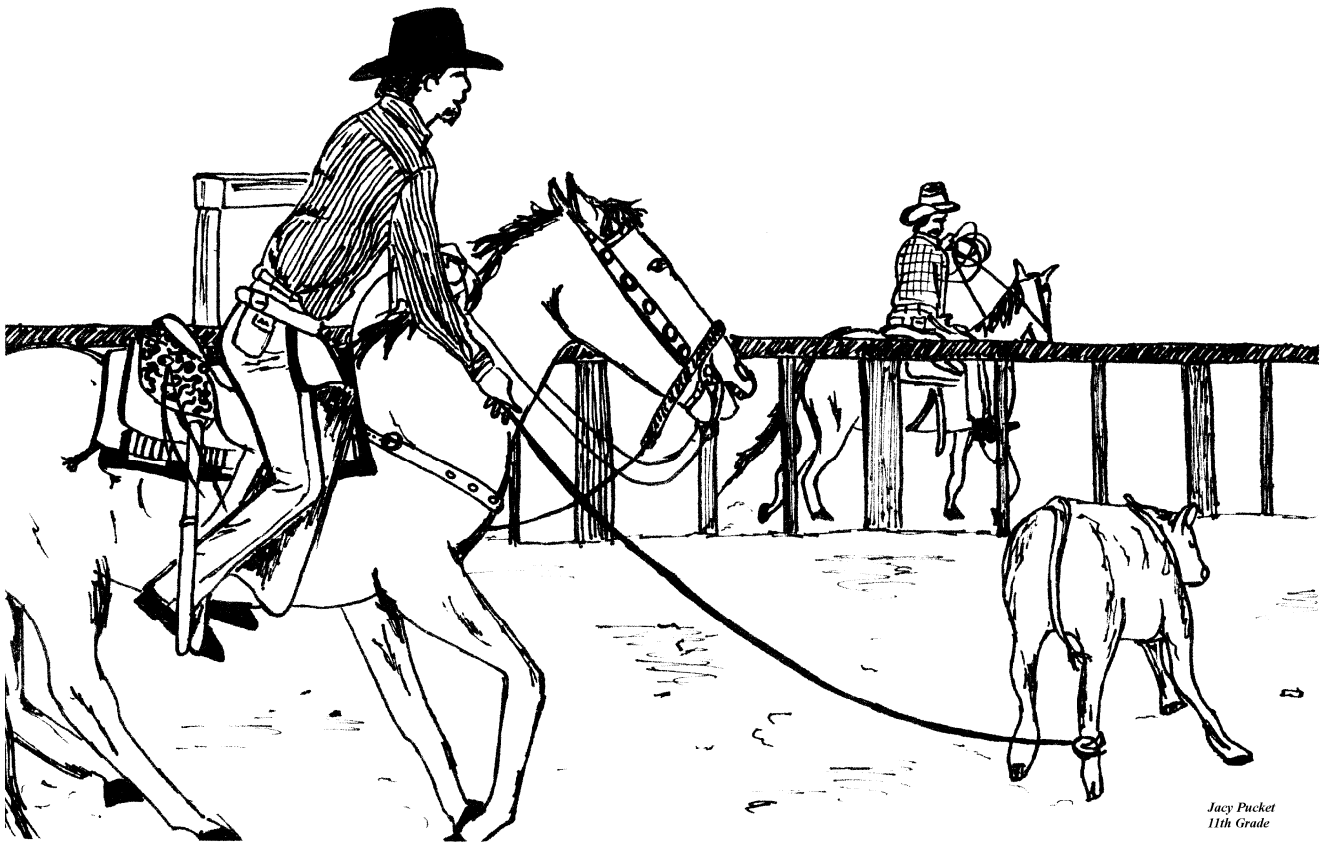

TEXAS REGISTER

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Jacy Pucket
11th Grade

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

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

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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>

...

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 ATTORNEY GENERAL

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

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

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

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

Opinions

Opinion No. KP-0156

Mr. Raymond Palacios, Jr.

Chairman, Department of Motor Vehicles Board

4000 Jackson Avenue

Austin, Texas 78731

Re: Whether wholly owning a motor vehicle manufacturer results in affiliation with that manufacturer for purposes of subsection 2301.476(a)(2) of the Occupations Code (RQ-0170-KP)

S U M M A R Y

For purposes of section 2301.476 of the Occupations Code, a manufacturer includes an entity affiliated with a manufacturer. The common

understanding of the term affiliate includes concepts of both ownership and control. Thus, a court is likely to conclude that a company that relinquishes control of a manufacturer but maintains full ownership of that manufacturer remains affiliated with the manufacturer for purposes of section 2301.476.

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

TRD-201702876

Amanda Crawford

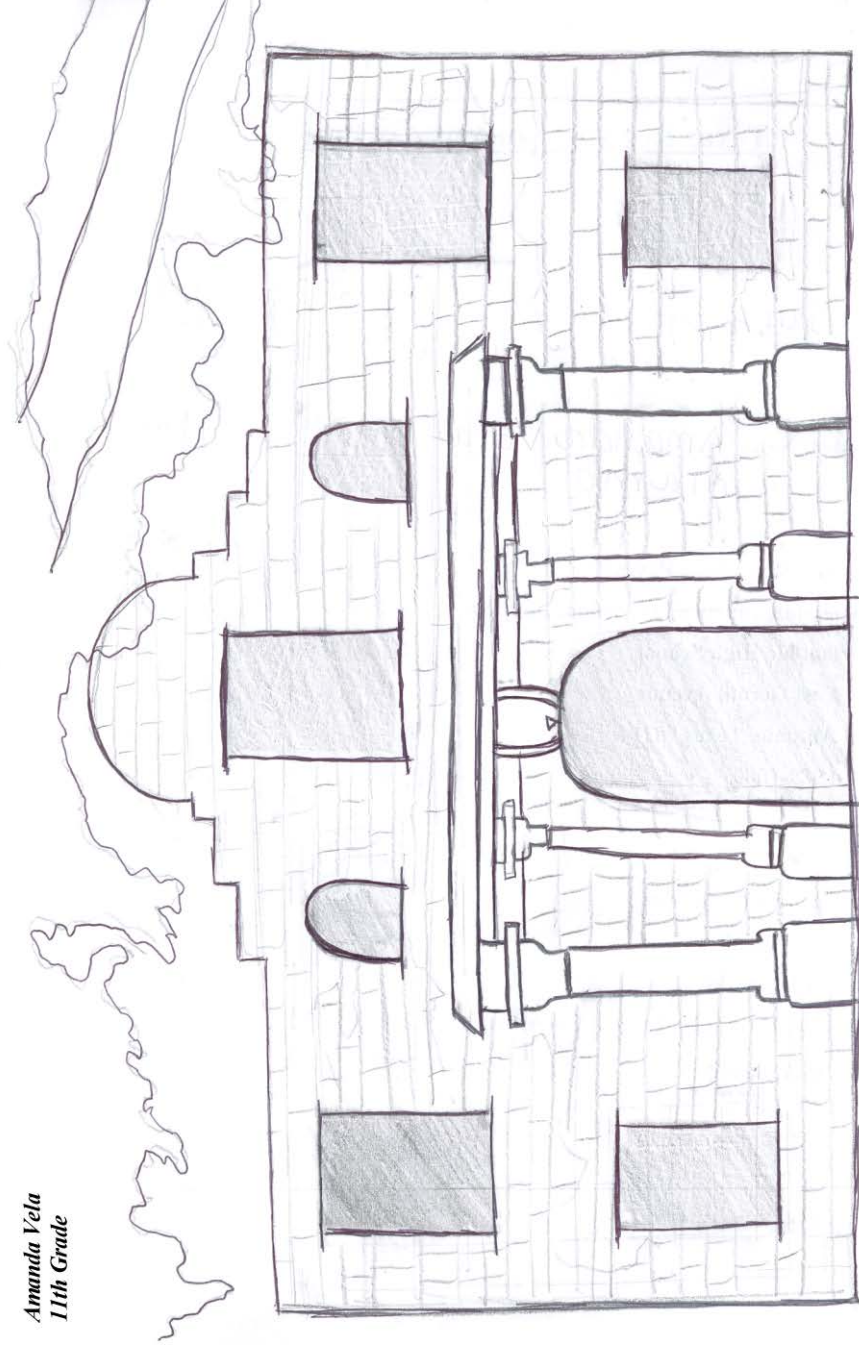
General Counsel

Office of the Attorney General

Filed: August 1, 2017



Amanda Vela
11th Grade



EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

SUBCHAPTER B. PROVISIONS FOR THE TUITION EQUALIZATION GRANT PROGRAM

19 TAC §§22.24, 22.25, 22.29

The Texas Higher Education Coordinating Board (Coordinating Board) adopts on an emergency basis amendments to §§22.24, 22.25, and 22.29, concerning Provisions for the Tuition Equalization Grant (TEG) Program. The amendments are being adopted on an emergency basis pursuant to Government Code, §2001.034, which allows a state agency to adopt an emergency rule if a requirement of state or federal law requires adoption of the rule on less than 30 days notice.

The Coordinating Board made the finding that these amendments should be adopted on an emergency basis, pursuant to Government Code, §2001.034, because the changes and provisions passed by General Appropriations Act, SB 1, 85th Texas Legislature, Article III-50 have no grandfather clause. Therefore, out-of-state National Merit finalists are not eligible to receive TEG funding out of funds appropriated for FY 2018. Institutions must adjust financial aid packages for the 2017-2018 academic year to remove any TEG that has been awarded to these students. This rule change provides guidance to institutions of higher education and will need to be in place prior to the start of disbursement processing in August 2017.

Specifically, the amendments to these sections strike references to non-resident students (eligible to pay in-state tuition) who are National Merit finalists, because these students are no longer eligible to receive awards through the TEG Program.

The amendments are proposed under the Texas Education Code, §61.229, which provides the Coordinating Board with the authority to adopt rules for the administration of the Tuition Equalization Grant Program.

§22.24. Provisions that Apply Only to 2006 Revised TEG Program Students.

(a) Eligible Students. To receive an award through the TEG Program, a 2006 Revised TEG Program student must:

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

(4) be a resident of Texas as determined based on data collected using the Residency Core Questions and in keeping with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status) [; unless such student is a National Merit scholarship finalist and

has received a scholarship in the amount required to be eligible to pay Texas resident tuition under the Texas Education Code §54.213(a)];

(5) - (9) (No change.)

(b) - (e) (No change.)

§22.25. Provisions that Apply Only to Original TEG Program Students.

(a) Eligible Students. To receive an award through the TEG Program, an Original TEG Program student must:

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

(4) be a resident of Texas as determined based on data collected using the Residency Core Questions and in keeping with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status) [; unless such student is a National Merit scholarship finalist and has received a scholarship in the amount required to be eligible to pay Texas resident tuition under the Texas Education Code §54.213(a)];

(5) - (9) (No change.)

(b) - (e) (No change.)

§22.29. Allocation and Reallocation of Funds.

(a) (No change.)

(b) Allocations for Fiscal Year 2020 and later. Allocations for the TEG Program are to be determined on an annual basis as follows:

(1) (No change.)

(2) The allocation base for each institution choosing to participate will be its three-year average share of the total statewide amount of the Total TEG Need, subject to the limits in Texas Education Code, §61.227(c) and (e), based on the students who met the following criteria:

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

(D) Classified as a Resident of Texas [; unless such student is a National Merit scholarship finalist and has received a scholarship in the amount required to be eligible to pay Texas resident tuition under the Texas Education Code §54.213(a)];

(E) - (H) (No change.)

(3) - (8) (No change.)

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

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

Filed with the Office of the Secretary of State on July 28, 2017.

TRD-201702817

Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: 7/28/2017
Expiration date: 11/24/2017
For further information, please call: (512) 427-6104



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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 24. TEXAS BOOTSTRAP LOAN PROGRAM RULE

10 TAC §§24.1 - 24.3, 24.5, 24.6, 24.8 - 24.13

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 24 Texas Bootstrap Loan Program Rule: §24.1, concerning Purpose; §24.2, concerning Definitions; §24.3, concerning Allocation of Funds; §24.5, concerning Program Activities; §24.6, concerning Prohibited Activities; §24.8, concerning Criteria for Funding; §24.9, concerning Program Administration; §24.10, concerning Owner-Builder Qualifications; §24.11, concerning Types of Funding Transactions; §24.12, concerning Property Guidelines and Related Issues; and §24.13, concerning Non-profit Owner-Builder Housing Program Certification.

The purpose of amending the Texas Bootstrap Loan Program Rule is to integrate changes made by the 85th Texas Legislature via House Bill 1512, add missing definitions, correct capitalization, simplify wording, and eliminate duplication of underwriting rules already stated in the Single Family Programs Umbrella Rule 10 TAC 20. The significant proposed changes to 10 TAC Chapter 24 are:

§24.1. Purpose. This section is amended to remove the limit on the amount of other funding that could be leveraged with Bootstrap loan funds per House Bill 1512, passed by the 85th Texas Legislature. Previously, Bootstrap borrowers could not exceed a total of \$90,000 for all amortizing loan funds applied to their housing unit, including any leveraged funds from outside the Bootstrap Program.

§24.2. Definitions. This section is amended to include the term "Improvement Survey" because this term appears in §24.12, Property Guidelines and Related Issues, and was undefined.

§24.9. Program Administration. This section is amended to remove the limit on the amount of other funding that could be leveraged with Bootstrap loan funds per House Bill 1512, passed by the 85th Texas Legislature. This section is also amended to increase the Administrative Fee that can be earned by a Participant upon completing and funding a Bootstrap loan from 6% to 10% of the Bootstrap loan amount. This makes both the Bootstrap Loan Program and the Amy Young Barrier Removal Program--the two programs of the State Housing Trust Fund--consistent with one another with respect to the Administrative Fee provided to participating entities.

§24.10. Owner-Builder Qualifications. This section is amended to remove rules pertaining to underwriting (e.g., examples of outstanding items on a credit report that affect eligibility, limits on liquid assets, etc.) that are already stated in the Single Family Programs Umbrella Rule 10 TAC 20.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that for each year of the first five years the amendments are in effect, enforcing or administering the amendments does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of the amendments will be clarity of program requirements, adherence to state governing statute, and decreased potential foreclosures via modified underwriting criteria. There will be minimal economic cost to entities complying with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposed amendments will be from August 11, 2017, to September 11, 2017. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Homero Cabello, Director of Single Family Operations & Services, Bootstrap Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or emailed to homero.cabello@tdhca.state.tx.us.

ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. AUSTIN LOCAL TIME SEPTEMBER 11, 2017.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules; and §2306.752, which requires the Department to establish, operate, monitor and fund an Owner-Builder Loan Program to enable Owner-Builders to purchase or refinance real property on which to build new residential housing or improve existing residential housing.

The proposed amendments affect no other code, article, or statute.

§24.1. Purpose.

(a) This chapter clarifies the Texas Bootstrap Loan Program, administered by the Texas Department of Housing and Community Affairs (the "Department"), also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Texas Government Code, Chapter 2306, Subchapter FF, Chapter 1 of this title (relating to Administration), Chapter 2 of this

title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Housing Trust Fund).

(b) The Texas Bootstrap Loan Program is a Self-Help construction Program that is designed to provide very low-income families an opportunity to help themselves attain homeownership or repair their existing homes through sweat equity. All Owner-Builder Applicants under this Program are required to provide through personal labor at least 65 percent of labor necessary to build or rehabilitate the home. All applicable building codes and housing standards are adhered to under this Program. ~~[In addition, Nonprofit Organizations can combine these funds with other sources of funds. The total amount of amortized repayable loans made by the Department and other entities to an Owner-Builder may not exceed \$90,000 per housing unit.]~~

§24.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Housing Trust Fund).

(1) Capital Recovery Fee--Means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, contributions in aid of construction, and any other fee that functions as described by this definition.

(2) Improvement Survey--A survey locating the boundaries of the property and the location of all improvements.

(3) [(2)] Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Participant that authorizes the Participant to originate certain loans under the Texas Bootstrap Loan Program.

(4) [(3)] NOHP--Nonprofit Owner-Builder Housing Provider.

