD-201700544
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 7, 2017



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

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on February 3, 2017, a petition to amend a certificate of convenience and necessity by expedited release in Travis County, Texas.

Docket Style and Number: Petition of Carma Easton LLC to Amend Creedmoor-Maha Water Supply Corporation's Certificate of Convenience and Necessity by Expedited Release in Travis County, Docket Number 46830.

The Petition: Carma Easton LLC seeks the expedited release of 25.304 acres from Creedmoor-Maha Water Supply Corporation's water certificate of convenience and necessity No. 11029 in Travis County under Texas Water Code §13.254(a-5) and 16 Texas Administrative Code §24.113(r).

Persons wishing to comment on the action sought should contact the commission no later than March 3, 2017, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46830.

TRD-201700560
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 8, 2017



Texas Department of Transportation

Aviation Division - Request for Professional Architectural/Engineering Services

Trinity County and the City of Groveton, through their agent, the Texas Department of Transportation (TxDOT), intend to engage a professional architectural/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: Trinity County and City of Groveton; TxDOT CSJ No.: 1711GRVTN.

Scope: Provide engineering/design services, including construction administration, to replace low intensity runway lights with medium intensity runway lights on Runway 16-34.

Respondents are not required to include a HUB Subcontracting Plan (HSP) with their AVN-550 at the time of submission. If subcontractors are used in the delivery of the goods and/or services, the awarded contractor(s) is requested to submit monthly progress reports, in the prescribed format, to TxDOT Aviation. When applicable, the reports should include a narrative description of the contractor's good faith ef-

forts and accomplishments, and financial information reflecting payments to all subcontractors, including HUBs.

Respondents are encouraged to maximize HUB utilization equal to the statewide HUB goals for the type of work being contracted. The statewide HUB goals are defined in 34 Texas Administrative Code §20.284.

TxDOT Project Manager is Ryan Hindman, P.E.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Groveton-Trinity County Airport may include the following:

Rehabilitate apron; rehabilitate and mark stub Taxiway; acquire land for Runway Protection Zone Runway 34 end; rehabilitate and mark Runway 16-34.

Trinity County and the City of Groveton reserve the right to determine which of the above services may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services above.

To assist in your qualification statement preparation, the criteria, 5010 drawing, project diagram, and most recent Airport Layout Plan are available online at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> by selecting "Groveton-Trinity 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 for both current and future scope.

AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, 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 March 14, 2017, 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 webform 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 1-800-68-PILOT (74568). For procedural questions, please contact Trudy Hill, Grant Manager. For technical questions, please contact Ryan Hindman, P.E., Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at 1-800-687-4568 or avn-egrantshelp@txdot.gov.

TRD-201700479

Leonard Reese

Associate General Counsel

Texas Department of Transportation

Filed: February 3, 2017



Aviation Division - Request for Qualifications for Professional Architectural/Engineering Services

Ector County, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional architectural/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: Ector County; TxDOT CSJ No.: 1706ODESA.

Scope: Provide engineering/design services, including construction administration, to:

Design and install Omnidirectional Approach Lighting System (ODALS) on Runway 11/29 ends;

Design terminal apron expansion.

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 any contract entered into pursuant to this advertisement, that 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.

The DBE goal for the **design phase of the current project is 11%.** **The goal will be re-set for the construction phase.** TxDOT Project Manager is Paul Slusser.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Odessa Schlemeyer Field may include the following:

Construct terminal apron expansion; rehabilitate hangar apron and access taxiways; rehabilitate airfield pavement and construct North hangar vehicle access road.

Ector County reserves the right to determine which of the above services may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services above.

To assist in your qualification statement preparation, the criteria, 5010 drawing, 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 "Odessa Schlemeyer Field." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects for both current and future scope.

AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, 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 March 21, 2017, 11:59 PM. (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 webform 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 1-800-68-PILOT (74568). For procedural questions, please contact Kelle Chancey, Grant Manager. For technical questions, please contact Paul Slusser, Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at 1-800-687-4568 or avn-egrantshelp@txdot.gov.

TRD-201700484

Leonard Reese

Associate General Counsel

Texas Department of Transportation

Filed: February 3, 2017

Workforce Solutions for the Heart of Texas

Request for Proposals

The Heart of Texas Workforce Development Board, Inc. (HOTWDB) is accepting proposals for lease of office space in Waco, Texas, for the Heart of Texas Workforce Board Administrative Office. Proposals are due on February 21, 2017, by 4:30 p.m. Any proposal received after that time and date will not be considered.

For bid specifications, the Request for Proposal will be available at www.hotworkforce.com.

The Heart of Texas Workforce Development Board, Inc. reserves the right to reject any and/or all bids, and to make awards as they may appear to be advantageous to HOTWDB.

The Heart of Texas Workforce Development Board, Inc. provides workforce services to six counties; Bosque, Falls, Freestone, Hill, Limestone and McLennan.

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) 1800-735-2989/1-800-735-2988 (voice).

TRD-201700482

Anthony Billings

Executive Director

Workforce Solutions for the Heart of Texas

Filed: February 3, 2017

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 40 (2015) is cited as follows: 40 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 "40 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 40 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
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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