(5) [(4)] Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a Contract for Deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(6) [(5)] Participant--An organization that [which] submits an application to the Department to be certified as an NOHP or a Colonia Self-Help Center.

(7) [(6)] Program--Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program.

(8) [(7)] Self-Help Housing Construction--The Self-Help Housing process enables Owner-Builders to Rehabilitate, Reconstruct or construct their own homes, usually working together in groups on other eligible Owner-Builder's houses at the same time. Owner-Builders use their own "sweat equity" to reduce the cost of their homes.

§24.3. Allocation of Funds.

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Texas Government Code, Chapter 2306, Subchapter FF. The Department shall solicit gifts and grants to make loans under this chapter.

(b) The Department may also make loans under this chapter from:

(1) available funds in the Housing Trust Fund [housing trust fund] established under Texas Government Code, §2306.201; or

(2) federal block grants that may be used for the purposes of this chapter.~~]; and~~

~~[(3) the Owner-Builder revolving loan fund established under Texas Government Code, §2306.7581.]~~

~~[(c) The Department shall establish an Owner-Builder revolving loan fund for the sole purpose of funding loans pursuant to Texas Government Code, §2306.7581.]~~

~~[(d) The Department shall deposit money received in repayment of a loan to the Owner-Builder revolving loan fund pursuant to Texas Government Code, §2306.7581.]~~

(c) ~~[(e)]~~ Each state fiscal year the Department shall transfer at least \$3 million to the Texas Bootstrap Loan Program ~~[revolving fund]~~ from money received under federal block grants or from available funds in the Housing Trust Fund [the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701, et seq.)], from money in the housing trust fund; or from money appropriated by the legislature to the Department pursuant to Texas Government Code, §2306.7581.

(d) ~~[(f)]~~ In a state fiscal year the Department may use not more than 10 percent of the revenue available to enhance the ability of tax-exempt organizations described by Texas Government Code, §2306.755(a) to enhance the number of such organizations that are able to implement the Program. The Department shall use that available revenue to provide financial assistance, technical training and management support.

§24.5. Program Activities.

Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, new construction, reconstruction [Reconstruction], or rehabilitation [Rehabilitation] of residential housing. All eligible organizations that satisfy the requirements of this chapter may reserve funds by submitting a loan application on behalf of an Owner-Builder Applicant for the Texas Bootstrap Loan Program.

§24.6. Prohibited Activities.

The fees described in paragraphs (1) - (8) of this section are prohibited and may not be charged directly to the Owner-Builder ~~[in relation to the origination or servicing of a loan through the Texas Bootstrap Loan Program]~~, but may be charged as an allowable cost by a third ~~[(3rd)]~~ party lender or servicer for a Texas Bootstrap loan [the origination of all other loans originated in connection with a loan through the Texas Bootstrap Loan Program]:

(1) payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;

(2) Loan Origination Fees;

(3) Application fee;

(4) discount fees;

(5) underwriter fee;

- (6) loan processing fees;
- (7) loan servicing fees; and
- (8) other fees not approved by the Department in writing prior to expenditure.

§24.8. *Criteria for Funding.*

(a) The Department will distribute the funds in accordance with the Texas Housing Trust Fund (HTF) Plan in effect at the time. The Department will publish an announcement for a Notice of Funding Availability ("NOFA") in the *Texas Register* and post the NOFA on the Department's website. The Program Rule and NOFA will establish and define the terms, conditions, and maximum Reservation amounts allowed per Participant. The Department may also set a deadline for receiving Reservations and/or Applications. The NOFA will indicate the approximate amount of available funds. The Department may increase funds in the NOFA from time to time without republishing the NOFA in the *Texas Register* and Department's website.

(b) A Nonprofit Organization must have been certified by the Department as an NOHP and must have executed a Loan Origination Agreement to be eligible to submit Reservations. Any Reservation containing false information will be disqualified. The Department will review and process all Reservations in the order received. The NOHP will be notified in writing of the Department's determination.

(c) Reservations received by the Department in response to a NOFA will be handled as described in paragraphs (1) - (5) of this subsection.

(1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.

(2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.

(3) Reservations must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in this chapter. Reservations that do not comply with such requirements may be disqualified. The Participant will be notified in writing of any cancelled and/or disqualified Reservations.

(4) If a Reservation contains deficiencies which, in the determination of the Department, require clarification or correction of information submitted at the time of the Reservation, the Department may request clarification or correction in the form of an email or letter to the Participant.

(5) Prior to issuing an Applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Reservation which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has issued an Applicant eligibility letter to the Owner-Builder Applicant, but the Participant and/or Owner-Builder Applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the Participant and/or Owner-Builder Applicant has satisfied all requirements of the Program. If the Participant is unable to cure any deficiencies within fifteen (15) calendar days, the Department may provide a one-time fifteen (15) calendar day extension or decline to fund the Reservation.

§24.9. *Program Administration.*

(a) Pursuant to §2306.754(b), the Department shall not exceed \$45,000 in household assistance for any Texas Bootstrap Loan Program loan. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds. [Household assistance from the Department for any Texas Bootstrap Loan Program loans may not exceed \$45,000 per household pursuant to Texas Government Code, §2306.754(b). The Owner-Builder must obtain the amount necessary that exceeds \$45,000 from other sources of funds including other Department funds with the exception of funds being utilized to implement the Texas Bootstrap Loan Program. The total amount of amortized repayable loans made by the Department and other entities to an Owner-Builder under the Program may not exceed \$90,000 pursuant to Texas Government Code, §2306.754(b).]

(b) The Department shall make loans for Owner-Builder applicants to enable them to:

- (1) purchase or refinance real property on which to build new residential housing;
- (2) build new residential housing; or
- (3) improve existing residential housing.

(c) Upon approval by the Department, the Participant shall enter into, execute, and deliver to the Department the Loan Origination Agreement. The Department may terminate the Loan Origination Agreement in whole or in part if the Participant has not performed as outlined in the Program Rule, NOFA, Loan Origination Agreement, and/or Program Manual.

(d) In the event the Department has additional funds in the same funding cycle, the Department, with Board approval, will distribute funds in accordance with this chapter.

(e) If the Owner-Builder Applicant qualifies for the Program, the Department will issue an Applicant eligibility letter (~~approval letter~~) which reserves up to \$45,000 in funds [~~the funds (up to \$45,000 per Reservation)~~] for twelve (12) months from the date of the Applicant eligibility letter. Owner-Builder Applicant will not be required to re-qualify [~~for the Program~~] if the Owner-Builder Applicant closes by [on the loan on or before] the expiration date [stated] on the Applicant eligibility. ~~Otherwise [letter issued by the Department. If the Owner-Builder fails to close on the loan on or before the expiration date stated on the Applicant eligibility letter], the Owner-Builder Applicant must [will be required to] re-qualify for the Program and[. The Owner-Builder Applicant must be requalified by the Department. If the Owner-Builder Applicant is requalified]~~ the Department may grant an extension of up to 90 days from the expiration date on the original Applicant eligibility letter. If the Owner-Builder Applicants fails to close on the loan after the extension is granted the Reservation and/or loan will be cancelled.

(f) Roles and responsibilities for administering the Program Contract. Participants are required to:

- (1) qualify potential Owner-Builders for loans;
- (2) provide Owner-Builder homeownership education classes;
- (3) supervise and assist Owner-Builders to build and/or Rehabilitate housing;
- (4) facilitate loans made or purchased by the Department under the Program; and

(5) implement and administer the Program on behalf of the Department.

(g) Loan Servicing Agreement. If the Participant wishes to service the loans originated on behalf of the Department it must obtain prior approval and enter into a Loan Servicing Agreement with the Department. [The Department may grant the request upon reviewing the Participant capacity to implement those specific functions.]

(h) First Year Consultation Agreement. The Participant agrees that if notified by the Department that Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents [issued under the Program], within the first twelve (12) months of funding, the Participant will be required to meet with the Owner-Builder and provide counseling and assistance until the payments are made current. After consultation and in the event that the Department and Participant are not able to [reach a consensus about Participant's effort to] bring the Program loan current as required under this chapter, the Department in accordance with its administrative rules may apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participation in the Program.

(i) Administrative Fee. The Participant will be granted a 10 [6] percent administration fee upon completion of the house and funding of each Mortgage loan.

(j) Blueprints. If Participant's activity is interim or residential construction, Participant must provide an original copy of the proposed blueprints to be approved by the Department prior to accepting applications. Blueprints must include the required construction requirements pursuant to Texas Government Code, §2306.514, and [All blueprints submitted for approval must] be prepared and executed by an architect or engineer licensed by the state of Texas.

(k) Work Write-up. If Participant's activity is rehabilitation, Participant must submit work write-ups and cost estimations for Department approval prior to construction [The Participant must submit a work write-up for all rehabilitation projects. Work write-ups must be reviewed and approved by the Department, before rehabilitation is started].

(l) Loan Program requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as described in paragraphs (1) - (8) of this subsection:

(1) maximum Texas Bootstrap Loan Program loan [Loan] amount shall not [to] exceed \$45,000. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds. [If it is not possible for the Owner-Builder to purchase necessary real property and build adequate housing for \$45,000, the Participant must obtain additional funding from other sources of funds.]

(2) minimum Loan amount is \$1,000;

[(3) the total amount of all amortized repayable loans under the Program may not exceed \$90,000. Deferred Forgivable Loans are not included in these total loan calculations;]

(3) [(4)] may not exceed a term of thirty (30) years;

(4) [(5)] minimum loan term of five (5) years;

(5) [(6)] zero (0) percent [(0 percent)] non-interest loans;

(6) [(7)] when refinancing a Contract for Deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property;

(7) [(8)] Owner-Builder [Owner-Builder(s)] must have resided in Texas [this state] for the preceding six (6) months prior to the date of loan application.

(m) Loan Assumption. A Program loan is assumable if the Department determines that the Owner-Builder Applicant complies with all Program requirements in effect at the time of the assumption.

(n) Forgivable Loan. The term for a Forgivable Loan may not exceed 15 years from the date of closing.

§24.10. Owner-Builder Qualifications.

The Owner-Builder must:

(1) own or be purchasing a piece of real property through a warranty deed or Contract for Deed;

(2) not have an annual household income that exceeds 60 percent of the greater of the state or local area median family income as determined by HUD's current income table[;]

[(A)] Eligibility Income is the total Household income including all income (salary, tips, bonus, overtime, alimony, child support, benefits, etc.) received by the Owner-Builder Applicant, co-Applicant and/or any other persons living in the home. This income is used to determine whether the household income exceeds 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, whichever is greater. No income is excluded in this calculation.

[(B)] Qualifying Income is the income used to calculate the Owner-Builder Applicant's debt to income ratio. It is the income of the Owner-Builder Applicant and co-Applicant excluding the total of any income not received consistently for the past 12 months from the date of application. Examples of excluded income includes, but is not limited to, income from a full or part time job that lacks a stable job history, potential bonuses, commissions, and child support.]

[(3) demonstrate the willingness and ability to repay the loan; Owner-Builder Applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. In order for the Department to make a reasonable determination, the Department will obtain a tri-merge credit report on all Owner-Builder Applicants submitted to the Department for approval. Unacceptable credit includes, but is not limited to:]

[(A) payments on any open consumer, retail and/or installment account (i.e. auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan) which has been delinquent for more than thirty (30) days on three (3) or more occasions within the last twelve (12) months. For purposes of this subparagraph, the credit history of an Owner-Builder who is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products will not apply. However, Owner-Builder must still demonstrate the ability and willingness to meet debt obligations;]

[(B) a foreclosure which has been completed within the last twelve (12) months prior to the date of loan application;]

[(C) an outstanding Internal Revenue Service tax lien or any other outstanding tax liens unless the Owner-Builder Applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;]

[(D) a court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding must be

paid off. The Department may consider this account in good standing if the Owner-Builder Applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;]

[(E) any account (with the exception of a medical account) that has been placed for "collection," "profit and loss" or "charged off" within the last twenty-four (24) months prior to the date of loan application, unless the account has been or will be paid in full after receiving notice from the Department. If there are other, unpaid or unresolved accounts that were placed for "collection," "profit and loss," or "charged off" prior to the last twenty-four (24) months prior to the date of loan application then. Owner-Builder Applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of loan application. Type of debts that will be taken into consideration may include, but are not limited to the following: rental history, cell phone, utility, child care, auto insurance, etc.;

[(F) any delinquency on any government debt unless the Owner-Builder Applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application;]

[(G) a bankruptcy that has been filed within the past twelve (12) months prior to the date of loan application;]

[(H) any delinquency on child support unless the Owner-Builder Applicant has made formal and satisfactory payment arrangements for at least six (6) months prior to the date of loan application. The following will not be considered indicators of unacceptable credit:]

[(i) a bankruptcy in which debts were discharged more than twelve (12) months prior to the date of loan application. Owner-Builder Applicant must also have re-established at least one line of credit that must be in good standing with no delinquencies for at least six (6) months prior to the date of loan application. In addition the Owner-Builder Applicant must submit to the Department a letter of explanation regarding the circumstances that led to the bankruptcy which is acceptable to the Department;]

[(ii) where an Owner-Builder Applicant has successfully completed a debt restructuring plan and has demonstrated a willingness to meet obligations when due for the six (6) months prior to the date of loan application. If an Owner-Builder Applicant is currently participating in a debt management plan, the trustee or assignee must provide a letter to the Department stating that they are aware and agree with the Owner-Builder Applicant applying for a mortgage loan. In addition Owner-Builder Applicant must have successfully completed at least six (6) months of the debt management plan with no delinquent payments;]

[(iii) medical accounts that are delinquent or that have been placed for collection; The Owner-Builder Applicant's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than ten (10) monthly payments remaining. Debts for which the Owner-Builder Applicant is a co-signer will be included in the total monthly obligations. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on all revolving debts (e.g. credit cards, payday loans, lines of credit, unsecured loans) and certain types of installment loans that appear to be recurring in nature will be included in debt ratio calculation, even if the Owner-Builder Applicant intends to pay off the accounts, since the Owner-Builder Applicant can reuse those credit sources, unless the account is paid off and closed. Payments on any type of loan that have been deferred must be deferred for at least

eighteen (18) months from the date of loan application in order for the debt not to be included in the debt ratio calculation;]

(3) [(4)] execute a Self-Help Agreement committing to provide [through personal labor] at least 65 percent of the labor necessary to build or rehabilitate [Rehabilitate] the proposed housing [working] through a state-certified Participant; or provide an amount of labor equivalent to 65 percent in connection with building or rehabilitating [Rehabilitating] housing for others through a state-certified [state certified] Participant; provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate [Rehabilitate] the proposed housing [by working] through a state-certified [state certified] Participant or if due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65 percent of the labor necessary to build or rehabilitate [Rehabilitate] the proposed housing [by working] through a state-certified [state certified] Participant;

[(5) not have cash assets in excess of \$25,000 (excluding retirement and/or 401K accounts);]

(4) [(6)] successfully complete an Owner-Builder homeownership education class prior to loan funding;

(5) [(7)] be given priority for loans if the Owner-Builder has an income of less than \$17,500 annually; and

(6) [(8)] not have any outstanding judgments and/or liens on the property.

(7) [(9)] the Owner-Builder must occupy the residence as a Principal Residence [residence must be occupied as the Principal Residence of the Owner-Builder] within thirty (30) days of [the later of] the end of the construction period or the closing of the loan, whichever is later. Any additional habitable structures must be removed from the property prior to closing but a portion of the structure[-: Portion of the former structure] may be utilized as storage upon the Department's written approval prior to closing.

§24.11. Types of Funding Transactions.

All Mortgage Loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following transaction types are permitted by the Department under the Program.

(1) Purchase Money. All [In a purchase money transaction, all] proceeds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property which must become [will be] the Owner-Builder's primary residence within thirty (30) days of closing the loan. The Department makes a [In this instance, a] permanent loan [is made] and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds.

(2) Residential Construction. This [(One Time Closing with Owner-Builder). An interim construction loan, also known as a residential construction loan, this] transaction is treated as a purchase and [; because it] is a one-time closing with the Owner-Builder. Construction period may be up to twelve (12) months.

(3) Interim Construction (Closing with Participant). Interim construction is a commercial transaction between the Participant and the Department. The construction period may be up to twelve (12) months. Once [; once] the construction of the home is completed, the closing with the Owner-Builder will take place as a purchase money transaction.

(4) Purchase of Mortgage loans. The Department may purchase and take assignments from Mortgage lenders of notes and other

obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this section or for residential construction transactions as described in paragraph (2) of this section.

§24.12. *Property Guidelines and Related Issues.*

(a) Appraisals are required by the Department on each property prior to closing.

(b) Loan-to-value [~~Loan to value~~] ratio may not exceed 95 percent of the appraised value. The lien amounts of forgivable loans and/or Grants will not be included in the loan-to-value calculation.

(c) Combined loan-to-value ratio may not exceed 100 percent of the appraised value. The lien amounts of Forgivable Loans will also be included in the combined loan to value ratio.

(d) Improvement Surveys are required on each property.

(e) Category 1A (Texas Society of Professional Surveyors) lot surveys [~~lot survey~~] are required for all interim and residential construction loans. Upon Department approval a recorded subdivision plat may be used in lieu of lot surveys for interim construction loans only. Upon completion of construction an improvement survey must also be provided.

(f) Title Commitment. A copy of the preliminary title report including complete legal description[;] and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required. The preliminary title report should not be more than thirty (30) days old at the time the submission or funding package [~~Submission or Funding Package~~] is sent to the Department and must list the Department's Loan.

(g) Existing Property. A property inspection will be required to be completed by a professional inspector licensed by the Texas Real Estate Commission for all existing properties. A copy of the inspection report must be submitted and any [~~prior to closing. Any~~] deficiencies listed on the report must be corrected prior to closing. Cosmetic issues such as paint, wall texture, etc. may not be required to be corrected if utilizing a Self-Help construction Program. A copy of the reports must be provided to the Owner-Builder Applicant and the Department. The Participant and/or the Owner-Builder Applicant will be responsible for the selection and/or the fee of a licensed inspector.

§24.13. *Nonprofit Owner-Builder Housing Program Certification.*

(a) [~~Definitions and Terms. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.~~]

[(1)] The term, Applicant, when used in this section, shall mean a [~~A~~] Nonprofit Organization that is an NOHP or has submitted a request to the Department for certification as an NOHP in order to participate in [~~to the Department. An Applicant for~~] the Texas Bootstrap Loan Program [~~must be an NOHP certified by the Department~~].

[(2)] Bylaws--A rule or administrative provision adopted by a corporation for its internal governance. Bylaws are enacted apart from the Certificate of Formation. Bylaws and amendments to bylaws must be formally adopted in the manner prescribed by the organization's certificate of formation or current bylaws by either the organization's board of directors or the organization's members, whoever has the authority to adopt and amend bylaws[;]

[(3)] Certificate of Formation--A document that sets forth the basic terms of a corporation's existence and is the official recognition of the corporation's existence. The documents must evidence that they have been filed with the Office of the Secretary of State[;]

[(4)] Resolutions--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws[;]

(b) Application Procedures for NOHP Certification or NOHP Recertification [~~Re-Certification of NOHP~~]. An Applicant requesting NOHP certification or recertification [~~re-certification as an NOHP~~] must submit an Application [~~for NOHP certification in a form prescribed by the Department. The NOHP Application must be submitted~~] prior to submitting an Application for Texas Bootstrap Loan Program Reservation system, and must be recertified every three (3) years. NOHP recertification requires submission of the following only [~~An NOHP applying for recertification will only be required to submit the following~~] if any changes have occurred. [~~An organization applying for certification must include documentation pertaining to the requirements of this subsection.~~]

(1) Applicant must have the following legal status at the time of Application [~~to apply~~] for NOHP certification [~~as an NOHP~~]:

(A) The Applicant must be organized as a non-profit organization under the Texas Business Code or other state not-for-profit/nonprofit statute as evidenced by charter or Certificate of Formation.

(B) The Applicant must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the state of Texas.

(C) No part of the Nonprofit Organization's net earnings may inure to the benefit of any member, founder, contributor, or individual, as evidenced by charter or Certificate of Formation.

(D) The Applicant must have the following tax status:

(i) A current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS [~~that is~~] dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as an NOHP; or

(ii) Classification as a subordinate of a central Non-profit Organization under the Internal Revenue Code §501(c)(3), as evidenced by a current group exemption letter[; ~~that is~~] dated 1986 or later. [~~The group exemption letter must specifically list the Applicant.~~]

(iii) A Nonprofit Organization's pending application for §501(c)(3) status cannot be used to comply with the tax status requirement under this subparagraph.

(E) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's charter, Certificate of Formation, Resolutions, or Bylaws.

(2) An Applicant must have the capacity and experience listed in subparagraphs (A) and (B) of this paragraph.

(A) Conforms to the United States Generally Accepted Accounting Principles ("GAAP") as evidenced by a:

(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department; or

(ii) certification from a Certified Public Accountant.

(B) If the Applicant will be utilizing interim or residential construction funds it must provide an audited financial statement for the most recent fiscal year or a signed and dated financial statement for the period since last published audit. Applicants that do not have audited financial statements or a signed and dated financial statement for the period since last published audit must provide a resolution from the Board of Directors that is signed and dated within 6 months from the date of application and certifies that the accounting procedures used by the organization conform to the GAAP. Applicants that do not have audited financial statements or a signed and dated financial statement for the period since last published audit and are certified [as] NOHPs are restricted to only originating permanent loans and will be ineligible for any interim or residential construction loans until the Department has reviewed the most current audited financial statements.

(C) Has a demonstrated capacity of at least one (1) year for carrying out Mortgage loan origination and Self-Help housing construction Activities, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization. If applying for NOHP recertification [re-certification to participate in the Texas Bootstrap Loan Program] and the organization is in good standing as determined by the Department, the organization will not be required to submit any additional information regarding experience.

(3) An Applicant must submit a current roster of all Board of Directors, including names and mailing addresses.

(4) A local or state government and/or public agency cannot qualify as an NOHP, but may sponsor the creation of an NOHP.

(5) Religious or Faith-based Organizations may sponsor an NOHP if the NOHP meets all the requirements of this section. While the governing board of an NOHP sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the religious or faith-based organization may retain control over appointments to the board. [Subparagraphs If an NOHP is sponsored by a religious organization, the restrictions described in subparagraphs] (A) - (C) of this paragraph also apply:

(A) Housing developed must be made available exclusively for the residential use of Program beneficiaries, and must be made available to all persons regardless of religious affiliations or beliefs;

(B) [A religious organization that participates in the Texas Bootstrap Loan Program may not use] Texas Bootstrap Loan Program funds may never be used to support any explicitly [inherently] religious activities such as worship, religious instruction, or proselytizing; and

(C) Compliance with subparagraphs (A) and (B) of this paragraph must [may] be evidenced by the Bylaws, charter or Certificate of Formation. [If an organization is applying for re-certification and no updates have been made to its Bylaws and/or Certificate of Formation, the organization will not be required to submit any additional information regarding its Bylaws and/or Certificate of Formation, but must submit a sworn statement attesting to the fact that no changes have been made to either the Bylaws and/or Certificate of Formation.]

(6) A Colonia Self-Help Center as defined under Texas Government Code, Chapter 2306, Subchapter Z is not required to complete the NOHP Certification process as long as it provides a letter

from the unit of local government demonstrating performance is in [a] good standing [performancee].

(c) Program Design. Organizations must provide policies for [written evidence on] how the Owner-Builder will meet the 65 percent sweat equity requirement. If applying for NOHP recertification [re-certification to participate in the Texas Bootstrap Loan Program] and the organization is in good standing and [certifies that] no changes have been made to the Program design, the organization will not be required to submit any additional information [regarding the Program design].

(d) Applicant must provide details, such as number of houses they are proposing to build, type of proposed financing structure and construction timelines, [in order] to [show] evidence [of] its ability to carry out the [Texas Bootstrap Loan] Program. If applying for NOHP recertification [re-certification to participate in the Texas Bootstrap Loan Program] and the organization is in good standing and [certifies that] no changes have been made that impact the proposed financing structure or construction timelines, the organization will not be required to submit any additional information.

(e) Applicant must provide copies of Program guidelines [used to qualify Owner-Builders] and homebuyer course curriculum [in order] to [show] evidence [of] its experience in qualifying potential Owner-Builders and in providing education classes, counseling and training. If applying for NOHP recertification [re-certification to participate in the Texas Bootstrap Loan Program] and the organization is in good standing, the organization will not be required to submit any additional information.

(f) Applicant must be in compliance with 10 TAC §1.403 [submit any past due Single Audit to the Department in a satisfactory format] on or before the Application deadline.

(g) Applicants must be in compliance in any existing or prior Contracts awarded by the Department.

[(h) The Department may certify NOHPs meeting all of the criteria in subsection (b) of this section operated by a tax-exempt organization listed under §501(c)(3), Internal Revenue Code of 1986 to:]

[(1) qualify potential Owner-Builders for loans under this chapter;]

[(2) provide Owner-Builder education classes;]

[(3) assist Owner-Builders in building or Rehabilitating housing; and]

[(4) originate and/or service loans.]

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702845

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 10, 2017

For further information, please call: (512) 475-4828



CHAPTER 26. TEXAS HOUSING TRUST FUND RULE

10 TAC §§26.1 - 26.7

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 26, §§26.1 - 26.7, concerning the Texas Housing Trust Fund Rule. The purpose of the repealed rules is to clarify applicability of the Rule to the Texas Bootstrap Loan Program and the Amy Young Barrier Removal Program; improve readability through the re-ordering of phrases and sections; remove frequent references to Notices of Funding Availability and Program Manuals; and further delineate program guidelines for the Amy Young Barrier Removal Program with regards to purpose, definitions, geographic dispersion of funds, administrative requirements, reservation system requirements, household eligibility, property eligibility, construction requirements and project completion requirements. The proposed new rules for Chapter 26 are published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that for each year of the first five years the repeal will be in effect, enforcing or administering new sections do not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the new sections will be clarity of applicability of the rule to HTF Programs, and further delineation of the program guidelines for the Amy Young Barrier Removal Program, especially with respect to Administrator expectations for construction performance. There will be minimal economic cost to entities complying with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposed repeal will be from August 11, 2017, to September 11, 2017. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Homero Cabello, Director of Single Family Operations & Services, Texas Housing Trust Fund Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; or emailed to htf@tdhca.state.tx.us.

ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, September 11, 2017.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposed repeal affects no other code, article, or statute.

§26.1. *Purpose.*

§26.2. *Definitions.*

§26.3. *Allocation of Funds.*

§26.4. *Use of Funds.*

§26.5. *Prohibited Activities.*

§26.6. *Administrator Eligibility and Requirements.*

§26.7. *Waiver.*

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

Filed with the Office of the Secretary of State on July 31, 2017.

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Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-4828



CHAPTER 26. TEXAS HOUSING TRUST FUND RULE

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 26, Subchapter A, §§26.1 - 26.6, concerning General Guidance, and new Subchapter B, §§26.20 - 26.28, concerning the Amy Young Barrier Removal Program.

The purpose of the proposed new subchapters is to clarify applicability of the Single Family Programs Umbrella Rule and the Texas Housing Trust Fund Rule to the Texas Bootstrap Loan Program and the Amy Young Barrier Removal Program; improve readability through the re-ordering of phrases and sections; remove frequent references to Notices of Funding Availability and Program Manuals; and further delineate program guidelines for the Amy Young Barrier Removal Program with regards to purpose, definitions, geographic dispersion of funds, administrative requirements, reservation system requirements, household eligibility, property eligibility, construction requirements and project completion requirements. The proposed repeal of existing Chapter 26 is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that for each year of the first five years the new rules are in effect, enforcing or administering new sections do not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that for each year of the first five years the new rules are in effect, the public benefit anticipated as a result of the new sections will be clarity of applicability of the rule to HTF Programs, and further delineation of the program guidelines for the Amy Young Barrier Removal Program, especially with respect to Administrator expectations for construction performance. There will be minimal economic cost to entities complying with the new rules.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period for the proposal will be from August 11, 2017, to September 11, 2017. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Attention: Homero Cabello, Director of Single Family Operations & Services, Texas Housing Trust Fund Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941; or emailed to htf@tdhca.state.tx.us.

ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time, September 11, 2017.

SUBCHAPTER A. GENERAL GUIDANCE

10 TAC §§26.1 - 26.6

STATUTORY AUTHORITY. The new rules are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposal affects no other code, article, or statute.

§26.1. Purpose.

This chapter clarifies the administration of the Texas Housing Trust Fund Program (HTF). The HTF provides loans, grants or other comparable forms of assistance to income-eligible individuals, families and households. The HTF is administered in accordance with Texas Government Code, Chapter 2306, Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), and Chapter 24 of this Title (relating to Texas Bootstrap Loan Program Rule).

§26.2. Definitions.

Definitions may be found in Texas Government Code, Chapter 2306; Chapter 1 of this Title (relating to Administration), Chapter 2 of this Title relating to Enforcement; Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule); Chapter 21 of this Title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 24 of this Title (relating to Texas Bootstrap Loan Program Rule), unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

§26.3. Allocation of Funds.

(a) The Department administers all HTF funds provided to the Department in accordance with Texas Government Code, Chapter 2306. The Department may solicit gifts and grants to endow the fund.

(b) Pursuant to Texas Government Code, §2306.202(b), use of the HTF is limited to providing:

- (1) assistance for individuals and families of low and very low income;
- (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) subject to the limitations in Texas Government Code, §2306.251, the Department may also use the fund to acquire property to endow the fund.

(c) Set-Asides. In accordance with Texas Government Code, §2306.202(a) and program guidelines:

- (1) in each biennium, the first \$2.6 million available through the HTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for Local Units of Government, Public Housing Authorities, and Nonprofit Organizations;
- (2) any additional funds may also be made available to for-profit organizations provided that at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to Nonprofit Organizations; and
- (3) the remaining portion shall be distributed to Nonprofit Organizations, for-profit organizations, and other eligible entities, pursuant to Texas Government Code, §2306.202.

§26.4. Use of Funds.

(a) Use of additional or Deobligated Funds. In the event the Department receives additional funds, such as loan repayments, donations and interest earnings, the Department will redistribute the funds in accordance with the HTF plan in effect at the time the additional funds become available.

(b) Reprogramming of Funds. If funding for a program is undersubscribed or funds not utilized, within a timeframe as determined by the Department, remaining funds may be reprogrammed at the discretion of the Department consistent with the HTF plan in effect at the time.

§26.5. Prohibited Activities.

(a) Persons receiving or benefiting from HTF funds, as determined by the Department, may not be currently in delinquency or in default with child support and/or government loans.

(b) The activities described in paragraphs (1) - (7) of this subsection are prohibited in relation to the origination of a HTF loan, but may be charged as an allowable cost by a third (3rd) party lender for the origination of all other loans originated in connection with an HTF loan:

- (1) payment of delinquent property taxes or related fees or charges on properties to be assisted with HTF funds;
- (2) loan origination fees;
- (3) application fees;
- (4) discount fees;
- (5) underwriter fees;
- (6) loan processing fees; and
- (7) other fees not approved by the Department in writing prior to expenditure.

§26.6. Administrator Eligibility and Requirements.

Administrator must enter into an agreement with the Department in order to be eligible to access the Housing Trust Fund.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702828

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 10, 2017

For further information, please call: (512) 475-4828



SUBCHAPTER B. AMY YOUNG BARRIER REMOVAL PROGRAM

10 TAC §§26.20 - 26.28

STATUTORY AUTHORITY. The new rules are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposal affects no other code, article, or statute.

§26.20. Amy Young Barrier Removal Program Purpose.

The Amy Young Barrier Removal Program (the "Program" or "AY-BRP") provides one-time grants of up to \$20,000 in combined Hard and Soft Costs to Persons with Disabilities in a Household qualified as Low-Income. Grants are for home modifications that increase accessibility, eliminate life-threatening hazards and correct unsafe conditions.

§26.21. Amy Young Barrier Removal Program Definitions.

The following words and terms used in this Subchapter shall have the following meanings, unless the context clearly indicates otherwise. Other definitions are found in Texas Government Code, Chapter 2306, Chapter 1 of this Title (relating to Administration), Chapter 2 of this Title (relating to Enforcement), Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this Title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26, Subchapter A of this Title (relating to Housing Trust Fund).

(1) Administration Fee--Funds equal to 10% of the Project Costs (combined Hard and Soft Costs) paid to an Administrator upon completion of a project.

(2) Hard Costs--Site-specific costs incurred during construction, including but not limited to: general requirements, building permits, jobsite toilet rental, dumpster fees, site preparation, demolition, construction materials, labor, installation equipment expenses, etc.

(3) Low-Income--Household income does not exceed the greater of 80% of the Area Median Family Income or 80% of the Statewide Income Limits, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits as defined by HUD.

(4) Project Costs--Program funds (combined Hard and Soft Costs) that directly assist a Household.

(5) Qualified Inspector--Certified by the Administrator that the individual has professional certifications, relevant education or a minimum of five (5) years experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing and electrical systems found in Single Family Housing Units, as evidenced by inspection logs, certifications, training courses or other documentation.

(6) Reservation Agreement--A written Agreement including all amendments thereto between the Department and Administrator that authorizes the Administrator to reserve funds under the AYBRP.

(7) Soft Costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs, per Texas Administrative Code, Title 10, Part 1, Single Family Umbrella Rule §20.3.

§26.22. Amy Young Barrier Removal Program Geographic Dispersion.

(a) The process to promote geographic dispersion of program funds is as follows:

(1) For the first 90 days of the initial release of funds, each state region will receive funding amounts for their rural and urban subregions. For 90 days, these funds may be reserved only for Households located in these rural and urban subregions.

(2) For the next 90 days following the initial 90 days after the release date, any funds remaining in the rural and urban subregions will be combined into one balance for that state region. For 90 days, these funds may be reserved only for Households located in that state region.

(3) After the initial 180 days following the release date, any funds remaining across all state regions will collapse into one state-wide pool. For as long as funds are available, these funds may be reserved for any Households anywhere in the state on a first-come, first-served basis.

(b) If any additional funds beyond the original program allocations that derive from HTF loan repayments, interest earnings, deobli-

gations, and other HTF funds in excess of those funds required under Rider 8 may be placed directly into the state-wide pool for reservation.

§26.23. Amy Young Barrier Removal Program Administrative Requirements.

(a) To participate in the Program, an eligible participant must first be approved as an Administrator by the Department by the submission of a Reservation System Access Application. Eligible participants include Colonia Self-Help Centers established under Texas Government Code, Chapter 2306, Subchapter Z; Councils of Government; Units of Local Government; Nonprofit Organizations; Local Mental Health Authorities and Public Housing Authorities.

(b) The Administrator must enter into a Reservation Agreement ("Agreement") with the Department in order to be eligible to reserve funds for the Amy Young Barrier Removal Program.

(1) The Applicant submit a current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on throughout the agreement period to access the Reservation System.

(2) The Applicant must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the state of Texas.

(3) The Applicant must have the capacity and experience demonstrating at least two years experience in housing rehabilitation in Texas. Summary of experience will describe the capacity of key staff members and their skills and experience in client intake, records management, and managing housing rehabilitation. It will also describe organizational knowledge and experience in serving Persons with Disabilities.

(4) The Applicant must evidence of financial accountability standards, demonstrated by certification from a Certified Public Accountant and an audited financial statement from the most recent fiscal year, or a current dated and signed financial statement for the period since last audit produced. For Nonprofit Organizations that do not yet have audited financial statements, the Department may accept a resolution from the Board of Directors that is signed and dated within the six months preceding the application and that certifies that the accounting procedures used by the organization conform to Generally Accepted Accounting Principles (GAAP) and the Financial Accounting Standards Board (FASB) No. 117, "Financial Statements of Not-For-Profit Organizations".

(5) Applicants who have previously received any TDHCA funding must be in compliance with all active Contracts and Agreements.

(6) An Applicant must submit a current roster of all Board of Directors, including names and mailing addresses.

(7) The Applicant must submit a resolution from the Board of Directors, Council, or Commissioners that is signed and dated within the six months preceding the application. The resolution must state that the board, council or commissioners have approved the Applicant to access the Reservation System for TDHCA's Amy Young Barrier Removal Program; and the name and title of the individual authorized to execute a written Reservation System Access Agreement.

(8) The Applicant must submit any past due Single Audit to the Department in a satisfactory format on or before the Application deadline.

(9) The Applicant's compliance history will be evaluated in accordance with 10 TAC Chapter 1, Subchapter 1, §1.302, relating

to Previous Participation Reviews for Department Program Awards. Access to funds may be subject to terms and conditions.

(10) If applicable, the Applicant must submit copies of executed contracts with consultants or other organizations that are assisting in the implementation of the applicant's AYBRP activities. They must include a summary of the consultant or other organization's experience in housing rehabilitation and/or serving Persons with Disabilities.

(c) Administrators must follow the processes and procedures as required by the Department through its governing statute (Chapter 2306 of the Government Code), Administrative Rules (Texas Administrative Code, Title 10, Part 1), Reservation Agreement, Program Manual, forms, and NOFA.

§26.24. Amy Young Barrier Removal Program Reservation System Requirements.

(a) An Administrator is ineligible to access the online Reservation System until any past due audits or Department audit certification forms have been submitted to the Department in a satisfactory format.

(b) Reservation Setups will be processed in the order submitted on the Reservation System. Submission of a Reservation Setup consisting of support documentation on behalf of a Household does not guarantee funding.

(c) If the Reservation is incomplete and missing any of the required forms as prescribed by the current setup instructions, it will be set back to "pending" status and funds will be released and available for reservation.

(d) If support documentation needs correction or additional information, the Department will notify the Administrator of the deficiencies. If any deficiencies remain uncured within ten calendar days after notification, the Department may cancel the reservation.

(e) If a Household is eligible for assistance, the Department will reserve up to the maximum of \$20,000 in Project Costs and an Administration Fee equal to 10% of the combined Hard and Soft costs in the Housing Contract System on behalf of the Household.

§26.25. Amy Young Barrier Removal Program Household Eligibility Requirements.

(a) At least one Household member shall meet the definition of Persons with Disabilities.

(b) The assisted Household shall not have Household income that exceeds 80% of Area Median Family Income.

(c) The assisted Household's liquid assets shall not exceed \$20,000. Liquid assets are considered to be cash deposited in checking or savings accounts, money markets, certificates of deposit, mutual funds or brokerage accounts; the net value of stocks or bonds that may be easily converted to cash; and the appraisal district's market value for any real property that is not a principal residence. Funds in tax-deferred accounts for retirement or education savings (e.g., Individual Retirement Accounts, 401Ks, 529 plans) are excluded from the liquid assets calculation.

(d) The Household may be ineligible for the program if there is debt owed to the State of Texas, including a tax delinquency; a child support delinquency; a student loan default; or any other delinquent debt owed to the State of Texas.

§26.26. Amy Young Barrier Removal Program Property Eligibility Requirements.

(a) Owner-occupied homes are eligible for Program assistance.

(1) In owner-occupied homes, the owner of record must reside in the home as their permanent residence unless otherwise approved by the Department.

(2) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least six consecutive months prior to the date of Application, or must have qualified for an approved tax deferral plan, or has received a valid exemption from real property taxes.

(b) Certain rental units are eligible for Program assistance.

(1) In rental units, all Household occupants, including the Person with Disability, must be named on the lease.

(2) If the owner of record does not live in the subject property with the Person with Disability, the Department may consider it a renter-occupied unit.

(3) If the property is family-owned but the owner of record is not a Household member (or is deceased), the Department may consider it a renter-occupied unit.

(4) The following rental properties are ineligible for Program assistance:

(A) Property that is or has been developed, owned, or managed by that Administrator or an Affiliate;

(B) Rental units in properties that are financed with any federal funds or that are subject to 10 TAC Chapter 1, Subchapter B, §1.206 relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973.

(C) Rental units that have life-threatening hazards or unsafe conditions identified in the initial inspection. Program funds may not be used to correct hazardous or unsafe conditions in rental units, but may be used for accessibility modifications only after the life-threatening hazards and unsafe conditions have been corrected by the property owner at the property owner's expense.

(D) Rental units owned by a property owner who is delinquent on property taxes associated with the property occupied by the Household.

§26.27. Amy Young Barrier Removal Program Construction Requirements.

(a) Inspections.

(1) Initial inspection is required and must identify the accessibility modifications needed by the Person with Disability; assess and document the condition of the property; and identify all deficiencies that constitute life-threatening hazards and unsafe conditions.

(2) Final inspection is required and must verify, assess and document that all construction activities have been repaired, replaced and/or installed in a professional manner consistent with all applicable building codes and Program requirements.

(3) Initial and final inspections must be completed by a Qualified Inspector.

(4) All On-Site Sewage Facilities (OSSF or septic system) shall be inspected by a Texas Commission on Environmental Quality authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366, and the rules adopted under that chapter, unless waived by the Department on a case-by-case basis.

(b) A Manufactured Housing Unit may be eligible for Program assistance if it was constructed on or after January 1, 1995.

(c) Construction standards.

(1) Administrators must follow all applicable sections of their local building codes and ordinances, pursuant to Section 214.212 of the Local Government Code. Where local codes do not exist, the 2015 International Residential Code (IRC), including Appendix J for Existing Buildings and Structures, is the applicable code for the Program.

(2) Accessibility modifications shall be made with consideration of the design standards established by the 2010 ADA Standards. Any variation from 2010 ADA Standards must be documented as necessary to meet the disability related needs of the Person with a Disability.

(3) Administrators must adhere to Chapter 21 of this Title, relating to "Minimum Energy Efficiency Requirements for Single Family Construction Activities".

(d) Life-threatening hazards and unsafe conditions.

(1) Administrators may make repairs to eliminate life-threatening hazards and correct unsafe conditions in the housing unit as long as no more than 25% of the Project Hard Costs budget is utilized for this purpose, unless otherwise approved by the Department.

(2) Life-threatening hazards and unsafe conditions include, but are not limited to: faulty or damaged electrical systems; faulty or damaged gas-fueled systems; faulty or damaged heating and cooling systems or the absence of adequate heating and cooling system; faulty or damaged plumbing systems, including sanitary sewer systems; faulty or damaged smoke, fire and carbon monoxide detection/alarm systems or the absence of these systems; structural systems on the verge of collapse or failure; environmental hazards such as mold, lead-based paint, asbestos or radon; serious pest infestation; absence of adequate emergency escape and rescue openings and fire egress; and the absence of ground fault circuit interrupters (GFCI) and arc fault circuit interrupters (AFCI) in applicable locations.

(3) Because of the essential nature of the elimination of certain life-threatening hazards, the percentage of Project Hard Costs budget devoted to eliminate life-threatening hazards and correct unsafe conditions in the housing unit may exceed 25% if the work write-up and cost estimation includes the correction of: inadequate, faulty, or damaged systems; the absence of emergency escape, rescue openings and fire egress, ground fault circuit interrupters (GFCI), arc fault circuit interrupters (AFCI); and the absence of smoke, fire and carbon monoxide detection/alarm systems. The combination of the correction of these certain life-threatening hazards with the correction of any other unsafe conditions cannot exceed 40% of Project Hard Costs budget.

(4) All areas and components of the housing must be free of life-threatening hazards and unsafe conditions at project completion.

(e) Work-Write Ups. The Department shall review work-write ups (also referred to as "scope of work") and cost estimates prior to the Administrator soliciting bids.

(f) Bids. The Department shall review all line item bids Administrators select for award prior to the commencement of construction. Lump sum bids will not be accepted.

(g) Change orders. Administrators seeking change orders must obtain written Department approval prior to the commencement of any work related to the proposed change. Failure to get prior Departmental approval may result in disallowed costs.

§26.28. Amy Young Barrier Removal Program Project Completion Requirements.

(a) The Administrator has ninety calendar days to complete all construction activities and submit the Project and Administrative draw request, with required supporting documentation, in the Housing Contract System for reimbursement by the Department. The Department may grant a one-time, 30-calendar day extension to the Project completion deadline due to extenuating circumstances that were beyond the Administrator's control.

(b) The Department will reimburse the Administrator in one, single payment after the Administrator's successful submission of the Project and Administrative draw request per Department instructions. Interim draws will not be permitted. The Department reserves the right to delay draw approval in the event that the Household expresses dissatisfaction with the work completed in order to resolve any outstanding conflicts between the Household and/or the Administrators and their subcontractors.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702829

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 10, 2017

For further information, please call: (512) 475-4828



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 37. LEGAL

SUBCHAPTER B. PENALTIES

16 TAC §37.61

The Texas Alcoholic Beverage Commission proposes amendments to §37.61, relating to Suspensions.

Generally, Alcoholic Beverage Code §11.64(a) requires the agency to allow an offender to pay a civil penalty in lieu of having a permit or license suspended. However, that same section lists certain offenses for which the agency may exercise discretion in deciding whether to allow payment of a civil penalty in lieu of suspending the permit or license.

House Bill No. 1612, 85th Regular Session of the Texas Legislature amended Alcoholic Beverage Code §11.64(a) to add any offense relating to "controlled substances or drugs" to the list of offenses for which the agency may exercise discretion regarding the civil penalty option.

Currently, rule §37.61 lists each of the Alcoholic Beverage Code violations for which Code §11.64(a) allows the agency the discretion concerning the civil penalty option. The proposed amendments would add to the list in rule §37.61 the language added by House Bill No. 1612, so that the offenses listed in the rule continue to match the offenses listed in the code.

In addition to amending the rule to reflect the recent legislative change, the commission has reviewed the section pursuant to Government Code §2001.039 and has determined that the need

for the rule continues to exist but that the proposed change to the current rule is appropriate.

Martin Wilson, Assistant General Counsel, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal impact on local government attributable to the amendments. There should be no fiscal impact on state government.

The proposed amendments will have no fiscal or regulatory impact on micro-businesses and small businesses or persons regulated by the commission. There is no anticipated negative impact on local employment.

Mr. Wilson has determined that for each year of the first five years that the proposed amendments will be in effect, the public will benefit because the rule will accurately reflect the applicable provision of the Alcoholic Beverage Code.

Comments on the proposed amendments may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127, or by facsimile transmission to (512) 206-3280, or by email to rules@tabc.texas.gov. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the commission will hold a public hearing to receive oral comments on the proposed amendments on Thursday, August 24, 2017, at 1:30 p.m. in the commission meeting room on the first floor of the commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

The proposed amendments affect Alcoholic Beverage Code §5.31, and Government Code §2001.039.

§37.61. Suspensions.

(a) This section implements Alcoholic Beverage Code §11.64(a), which requires the commission to adopt rules addressing when a suspension may be imposed without the opportunity to pay a civil penalty.

(b) The administrator may deny a licensee or permittee the option of paying a civil fine in lieu of a suspension of the license or permit if the licensee or permittee has violated one or more of the following provisions of the Alcoholic Beverage Code:

- (1) §11.61(b)(14): sale to an intoxicated person by a permittee;
- (2) §22.12: breach of the peace on the premises of a package store;
- (3) §28.11: breach of the peace on the premises of a mixed beverage permittee;
- (4) §32.17(a)(2): refuse to allow an authorized agent or representative to come onto the premises;
- (5) §32.17(a)(3): refuse to furnish requested information to the commission or its agents or representatives;
- (6) §32.17(a)(7): consumption or service of alcohol on the premises during prohibited hours;
- (7) §61.71(a)(5): sale to a minor by a licensee;
- (8) §61.71(a)(6): sale to an intoxicated person by a licensee;

(9) §61.74(a)(14): sale to a minor by a licensee;

(10) §69.13: breach of the peace on the premises of an on-premise retail beer dealer;

(11) §71.09: breach of the peace on the premises of an off-premise retail beer dealer;

(12) §101.04: refuse to allow inspection;

(13) §104.01(a)(4): solicitation of drinks;

(14) §101.63: sale to an intoxicated person;

(15) §106.03: sale to a minor;

(16) §106.06: purchase of alcohol for a minor;

(17) §106.15: engage in prohibited activity related to dancing by a person under 18;

(18) Chapter 105: sale or offer of sale of an alcoholic beverage during prohibited hours, or consumption or permitting consumption of an alcoholic beverage during prohibited hours; [ø]

(19) any offense relating to gambling, prostitution or trafficking of persons; or[-]

(20) any offense relating to controlled substances or drugs.

(c) For the violations referenced in subsection (b) of this section, and after considering the circumstances required or allowed to be considered in this section, the administrator has discretion to determine whether to allow a licensee or permittee the right to pay a civil penalty in lieu of a suspension but is not required to allow such payment in lieu of suspension.

(d) In determining whether to deny a licensee or permittee the right to pay a civil penalty in lieu of a suspension, the administrator shall consider any aggravating or mitigating factual circumstances related to the violation, including but not limited to:

- (1) the type of permit or license held by the violating licensee or permittee;
- (2) the type of violation or violations charged;
- (3) the licensee's or permittee's record of past violations, including the number, type and frequency of violations of the Alcoholic Beverage Code and of the rules of the commission; and
- (4) the date the permit or license was issued.

(e) In addition to the circumstances listed in subsection (d) of this section that must be considered in determining whether to allow a licensee or permittee the right to pay a civil penalty in lieu of a suspension, the administrator may also consider other circumstances, including but not limited to:

- (1) whether the sale of alcoholic beverages constitutes the primary or partial source of the licensee or permittee's business;
- (2) whether the violation was caused by intentional or reckless conduct by the licensee or permittee;
- (3) whether the violation caused the serious bodily injury or death of another;
- (4) whether the character and nature of the licensee's or permittee's operation were reasonably calculated to avoid violations of the Alcoholic Beverage Code and rules of the commission at the time of violation; and/or
- (5) whether the licensee or permittee has taken action to remediate the violation and to prevent future violations.

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

Filed with the Office of the Secretary of State on July 25, 2017.

TRD-201702785

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: September 10, 2017

For further information, please call: (512) 206-3489



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

SUBCHAPTER B. PROVISIONS FOR THE TUITION EQUALIZATION GRANT PROGRAM

19 TAC §§22.24, 22.25, 22.29

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §§22.24, 22.25, and 22.29, concerning Provisions for the Tuition Equalization Grant (TEG) Program. The proposed amendments to these sections strike references to non-resident students (eligible to pay in-state tuition) who are National Merit finalists, as these students are no longer eligible to receive awards through the TEG program. These amendments will align program rules with the new provisions enacted by General Appropriations Act, SB 1, 85th Texas Legislature, Article III. These amendments were adopted on an emergency basis, and are now being filed as proposed amendments to allow for a 30 day comment period.

Dr. Charles W. Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the section will be increased program funding for students with the highest need. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, 512-427-6365, charles.puls@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §61.229, which provides the Coordinating Board with the authority to adopt rules for the administration of the Tuition Equalization Grant Program.

The amendments affect Texas Education Code, §61.2251 and §61.2252.

§22.24. Provisions that Apply Only to 2006 Revised TEG Program Students

(a) Eligible Students. To receive an award through the TEG Program, a 2006 Revised TEG Program student must:

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

(4) be a resident of Texas as determined based on data collected using the Residency Core Questions and in keeping with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status)[~~]; unless such student is a National Merit scholarship finalist and has received a scholarship in the amount required to be eligible to pay Texas resident tuition under the Texas Education Code §54.213(a);~~];

(5) - (9) (No change.)

(b) - (e) (No change.)

§22.25. Provisions that Apply Only to Original TEG Program Students

(a) Eligible Students. To receive an award through the TEG Program, an Original TEG Program student must:

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

(4) be a resident of Texas as determined based on data collected using the Residency Core Questions and in keeping with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status)[~~]; unless such student is a National Merit scholarship finalist and has received a scholarship in the amount required to be eligible to pay Texas resident tuition under the Texas Education Code §54.213(a);~~];

(5) - (9) (No change.)

(b) - (c) (No change.)

§22.29. Allocation and Reallocation of Funds

(a) (No change.)

(b) Allocations for Fiscal Year 2020 and later. Allocations for the TEG Program are to be determined on an annual basis as follows:

(1) (No change.)

(2) The allocation base for each institution choosing to participate will be its three-year average share of the total statewide amount of the Total TEG Need, subject to the limits in Texas Education Code, §61.227(c) and (e), based on the students who met the following criteria:

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

(D) Classified as a Resident of Texas[~~]; unless such student is a National Merit scholarship finalist and has received a scholarship in the amount required to be eligible to pay Texas resident tuition under the Texas Education Code §54.213(a);~~];

(E) - (H) (No change.)

(3) - (8) (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.

Filed with the Office of the Secretary of State on July 28, 2017.

TRD-201702818

Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 10, 2017
For further information, please call: (512) 427-6104



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 100. GENERAL PROVISIONS

22 TAC §100.12

The State Board of Dental Examiners (Board) proposes repeal of §100.12, concerning the Advisory Committee on Dental Anesthesia. The proposed repeal removes all references to the Blue Ribbon Panel, which was disbanded following the completion of its duties in January 2017.

Kelly Parker, Executive Director, has determined that for the first five-year period the proposed repeal is in effect, there will not be any fiscal implications for state or local government as a result of enforcing or administering the rule.

Kelly Parker has also determined that for the first five-year period the proposed repeal is in effect, the public benefit anticipated as a result of repealing the rule will be accuracy and clarity. Ms. Parker has determined that for the first five-year period the proposed repeal is in effect, costs to persons or small businesses will be minimal. There is no foreseeable impact on employment in any regional area where the rules are enforced or administered.

Comments on the proposed repeal may be submitted to Tyler Vance, General Counsel, 333 Guadalupe, Suite 3-800, Austin, Texas 78732, Fax (512) 475-0977, rulecomments@tsbde.texas.gov.

The repeal is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

No statutes are affected by these proposed repeal.

§100.12. Advisory Committee - Blue Ribbon Panel on Dental Sedation/Anesthesia Safety.

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

Filed with the Office of the Secretary of State on July 28, 2017.

TRD-201702821
Kelly Parker
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: September 10, 2017
For further information, please call: (512) 475-0977



22 TAC §100.12

The State Board of Dental Examiners (Board) proposes new rule §100.12, concerning the Advisory Committee on Dental Anesthesia. The new rule establishes the Advisory Committee on Dental Anesthesia and specifies its duties and the appointment of its members.

Kelly Parker, Executive Director, has determined that for the first five-year period the proposed rules are in effect, there will not be any fiscal implications for state or local government as a result of enforcing or administering the rule.

Kelly Parker has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of establishing the committee will be to increase our understanding of anesthesia related incidents in dentistry. Ms. Parker has determined that for the first five-year period the proposed rule is in effect, costs to persons or small businesses will be minimal. There is no foreseeable impact on employment in any regional area where the rules are enforced or administered.

Comments on the proposed new rule may be submitted to Tyler Vance, General Counsel, 333 Guadalupe, Suite 3-800, Austin, Texas 78732, Fax (512) 475-0977, rulecomments@tsbde.texas.gov.

The new rule is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

No statutes are affected by the proposal.

§100.12. Advisory Committee on Dental Anesthesia.

(a) Pursuant to §258.202 of the Texas Occupations Code, the board establishes an advisory committee: the Advisory Committee on Dental Anesthesia.

(b) Purpose. The purpose of the advisory committee is to analyze and report on de-identified data and associated trends concerning anesthesia-related deaths or incidents. The data and information provided by the agency to the advisory committee is confidential. The recommendations and findings reported by the advisory committee to the board are public information and published on the board's Internet website.

(c) Compilation of Information by Agency. The agency shall identify investigations and provide confidential, de-identified information regarding the investigations to the advisory committee as described below:

(1) By September 30 of each year, the agency shall identify official investigations in which the preliminary investigation was initiated after September 1, 2016, and the official investigation was resolved by the board in the preceding fiscal year, which involve anesthesia-related deaths or incidents. A death shall be considered anesthesia-related if the dental treatment involved the administration of an anesthetic or sedative agent in the dental office, including local anesthesia, and a death occurred. An incident shall be considered anesthesia-related if the dental treatment involved the administration of an anesthetic or sedative agent in a dental office, including local anesthesia, and the Dental Review Panel identified a complication associated with the administration of the anesthetic or sedative agent.

(2) By November 30 of each year, the agency shall compile confidential, de-identified information on each investigation identified under paragraph (1) of this subsection, including, but not limited to, the following information:

(A) Information about respondent:

(i) Whether respondent is a Medicaid provider;
(ii) Respondent's highest sedation/anesthesia permit level;
(iii) Whether respondent reported providing anesthesia services in more than one location on the licensee's application or latest renewal;

(iv) Respondent's self-reported practice area; and
(v) Whether the investigation was initiated as the result of a complaint submitted by a patient or member of the public, as a self-report to the agency required by Board Rule 108.6, or both.

(B) Information about patient:

(i) Patient ASA, as identified in respondent's dental records and/or determined by Dental Review Panel;

(ii) Patient age -- under the age of 13, 13 and over but under 18, 18 and over but under 75, and 75 and over;

(iii) Location of the treatment investigated by the agency -- dental office, hospital, ASC, office of other practitioner;

(iv) Level of sedation/anesthesia administered -- Local, Nitrous, I, II, III, IV (determined by Dental Review Panel);

(v) Sedation/anesthesia administrator -- respondent, other dentist, MD, CRNA (determined by Dental Review Panel); and

(vi) Whether treatment investigated by the agency was paid by Medicaid; and

(C) The Dental Review Panel report designated as the final report by the Dental Review Panel.

(3) By November 30 of each year, the agency shall provide the information identified under paragraph (2) of this subsection to the members of the advisory committee.

(4) On request of the advisory committee, the agency may provide confidential, de-identified investigative files to the advisory committee in addition to the information provided under paragraph (2) of this subsection. Pursuant to §258.505 of the Texas Occupations Code, the advisory committee may conduct a closed meeting to review confidential investigative files provided to the advisory committee under this paragraph.

(d) Analysis of Information by Advisory Committee. The advisory committee shall analyze the information compiled under subsection (c)(2) to identify any trends and submit a report to the board as described below:

(1) By June 30 of each year, the advisory committee shall submit a written report to the board of the advisory committee's findings and any recommendations for changes to the board rules or the Dental Practice Act.

(2) The advisory committee's annual report shall be posted on the Board's Internet website.

(e) Membership and Term Length. The advisory committee consists of six members appointed by the board to serve two-year terms beginning on December 1 of each odd-numbered year. Members, including the advisory committee chair, may serve no more than three consecutive terms as members of the advisory committee. An advisory committee chair may serve no more than four consecutive one-year terms as advisory committee chair. The advisory committee must include a licensed Texas physician anesthesiologist and five licensed Texas dentists. The five licensed Texas dentists must include at least one dentist who holds a level 1 sedation/anesthesia permit

and no higher permit, at least one dentist who holds a level 2 sedation/anesthesia permit and no higher permit, at least one dentist who holds a level 3 sedation/anesthesia permit and no higher permit, and at least one dentist who holds a level 4 sedation/anesthesia permit. In addition, the five dentist members of the advisory committee shall include one general dentist. The remaining four dentist members shall be dentists who are university-trained in their respective practice areas, with applicants' education and experience verified during the application process. These four dentist members shall include one university-trained dentist to represent each of the following practice areas:

- (1) dental anesthesiology;
- (2) oral and maxillofacial surgery;
- (3) pediatric dentistry; and
- (4) periodontics.

(f) Qualification for Membership. A person cannot be appointed as a member unless he or she holds a Texas dental or medical license that he or she has maintained in good standing for at least the five years preceding application for membership on the advisory committee. A license is in good standing if it is not expired, currently subject to a probated suspension, or currently subject to an enforced suspension.

(g) Board Member Membership on Advisory Committee. In accordance with §258.202(c) of the Texas Occupations Code, a currently serving board member cannot be appointed to the advisory committee. A former board member cannot be appointed to the advisory committee prior to the second anniversary of the expiration or termination of the board member's service on the board.

(h) Application, Nomination, and Confirmation Process. Pursuant to §258.203 of the Texas Occupations Code, the board establishes the following process for the application, nomination, and confirmation of members of the advisory committee.

(1) Application for Membership. By October 1 of each odd-numbered year, the agency shall publish an application for advisory committee membership on the board's Internet website. The application period shall close on October 15 of each odd-numbered year.

(2) Nomination of Advisory Committee Members. By November 1 of each odd-numbered year, the presiding officer of the board shall review all applications and nominate six applicants for membership on the advisory committee. The applicants nominated by the presiding officer shall represent the membership described by subsection (e) of this section.

(3) Confirmation of Advisory Committee Members. By December 1 of each odd-numbered year, the board shall vote by ballot in a public meeting to confirm or reject each of the presiding officer's nominees for membership on the advisory committee. Confirmation of a nominee requires the affirmative vote of an absolute majority of the entire membership of the board if the board is comprised of more than six, but fewer than eleven members, or if the board is comprised of more than eleven members. Confirmation of a nominee requires the affirmative vote of at least seven members of the board if the board is comprised of eleven members.

(4) Rejection of Nomination by Board. If one of the presiding officer's nominations for membership on the advisory committee is rejected by the board, the presiding officer shall nominate another applicant to membership on the advisory committee, subject to confirmation by the board, as described in paragraph (3) of this subsection. The subsequent nominee shall represent the same self-reported practice area as the original nominee.

(5) Appointment of Advisory Committee Members. The appointment of an advisory committee member commences on the date the board confirms the presiding officer's appointment of the advisory committee member.

(i) Designation of Advisory Committee Chair. Each year the presiding officer of the board shall designate one of the advisory committee members appointed by the board to serve a one-year term as chair of the advisory committee.

(1) This paragraph applies if the board is comprised of more than six, but fewer than eleven members, or if the board is comprised of more than eleven members. The board shall confirm the presiding officer's designation by affirmative vote of an absolute majority of the entire membership of the board. If the presiding officer's designation is unconfirmed by such an affirmative vote, the presiding officer shall designate another member of the advisory committee as the chair of the advisory committee, subject to an affirmative vote of an absolute majority of the entire membership of the board.

(2) This paragraph applies if the board is comprised of eleven members. The board shall confirm the presiding officer's designation by affirmative vote of at least seven members of the board. If the presiding officer's designation is unconfirmed by such an affirmative vote, the presiding officer shall designate another member of the advisory committee as the chair of the advisory committee, subject to an affirmative vote of at least seven members of the board.

(j) Resignation, Removal, and Replacement of Advisory Committee Members. If an advisory committee member resigns or is removed from the advisory committee prior to the expiration of his or her term, the advisory committee member shall be replaced with another member that represents the self-reported practice area of the former advisory committee member. The application period shall re-open for a period of no more than 30 days. The agency shall publish the application for advisory committee membership on the board's Internet website, specifying the self-reported practice area to be replaced by a new member of the advisory committee. The presiding officer shall nominate the replacement member of the advisory committee at the next public meeting of the board, and the board shall confirm or reject the nomination as described in subsection (h) of this section.

(k) Confidential Information. The members of the advisory committee shall execute confidentiality agreements related to their membership on the advisory committee. Violation of the confidentiality agreement is grounds for immediate removal from the advisory committee and may subject the member of the advisory committee to investigation and disciplinary proceedings for dishonorable conduct pursuant to Board Rule 108.9.

(l) Communication with Other Parties. Members of the advisory committee shall not engage in private communications with non-advisory committee members about the subject matter of the advisory committee or its work, except that members of the advisory committee may communicate with agency staff to facilitate the completion of tasks required by this rule.

(m) Reimbursement. The advisory committee may be reimbursed for expenses in accordance with §2110.004 of the Texas Government Code.

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

Filed with the Office of the Secretary of State on July 28, 2017.
TRD-201702822

Kelly Parker
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: September 10, 2017
For further information, please call: (512) 475-0977

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 343. SECURE JUVENILE PRE-ADJUDICATION DETENTION AND POST-ADJUDICATION CORRECTIONAL FACILITIES

SUBCHAPTER B. PRE-ADJUDICATION AND POST-ADJUDICATION SECURE FACILITY STANDARDS

37 TAC §343.230, §343.266

The Texas Juvenile Justice Department (TJJD) proposes amendments to §343.230, concerning Specialized Housing, and §343.266, concerning Bedding.

The amendment to §343.230 will remove the subsection that addresses temporary removal of mattresses. The information in that subsection will be modified and moved to §343.266.

The amended §343.266 will: 1) clarify that a fitted sheet may be issued instead of a mattress cover; 2) clarify that the clean linens that must be issued at least once every seven days include a mattress cover (or fitted sheet), sheet, blanket, and pillowcase; 3) add that *a mattress cover, pillow, and/or pillowcase* (in addition to a sheet) may be removed and substituted with a blanket if the resident has misused the item(s) or if staff have reason to believe the resident will misuse the item(s); and 4) add a provision that allows any bedding items (i.e., mattress, pillow, and/or linens) to be removed during program hours from a room or cell that is currently being used for disciplinary seclusion, safety-based seclusion, or resident-initiated separation, regardless of whether there is a specific behavioral or safety-related reason to remove them.

Additionally, the amendment to §343.266 will modify the information currently found in §343.230 regarding temporary removal of mattresses from any type of specialized housing room/cell. The modified rule text will: 1) clarify that using the mattress *in a manner that presents a threat to safety or security* is grounds for removing the mattress (rather than using the mattress for an unintended purpose); 2) add that the reason for removing a resident's mattress must be documented; and 3) remove the following reason from the list of reasons a mattress may be removed--a resident has exhibited a documented pattern of disruptive behavior in an effort to be assigned to specialized housing to avoid educational instruction.

FISCAL NOTE

Mike Meyer, Chief Financial Officer, has determined that for each year of the first five years the amended sections are in effect,

there will be no significant fiscal impact for state or local government as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Terri Dollar, Director of Monitoring and Inspections, has determined that for the first five years the amended sections are in effect, the public benefit anticipated as a result of administering the sections will be the promotion of the rehabilitative goals of secure pre- and post-adjudication facilities and successful youth outcomes by encouraging youth to participate in programming. Another anticipated public benefit is the provision of clarifications to the rule text.

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

PUBLIC COMMENTS

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

STATUTORY AUTHORITY

The amended sections are proposed under §221.004(a)(4), Human Resources Code, which requires TJJD to adopt reasonable rules that provide minimum standards for the operation of public and private juvenile pre-adjudication and post-adjudication secure facilities.

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

§343.230. Specialized Housing.

(a) A resident in specialized housing must [shall] be placed in a room or cell equipped with:

- (1) an operable toilet above floor level;
- (2) a washbasin with hot and cold running water or a single control that produces warm water;
- (3) a bed above floor level; and
- (4) access to natural light as described in §343.226 of this title.

(b) Rooms or cells used for specialized housing must [shall] meet the spatial requirements in:

- (1) §343.452 and §343.644 of this title if the room or cell is in a single-occupancy housing unit; or
- (2) §343.474 and §343.656 of this title if the room or cell is in a multiple-occupancy housing unit.

~~[(c) The mattress may be temporarily removed from a specialized housing room or cell if the resident:]~~

~~[(1) is actively damaging or destroying the mattress;]~~

~~[(2) is using the mattress for an unintended purpose (e.g., obstructing a doorway or window, folding to use as a makeshift stepstool, etc.); or]~~

~~[(3) has exhibited a documented pattern of disruptive behavior in an effort to be assigned to specialized housing to avoid educational instruction.]~~

§343.266. Bedding.

(a) Required Items.

(1) [(a)] Each resident must [shall] be provided: [suitable, clean bedding, including one]

(A) a mattress;

(B) a mattress cover or fitted sheet;

(C) a sheet;[;]

(D) a blanket;

(E) a pillow; and[;]

(F) a pillowcase[; a mattress, a mattress cover, and a blanket].

(2) A mattress [Mattresses] with an integrated pillow may be substituted for a separate pillow and pillowcase.

(3) All bedding items listed in paragraph (1) of this subsection must be clean and in good condition.

(4) [(b)] A clean mattress cover (or fitted sheet), sheet, blanket, and pillowcase must [Clean bed linens shall] be issued at least once every seven calendar days.

(b) [(e)] Modifications for Residents on Suicide Supervision. Modifications to a resident's bedding items may be made in accordance with §343.340 of this title. However, residents on suicide supervision may [shall] not be denied appropriate bedding substitutions.

(c) Misuse of Bedding Items.

(1) [(d)] If a [the] resident has misused a sheet, fitted sheet, mattress cover, pillow, or pillowcase [bed linens] or if staff have reason to believe the resident will misuse these bedding items, such as [the bed linens, including] using a sheet [the sheet(s)] as a weapon, the items [sheet(s)] may be substituted with a blanket.

(2) If a substitution is authorized, the resident's misuse of the bedding item or the staff's reason to believe the resident will misuse the bedding item must be documented. [The actual misuse or reason to believe the resident will misuse the linens shall be documented.]

(d) Misuse of Mattress in Specialized Housing.

(1) A mattress may be temporarily removed from a specialized housing room or cell if evidence exists that the resident is:

(A) actively damaging the mattress; or

(B) using the mattress in a manner that presents a threat to safety or security, including, but not limited to, obstructing a doorway or window or folding the mattress to use as a makeshift stepstool.

(2) If a resident's mattress is removed under paragraph (1) of this subsection, the reason for the removal must be documented.

(e) Modifications for Residents in Disciplinary Seclusion, Safety-Based Seclusion, or Resident-Initiated Separation. Any or all of the bedding items listed in subsection (a)(1) of this section may be removed from a room or cell currently being used for disciplinary seclusion, safety-based seclusion, or resident-initiated separation whether or not the criteria in subsection (b), (c), or (d) of this section are present. However, unless the criteria in subsection (b), (c), or (d) of this section are present, all bedding items must be returned to the resident and be available for use during all non-program hours.

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

Filed with the Office of the Secretary of State on July 26, 2017.
TRD-201702801

Jill Mata
General Counsel
Texas Juvenile Justice Department
Earliest possible date of adoption: September 10, 2017
For further information, please call: (512) 490-7014

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CHAPTER 349. GENERAL ADMINISTRATIVE
STANDARDS
SUBCHAPTER D. COMPLAINTS AGAINST
JUVENILE BOARDS

37 TAC §349.410

The Texas Juvenile Justice Department (TJJD) proposes an amendment to §349.410, concerning Administrative Review and Appeal of Investigation Findings.

The amended rule will remove the provision that allows the designated perpetrator or administrative designee to submit an appeal to the State Office of Administrative Hearings to challenge the findings of TJJD's administrative review.

FISCAL NOTE

Mike Meyer, Chief Financial Officer, has determined that for each year of the first five years the amended section is in effect, there will be no significant fiscal impact for state or local government as a result of enforcing or administering the section.

PUBLIC BENEFITS/COSTS

Kaci Singer, Staff Attorney and Policy Supervisor, has determined that for the first five years the amended section is in effect, the public benefit anticipated as a result of administering the section will be the promotion of efficiency in state government by eliminating the possibility of holding two administrative hearings on the same subject matter.

Mr. Meyer has also determined that there will be no effect on small businesses or micro-businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. No private real property rights are affected by adoption of this section.

PUBLIC COMMENTS

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

STATUTORY AUTHORITY

The amended section is proposed under §2001.004, Government Code, which requires TJJD to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. The amended section is also proposed under §261.401, Family Code, which requires TJJD to adopt rules relating to the investigation and resolution of reports that involve alleged abuse, neglect, or exploitation of a child.

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

§349.410. *Administrative Review [and Appeal] of Investigation Findings.*

(a) Any person named by the Texas Juvenile Justice Department (TJJD) as a designated perpetrator or administrative designee as

a result of an investigation conducted under Chapter 350 of this title may request an administrative review of the investigation findings.

(b) The designated perpetrator or administrative designee must [shall] request the review in writing within 20 calendar days after receiving TJJD's written notice of the investigation findings.

(c) If civil or criminal proceedings related to an allegation that TJJD has investigated are pending when a designated perpetrator or administrative designee requests an administrative review, or if such proceedings are initiated before TJJD begins the review, TJJD may postpone the review until the proceedings are completed.

(d) The designated perpetrator or administrative designee has a right to:

(1) represent himself/herself or be represented by an authorized representative; and

(2) submit relevant evidence on his/her behalf.

(e) If TJJD chooses to interview a designated perpetrator or administrative designee who does not speak English or is hearing impaired, TJJD provides [shall provide] a certified translator or interpreter unless the designated perpetrator or administrative designee chooses to provide his/her own certified translator or interpreter. If the designated perpetrator or administrative designee chooses to provide his/her own certified translator or interpreter, the designated perpetrator or administrative designee is [he/she will be] responsible for all translation or interpretation costs incurred in connection with the review.

(f) The administrative review is [shall be] conducted by a staff attorney appointed by the TJJD general counsel. The staff attorney confirms or revises [shall confirm or revise] TJJD's original notice of the investigation findings based on the same policies applied by TJJD during the original investigation. Within 45 calendar days after receiving the request for review, TJJD notifies [shall notify] the designated perpetrator or administrative designee of the outcome of the review.

~~[(g) An administrative designee may appeal the findings of the administrative review to the State Office of Administrative Hearings (SOAH). To file such an appeal, the administrative designee must submit a written request to TJJD within 20 calendar days after the date TJJD mailed the findings of the administrative review to the administrative designee. A designated perpetrator may appeal the findings of the administrative review to SOAH only in conjunction with discipline issued by TJJD.]~~

~~(g) [(h)]~~ If the administrative review [or SOAH hearing] results in changes to the original findings, TJJD [staff] must:

(1) enter the revised findings into the investigation record; and

(2) notify each person who was notified of the original findings that the findings have been revised.

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

Filed with the Office of the Secretary of State on July 26, 2017.

TRD-201702802

Jill Mata

General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: September 10, 2017

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

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 9. CONTRACT AND GRANT MANAGEMENT

SUBCHAPTER C. CONTRACTING FOR ARCHITECTURAL, ENGINEERING, AND SURVEYING SERVICES

43 TAC §9.32

The Texas Department of Transportation (department) proposes amendments to §9.32, concerning Selection Processes, Contract Types, Selection Types, and Projected Contracts.

EXPLANATION OF PROPOSED AMENDMENTS

Updates to the rules related to indefinite deliverable contracts are necessary for more effective management of contracting resources. The amendments increase the limit on the period of time that initial work authorizations may be issued and it streamlines the process by eliminating a step that was required when additional time was needed.

Amendments to §9.32(b)(1)(B) increase the period in which an initial work authorization may be issued from two to three years. The amendments allow the department additional time to issue new work, which facilitates better management of contracting resources. With the term of the indefinite deliverable contract limited to five years, this provides sufficient time to initiate and complete work within the term of the contract and provides the department with additional flexibility for planning and procuring replacement contracts.

Amendments to §9.32(b)(1)(C) clarify that the term of the contract is not limited to the same period as the initial period in which a work authorization may be issued. The date may vary depending on the needs of the department. Should the contract term be less than five years, the contract term may be amended by supplemental agreement, but may not extend more than five years beyond the execution date.

FISCAL NOTE

Brian Ragland, Chief Financial Officer, has determined that for each of the first five years in which the amendments as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendments.

Mr. Martin Rodin, Director, Professional Engineering Procurement Services Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the amendments.

PUBLIC BENEFIT AND COST

Mr. Rodin has also determined that for each year of the first five years in which the sections are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be improvements to the department's management of contracted resources. There are no anticipated economic costs for persons required to comply with the sections as proposed. There will be no adverse economic effect on small businesses.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments to §9.32 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Contract and Selection Process." The deadline for receipt of comments is 5:00 p.m. on September 11, 2017. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

Government Code, Chapter 2254, Subchapter A and Transportation Code, §223.041.

§9.32. Selection Processes, Contract Types, Selection Types, and Projected Contracts.

(a) Selection processes. The department will issue solicitations and select providers under the following selection processes: comprehensive, federal, streamlined, accelerated, emergency, and urgent and critical.

(b) Contract types. The department will offer three types of contracts: indefinite deliverable, specific deliverable, and multiphase.

(1) An indefinite deliverable contract may be used for a single project or for multiple projects. The solicitation will describe the typical work types to be performed under the contract.

(A) Categorical limitations on contract dollar value may be established by the executive director or the executive director's designee.

(B) The contract period in which [initial] work authorizations may be issued may not be longer than three [two] years after the date of contract execution, unless approved by the Texas Transportation Commission [before the solicitation posting date].

(C) Supplemental agreements may be issued to extend the contract period [beyond two years], but only as necessary to complete work on an existing [initial] work authorization. The contract period may not extend more than five years beyond the execution date.

(2) A specific deliverable contract may be used for a single project or for multiple projects. The solicitation will specify the specific deliverables to be provided under the contract.

(3) A multiphase contract may be used for a single project or for multiple projects. The solicitation will describe the services to be provided under the contract and will divide the services into phases. The specific scope of work may be established and the associated costs negotiated and authorized by phase as the project progresses.

(c) Selection types.

(1) Single contract selection. One contract will result from the solicitation.

(2) Multiple contract selection. More than one contract of similar work types will result from the solicitation. The solicitation will indicate the number and type of contracts.

(d) Projected contracts list. Quarterly, the department will publish on the department's website a list of projected contracts for architectural, engineering, and surveying services.

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

Filed with the Office of the Secretary of State on July 27, 2017.

TRD-201702804

Joanne Wright

Deputy General Counsel

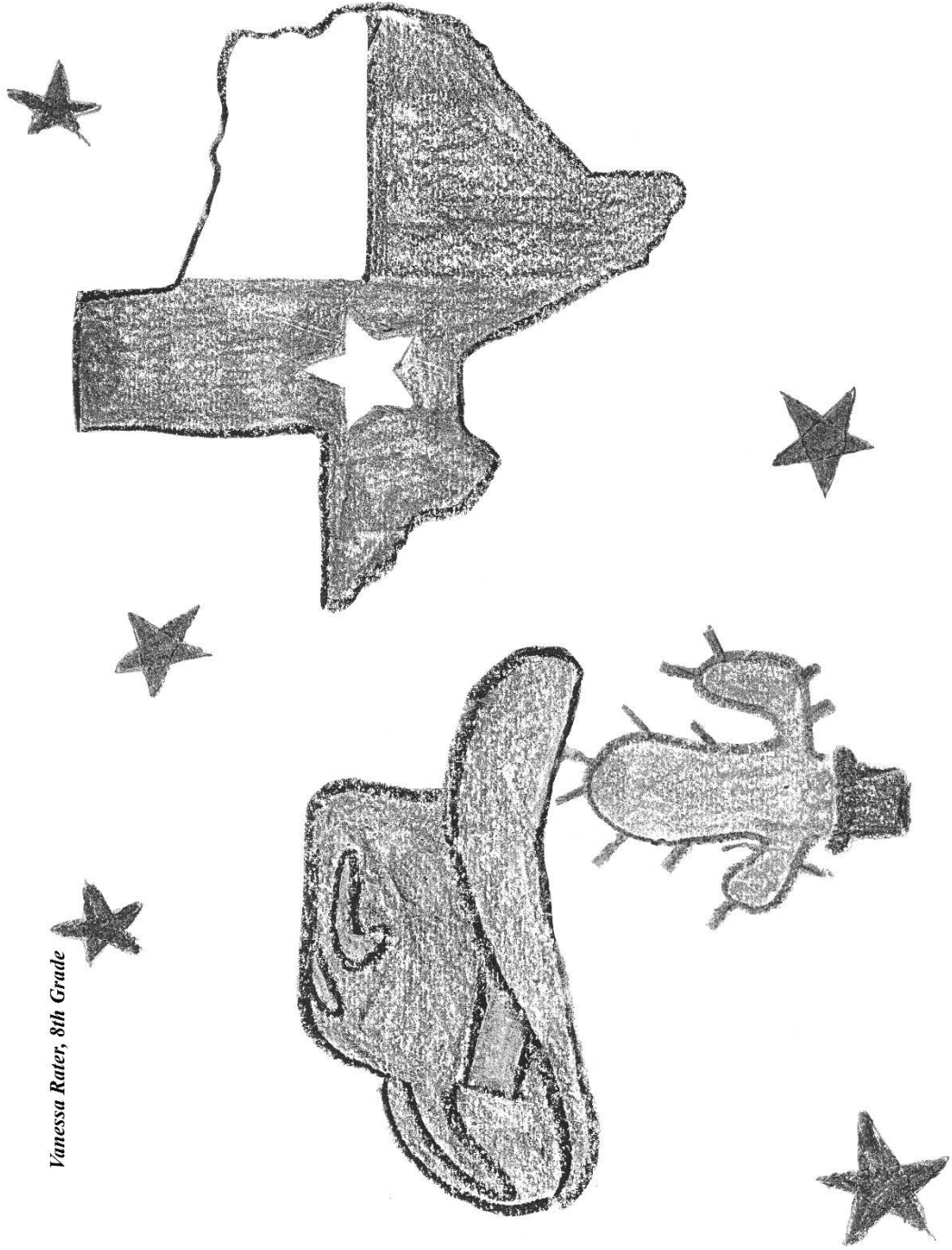
Texas Department of Transportation

Earliest possible date of adoption: September 10, 2017

For further information, please call: (512) 463-8630



Vanessa Rater, 8th Grade



WITHDRAWN RULES

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

TITLE 37 PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 429. FIRE INSPECTOR SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE INSPECTOR I CERTIFICATION

37 TAC §§429.1, 429.3, 429.5

The Texas Commission on Fire Protection withdraws the proposed new §§429.1, 429.3, and 429.5, which appeared in the May 26, 2017, issue of the *Texas Register* (42 TexReg 2801).

Filed with the Office of the Secretary of State on July 28, 2017.

TRD-201702815

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: July 28, 2017

For further information, please call: (512) 936-3812



SUBCHAPTER B. MINIMUM STANDARDS FOR FIRE INSPECTOR II/PLAN EXAMINER I CERTIFICATION

37 TAC §§429.201, 429.203, 429.205, 429.207, 429.209, 429.211

The Texas Commission on Fire Protection withdraws the proposed new §§429.201, 429.203, 429.205, 429.207, 429.209,

and 429.211, which appeared in the May 26, 2017, issue of the *Texas Register* (42 TexReg 2802).

Filed with the Office of the Secretary of State on July 28, 2017.

TRD-201702816

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: July 28, 2017

For further information, please call: (512) 936-3812



CHAPTER 429. MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION

37 TAC §§429.201, 429.203, 429.205, 429.207, 429.209, 429.211

The Texas Commission on Fire Protection withdraws the proposed repeal of §§429.201, 429.203, 429.205, 429.207, 429.209, and 429.211, which appeared in the May 26, 2017, issue of the *Texas Register* (42 TexReg 2804).

Filed with the Office of the Secretary of State on July 28, 2017.

TRD-201702813

Tim Rutland

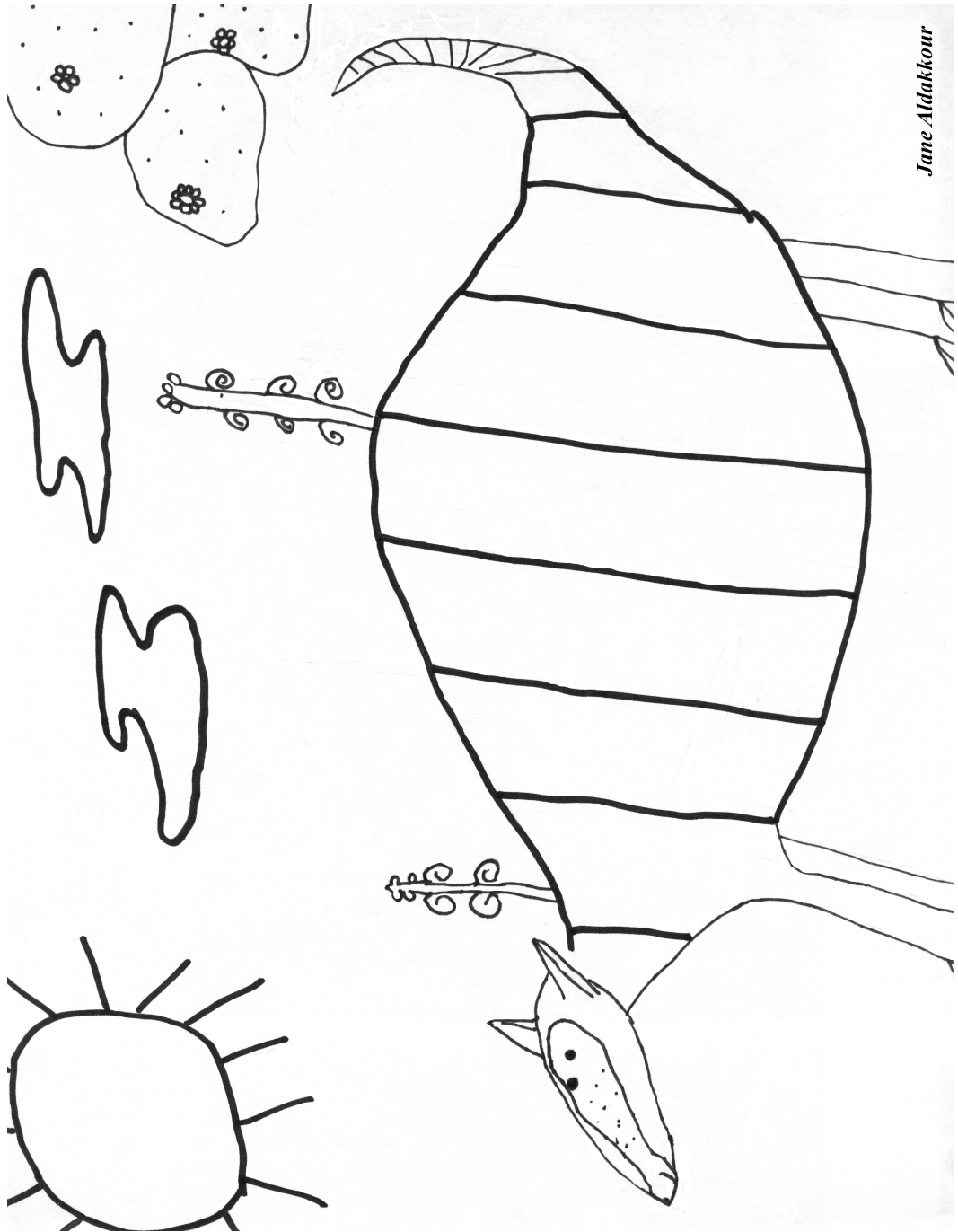
Executive Director

Texas Commission on Fire Protection

Effective date: July 28, 2017

For further information, please call: (512) 936-3812





Jane Aldakkour

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 1. ADMINISTRATION

PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 61. CRIME VICTIMS' COMPENSATION

The Office of the Attorney General (OAG) adopts amendments to the following sections of Chapter 61, concerning the administration of the OAG's Crime Victims' Compensation Program (CVC), without changes to the proposed text published in the June 16, 2017, issue of the *Texas Register* (42 TexReg 3045): Subchapter A, §61.1 and §61.3; Subchapter B, §61.101; Subchapter C, §§61.201, 61.202, and 61.203; Subchapter D, §§61.301, 61.302, and 61.304; Subchapter E, §§61.401, 61.404, 61.406, and 61.407; Subchapter F, §§61.501, 61.505, and 61.507; Subchapter I, §§61.801, 61.802, and 61.804; and Subchapter J, §61.901. Changes to all above-listed subchapters are necessary to comply with recent changes to Texas Code of Criminal Procedure Articles 56.06 and 56.065 that allow and require CVC to make payments to persons who receive emergency medical treatment in conjunction with a sexual assault forensic medical examination. An amendment to Chapter 61, Subchapter C, §61.201(c) clarifies who may file an application for compensation on behalf of a child. An amendment to Chapter 61, Subchapter E, §61.404 corrects a misstatement in the rules regarding when CVC shall pay for travel to an execution. Chapter 61, Subchapter E, §61.407 is amended to correct an inaccurate internal citation.

No comments were received regarding adoption of these amendments.

SUBCHAPTER A. SCOPE AND CONSTRUCTION OF RULES AND GENERAL PROVISIONS

1 TAC §61.1, §61.3

These amendments are adopted in accordance with Texas Code of Criminal Procedure Articles 56.065, 56.33 and 56.42, which require the OAG to adopt rules governing the administration of its CVC program. These amendments are required in order to implement legislative changes to Texas Code of Criminal Procedure Articles 56.06(f), 56.065(k), and 56.54(k).

Amendments to these sections are adopted under Texas Code of Criminal Procedure Articles 56.065 and 56.33.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702832

Amanda Crawford

General Counsel

Office of the Attorney General

Effective date: August 20, 2017

Proposal publication date: June 16, 2017

For further information, please call: (512) 475-3210



SUBCHAPTER B. DEFINITIONS

1 TAC §61.101

Amendments to this section are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702833

Amanda Crawford

General Counsel

Office of the Attorney General

Effective date: August 20, 2017

Proposal publication date: June 16, 2017

For further information, please call: (512) 475-3210



SUBCHAPTER C. APPLICATION

1 TAC §§61.201 - 61.203

Amendments to these sections are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702834

Amanda Crawford

General Counsel

Office of the Attorney General

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Proposal publication date: June 16, 2017

For further information, please call: (512) 475-3210

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**SUBCHAPTER D. REDUCTION, DENIAL OR
REFUND OF AN APPLICATION OR AWARD**

1 TAC §§61.301, 61.302, 61.304

Amendments to these sections are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702835

Amanda Crawford

General Counsel

Office of the Attorney General

Effective date: August 20, 2017

Proposal publication date: June 16, 2017

For further information, please call: (512) 475-3210

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SUBCHAPTER E. PECUNIARY LOSS

1 TAC §§61.401, 61.404, 61.406, 61.407

Amendments to these sections are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702836

Amanda Crawford

General Counsel

Office of the Attorney General

Effective date: August 20, 2017

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For further information, please call: (512) 475-3210

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**SUBCHAPTER F. MEDICAL CARE,
PSYCHIATRIC CARE OR COUNSELING**

1 TAC §§61.501, 61.505, 61.507

Amendments to these sections are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702837

Amanda Crawford

General Counsel

Office of the Attorney General

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For further information, please call: (512) 475-3210

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**SUBCHAPTER I. REIMBURSEMENT TO LAW
ENFORCEMENT AGENCIES FOR FORENSIC
ASSAULT MEDICAL EXAMINATIONS**

1 TAC §§61.801, 61.802, 61.804

Amendments to the title of Subchapter I and sections within Subchapter I are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702839

Amanda Crawford

General Counsel

Office of the Attorney General

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For further information, please call: (512) 475-3210

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**SUBCHAPTER J. ADMINISTRATIVE
REMEDIES**

1 TAC §61.901

Amendments to this section are adopted under Texas Code of Criminal Procedure Articles 56.065, 56.33, and 56.42.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702840

Amanda Crawford

General Counsel

Office of the Attorney General

Effective date: August 20, 2017

Proposal publication date: June 16, 2017

For further information, please call: (512) 475-3210

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**PART 12. COMMISSION ON STATE
EMERGENCY COMMUNICATIONS**

CHAPTER 251. 9-1-1 SERVICE--STANDARDS

1 TAC §251.1

The Commission on State Emergency Communications (CSEC) adopts amended §251.1, relating to Regional Planning Commission (RPC) regional strategic plans. The amended section is adopted without changes to the proposed text as published in the June 9, 2017, issue of the *Texas Register* (42 TexReg 2985), and will not be republished.

REASONED JUSTIFICATION

The amendments to §251.1 are to insert new subsection (d)(5) requiring an RPC to include and account for Text-to-911 in its regional strategic plan-absent a CSEC-approved waiver. Amendments also include new subsection (d)(12) specifying the minimum requirements for all PSAPs with respect to Text-to-911 service. The remaining amendments either clarify text to account for Text-to-911 and distinguish Text-to-911 from a 9-1-1 call, spell out existing terms, or reconcile the use of terms in the rule.

The Federal Communications Commission requires "covered text providers," which includes but is not limited to commercial mobile radio service providers (i.e., wireless carriers), that enable customers to send and receive text messages, to send customer 9-1-1 texts to the same public safety answering point (PSAP) that a 9-1-1 call would be routed. 47 C.F.R. § 20.18(q). As amended, §251.1 requires RPCs to include in their regional strategic plans the implementing of Text-to-911 at all of their PSAPs.

STATEMENT OF AUTHORITY

The amended section is adopted pursuant to Health and Safety Code Chapter 771, §§771.051, 771.0511, 771.055, and 771.078.

No other statute, article, or code is 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 July 27, 2017.

TRD-201702809

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Effective date: August 16, 2017

Proposal publication date: June 9, 2017

For further information, please call: (512) 305-6915



CHAPTER 253. PRACTICE AND PROCEDURE

1 TAC §253.2, §253.3

The Commission on State Emergency Communications (CSEC) adopts amended §253.2, relating to bid opening and tabulation-including a change in the title of the rule and §253.3, relating to protest procedures (Title 1, Part 12, Tex. Admin. Code Chapter 253). The amended sections are adopted with non-substantive changes to the proposed text as published in the June 9, 2017, issue of the *Texas Register* (42 TexReg 2986).

The non-substantive changes are to correct an error in the rule outline numbering/lettering. Specifically, subsection §253.3(l)(1) is corrected and changed to subsection §253.3(m); current §253.3(m) is re-lettered as §253.3(n); and the subsection reference within §253.3(d) is re-lettered from §253.3(g) - (m) to

§253.3(g) - (n). There was no change in the actual rule text as published for comment.

CSEC received no comments regarding adoption of the proposed amendments.

REASONED JUSTIFICATION

As required by law, the amendments are to align the rules with the Comptroller of Public Accounts (Comptroller) recent reorganization of its Chapter 20, Statewide Procurement and Support Services, rules which included a wholesale repeal of its existing rules.

The adopted amendments to rule §253.2 reflect the change in title and numbering of the Comptroller's renumbered rules §20.207 and §20.208, relating to Competitive Sealed Bids and Competitive Sealed Proposals, respectively, and delete the reference to the statute requiring CSEC to adopt this rule. The adopted amendments to rule §253.3 reflect the Comptroller's reorganization and revising of its Protests and Appeals rules. Specifically, CSEC added new subsection (c) to incorporate the Comptroller's definitions in rule §20.533 (Title 34, Part 1 Tex. Admin. Code §20.533), deleted subsections (e)(1) - (6) and revised the section to reference the requirements in Comptroller rule §20.535, and made minor changes to the rule text to better correspond to the Comptroller's rules.

STATEMENT OF AUTHORITY

The amended section is adopted pursuant to Health and Safety Code Chapter 771, §771.051; Government Code §2155.076 and §2156.005(d). No other statute, article, or code is affected by the adoption.

§253.3. *Protest Procedures.*

(a) The purpose of this rule is to provide for the efficient and effective resolution of protests related to contract purchases made by the Commission.

(b) These procedures are consistent with those of the Texas Comptroller of Public Accounts (Comptroller) (34 Tex. Admin. Code §§20.533 - 20.538). In the event of a direct conflict between the rules, the procedures in §§20.533 - 20.538 shall control.

(c) In the event of a direct conflict with the Comptroller's rules, the following terms used in the Comptroller rules shall be defined as follows:

- (1) Comptroller--The Commission.
- (2) Chief Clerk--Commission Executive Director.
- (3) Director--Commission General Counsel
- (4) General Counsel--Commission General Counsel.
- (5) Using Agency--The Commission.

(d) Any actual or prospective bidder, offeror, or contractor claiming to have been aggrieved in connection with the solicitation, evaluation or method of evaluation, award of a contract, or tentative award by the Commission may submit a protest to the General Counsel. Protests must be received by the General Counsel within 10 working days after the protesting party knows, or should have known, of the occurrence of the action that is the subject of the protest. A Protest must conform to subsection (d) and subsection (f) of this section, and shall be resolved through the procedures described in subsections (g) - (n) of this section. The protesting party must mail or deliver copies of the protest to all interested parties.

(e) In the event a protest is timely received, the Commission shall not proceed further with the solicitation, evaluation, or award a contract unless the General Counsel, after consultation with the Commission's Executive Director, makes a written determination that a contract must be awarded without delay to protect the best interests of the state.

(f) A protest must be sworn and meet the requirements of Comptroller §20.535(a)(1) (34 Tex. Admin. Code §20.535).

(g) The General Counsel may settle and resolve the dispute over the solicitation, evaluation, award of a contract, or tentative award at any time before the matter is submitted on appeal to the Executive Director. The General Counsel may solicit written responses to the protest from interested parties.

(h) If the protest is not resolved by mutual agreement, the General Counsel shall send a determination letter resolving the protest to the protesting party and interested parties. The determination letter shall set for the reasons for the determination; and

(1) If the General Counsel determines that a violation of any statutory or regulatory provisions has occurred in a situation in which a contract has not been awarded, include in the determination letter the appropriate remedy for the violation; or

(2) If the General Counsel determines that a violation of any statutory or regulatory provisions has occurred in a situation in which a contract has been awarded, may declare the awarded contract to be void.

(i) The protesting party may appeal a determination of a protest by the General Counsel to the Executive Director. An appeal of the General Counsel's determination must be in writing and received in the office of the Executive Director no later than 10 working days from the date notice of the determination was sent. The protesting party's appeal must contain a certified statement that a copy of the appeal was sent to all interested parties. The scope of the appeal shall be limited to a review of the General Counsel's determination.

(j) The Executive Director may refer the matter to the Commission for consideration or may issue a written decision regarding the appeal.

(k) The following requirements shall apply to a protest that the Executive Director refers to the Commission:

(1) The Executive Director shall deliver copies of the appeal and any responses by interested parties to each Commissioner.

(2) The Commission may consider any documents that Commission staff or interested parties have submitted.

(3) The Commission shall issue a written letter of determination of the appeal to the protesting party and all interested parties which shall be final.

(l) A protest or an appeal of a determination that is not timely received shall not be considered unless good cause for delay is shown or the General Counsel determines that an appeal raises issues that are significant to Commission procurement practices or procedures in general.

(m) A determination issued by either the Executive Director or the Commission shall be the final administrative action of the Commission.

(n) The Commission shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the records retention schedule of the Commission.

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

Filed with the Office of the Secretary of State on July 27, 2017.

TRD-201702808

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Effective date: August 16, 2017

Proposal publication date: June 9, 2017

For further information, please call: (512) 305-6915

◆ ◆ ◆
TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.3

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC §1.3, concerning Sick Leave Pool, without changes to the text as published in the June 9, 2017, issue of the *Texas Register* (42 TexReg 2988), and will not be republished. The purpose of this adopted section is to establish a sick leave pool for use by the employees of the Department, appoint a pool administrator and establish that the pool shall be operated consistent with Texas Gov't Code Chapter 661.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the adopted rule will be in effect, enforcing or administering the adopted rule will assure that any voluntary pooling and use of donated sick leave by Department employees will be administered in accordance with statutory requirements, and does not have any foreseeable additional costs or resources for the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the adopted section will be in effect, the public benefit anticipated as a result of the adopted section will be more efficient operation of the Department employees' sick leave pool.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department estimates that there will be no affect on small or micro-businesses, as defined in Texas Gov't Code §2006.001.

No public comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Texas Gov't Code §661.002 which requires the Department's governing body to establish a sick leave pool program. The new section affects no other code, article, or statute.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702830
Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Effective date: August 20, 2017
Proposal publication date: June 9, 2017
For further information, please call: (512) 475-4752

◆ ◆ ◆
CHAPTER 25. COLONIA SELF-HELP CENTER PROGRAM RULE

10 TAC §§25.1 - 25.9

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC §§25.1 - 25.9, concerning the Colonia Self-Help Center Program Rule without changes to the text as published in the May 12, 2017, issue of the *Texas Register* (42 TexReg 2508). The rule is adopted for repeal in connection with the adoption of new 10 TAC Chapter 25, concerning the Colonia Self-Help Center Program Rule, which was published concurrently in the May 12, 2017, issue of the *Texas Register* (42 TexReg 2509).

REASONED JUSTIFICATION. The repeal of 10 TAC Chapter 25 concerning the Colonia Self-Help Center Program Rule will allow for the concurrent adoption of new 10 TAC Chapter 25 concerning the Colonia Self-Help Center Program Rule.

No public comment was received.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules; §2306.582, which requires the Department to establish, operate, monitor and fund Colonia SHCs in El Paso, Hidalgo, Staff and Webb counties, and in Cameron County to serve Cameron and Willacy counties; and §2306.582, which authorizes the Department to open two additional Colonia SHCs in Maverick and Val Verde counties.

The repeal affects no other code, article or statute.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702825
Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Effective date: August 20, 2017
Proposal publication date: May 12, 2017
For further information, please call: (512) 936-7800

◆ ◆ ◆
10 TAC §§25.1 - 25.9

The Texas Department of Housing and Community Affairs (the "Department") adopts new §§25.1 - 25.9, concerning the Colonia Self-Help Center Program Rule. Section 25.2 and §25.5 are adopted with changes to the proposed text as published in the May 12, 2017, issue of the *Texas Register* (42 TexReg 2508) and will be republished. Sections 25.1, 25.3, 25.4 and 25.6 - 25.8 are adopted without changes. This new rule is being adopted

concurrently with the repeal of existing 10 TAC §§25.1 - 25.9, concerning the Colonia Self-Help Center Program Rule.

REASONED JUSTIFICATION. The new rule clarifies definitions; incorporates applicability of 10 TAC 21 regarding Minimum Energy Efficiency requirements; eliminates the "Small Repair" activity; simplifies and clarifies funding limits for all activities; adds funding for properties in need of on-site sewage facilities or connection to potable water and waste water disposal; incorporates the requirements for an Affirmative Fair Housing Marketing Plan; revises lien requirements for income eligible households; and updates Administrative Thresholds.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS. The public comment period was from May 12, 2017, through June 12, 2017. Comments were accepted in writing and via email, with comments received from: (1) Robb Stevenson of Equity Community Development Corporation.

§25.2 DEFINITIONS

COMMENT SUMMARY: Commenter 1 suggested clarification of the use of "otherwise" at the end of the definition of "Reconstruction".

STAFF RESPONSE: Staff agrees and has replaced "otherwise" with further clarification. The new definition (revision in italics) of "Reconstruction" is "(14) Reconstruction--The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application. Reconstruction of residential structures also permits replacing an existing substandard Manufactured Housing Unit *with a new, site-built housing unit or a new ENERGY STAR Certified Manufactured Housing Unit.*"

§25.3. Eligible and Ineligible Activities.

COMMENT SUMMARY: Commenter 1 praised the Department for including "title-related services" in the description of eligible activities that may be undertaken by a Colonia Self-Help Center, because they are more difficult to resolve in the colonias than in other residential areas.

STAFF RESPONSE: The Department thanks the commenter for his support. No changes to this section of the rule will be made in response to this comment.

§25.5. Allocation and the Colonia Self-Help Center Application Requirements

COMMENT SUMMARY: Commenter 1 suggested expanding the types of inspectors that could evaluate program participants' existing on-site sewage facilities beyond "TCEQ-licensed installers" to include licensed engineers, TCEQ-designated representatives and TCEQ-licensed site evaluators.

STAFF RESPONSE: Staff agrees and has revised and generalized this rule. The new rule (revision in italics) is "(f)(7)(A) Prior to Department approval of Colonia Self-Help Center construction activity, the Colonia Self-Help Center must document that existing on-site sewage facilities (septic systems) have been inspected by a Texas Commission on Environmental Quality-*authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366 and the rules adopted under that chapter...*"

§25.7. Colonia Self-Help Center Contract Operation and Implementation

COMMENTARY SUMMARY: Commenter 1 stated that some Colonia Self-Help Centers may be reluctant to undertake the administrative tasks needed to facilitate the placing of a Department lien on the properties of households earning 50% area median family incomes or higher. This rule might steer the Centers to serve households below the 50% income threshold in order to reduce administrative tasks, which could unintentionally exclude households who still need the program. Commenter 1 suggested increasing the income threshold for placing liens from 50% to 60% of area median income, or raising the income threshold to 80% while providing up to \$20,000 in assistance with no lien.

STAFF RESPONSE: The liens to be placed on households above 50% of area median income and higher are for loans that are deferred and forgivable over time, as long as the household lives in the assisted property as their principal residence. This is in line with the Department's other programs. As Colonia Self-Help Centers learn the title clearing and disclosure requirements associated with placing liens on properties, this will ultimately build the capacity of the Centers to assist colonia residents with accessing forms of main stream assistance, such as third party financing. The lien requirement also ensures that every participating household above 50% of area median income will have the opportunity to clear any deficiencies on their titles. Staff recommends no changes to this rule and that it remains as follows: "(g) New Construction, Reconstruction, or Rehabilitation Activity that is provided by the Colonia Self-Help Center Program to Households with annual incomes that are equal or exceed 50% of the area median family income shall have a recorded and enforceable lien placed on the property secured by a deferred Forgivable Loan not shorter than five (5) years or a repayable mortgage loan not to exceed thirty (30) years. The Department will be a lien holder."

STATUTORY AUTHORITY. The new rule is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules; §2306.582, which requires the Department to establish, operate, monitor and fund Colonia SHCs in El Paso, Hidalgo, Staff and Webb counties, and in Cameron County to serve Cameron and Willacy counties; and §2306.582, which authorizes the Department to open two additional Colonia SHCs in Maverick and Val Verde counties.

The new rule affects no other code, article or statute.

§25.2. Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise. Other definitions may be found in Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this Title (relating to Administration), Chapter 2 of this Title (relating to Enforcement), Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), and Chapter 21 of this Title (relating to Minimum Energy Efficiency Requirements). Common definitions used under the CDBG Program are incorporated herein by reference.

(1) Beneficiary--A person or family benefiting from the Activities of a Colonia Self-Help Center Contract.

(2) Colonia Resident Advisory Committee ("C-RAC")-- Advises the Department's Governing Board and evaluates the needs of Colonia residents, reviews programs and Activities that are proposed or operated through the Colonia Self-Help Centers to better serve the needs of Colonia residents.

(3) Colonia Self-Help Center Provider--An organization with which the Administrator has an executed Contract to administer Colonia Self-Help Center Activities.

(4) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.

(5) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the Draw processes. The budget also includes all other funds involved that are necessary to complete the Performance Statement specifics of the Contract.

(6) Direct Delivery Costs--Soft costs related to and identified with a specific housing unit. Eligible Direct Delivery Costs include:

(A) Preparation of work write-ups, work specifications, and cost estimates;

(B) Legal fees, recording fees, architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit;

(C) Home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections; and

(D) Other costs as approved in writing by the Department.

(7) Housing Assistance Guidelines ("HAG")--The guidelines provided by the Unit of Local Government that outline the process and procedures used to administer the implementation of the Colonia Self-Help Center Program. These guidelines cannot conflict with state statute, program rules, regulations and/or contract requirements.

(8) Implementation Manual--A set of guidelines designed to be an implementation tool for the Administrator and Colonia Self-Help Center Providers that have been awarded Community Development Block Grant Funds and allows the Administrator to search for terms, regulations, procedures, forms and attachments.

(9) Income Eligible Families--

(A) Low-income families--families whose annual incomes do not exceed 80 percent of the median income of the area as determined by HUD Section 8 income limits adjusted for family size;

(B) Very low-income families--families whose annual incomes do not exceed 60 percent of the median family income for the area, as determined by HUD Section 8 income limits adjusted for family size; and

(C) Extremely low-income families--families whose annual incomes do not exceed 30 percent of the median family income for the area, as determined by HUD Section 8 income limits adjusted for family size.

(10) M Number--a several digit identification number, preceded by the letter "M" and assigned to colonias that have been identified by the Office of the Attorney General of Texas.

(11) New Construction--A housing unit that is built only by certified Community Housing Development Organizations ("CHDOs") or Community Based Development Organizations ("CBDOs") on a previously vacant lot that will be occupied by Income Eligible Families.

(12) Performance Statement--An exhibit in the Contract which specifies in detail the scope of work to be performed.

(13) Public Service Activities--Activities other than New Construction, Reconstruction, and Rehabilitation activities that are provided by a Colonia Self-Help Center to benefit Colonia residents. These include, but are not limited to, construction skills classes, solid waste removal, tool lending library, technology classes, home ownership classes and technology access.

(14) Reconstruction--The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application. Reconstruction of residential structures also permits replacing an existing substandard Manufactured Housing Unit with a new, site-built housing unit or a new ENERGY STAR Certified Manufactured Housing Unit."

(15) Rehabilitation--The improvement or modification of an existing single family housing residential unit through an alteration, addition, or enhancement on the same lot.

(16) Unit of General Local Government (UGLG)--A city, town, county, or other general purpose political subdivision of the state.

§25.5. Allocation and the Colonia Self-Help Center Application Requirements.

(a) The Department distributes Colonia Self-Help Center funds to UGLGs from the 2.5 percent set-aside of the annual CDBG allocation to the state of Texas.

(b) The Department shall allocate no more than \$1 million per Colonia Self-Help Center award except as provided by this Chapter. If there are insufficient funds available from any specific program year to fully fund an Application, the awarded Administrator may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.

(c) With a baseline award beginning at \$500,000 (or a lesser amount as provided for in (b) of this Section), the Department will add an additional \$100,000 for each expenditure threshold, as defined in §25.9 of this Chapter (relating to Expenditure Thresholds and Closeout Requirements), met on the current Colonia Self-Help Center Contract, and an additional \$100,000 for an accepted Application submitted by the deadline. If an Administrator can demonstrate that any violation of an Expenditure Threshold was beyond the control of the Administrator, it may request of the Board that an individual violation be waived for the purpose of future funding. The Governing Board, in its discretion and within the limits of federal and state law, may waive any one or more of the expenditure threshold requirements if it finds the waiver is appropriate to fulfill the purposes or policies of the Tex. Gov't Code, or for other good cause as determined by the Board.

(d) The Administrator shall submit its Application no later than three (3) months before the expiration of its current Contract, or when ninety (90) percent of the funds under the current Contract have been expended, whichever comes first.

(e) Application reviews are conducted on a first-come, first-served basis until all Colonia Self-Help Center funds for the current program year and deobligated Colonia Self-Help Center funds are committed.

(f) In order to be accepted, each Application must include:

(1) Evidence of the submission of the Contract Administrator's current annual single audit;

(2) A Colonia identification form and the M number, as assigned by the Office of the Attorney General of Texas, for each Colonia

to be served, including all required back-up documentation as identified on the form;

(3) A boundary map for each of the five Colonias;

(4) A description of the method of implementation. For each Colonia to be served by the Colonia Self-Help Center, the Administrator shall describe the services and Activities to be delivered. Participating households must provide at least 15% of the labor necessary to build or rehabilitate the proposed housing by contributing the labor personally and/or through non-contract labor assistance from family, friends, or volunteers. Volunteer hours at the Colonia Self-Help Center may also fulfill the 15% labor requirement.

(5) The proposed Performance Statement must include the number of Colonia residents to be assisted from each Activity, the Activities to be performed (including all Sub-Activities under each budget line item), and the corresponding budget;

(6) The proposed Contract Budget must adhere to the following limitations:

(A) The Administration line item may not exceed fifteen (15) percent;

(B) At least eight (8) percent, but no more than ten (10) percent, must be used for the Public Service Activities;

(C) Colonia Self-Help Center Program funds cannot exceed \$45,000 in Program funds per unit per Income Eligible Household. Program funds can be used for Rehabilitation, Reconstruction or New Construction. An additional \$5,000 in Program funds are available for properties with non-functioning and/or unpermitted cesspools or septic tanks that need replacement with an appropriately sized on-site sewage facility or connection to a Department-approved source of potable water and wastewater disposal. Additional funds from other sources may be leveraged with Program funds.

(D) Direct Delivery Costs for all New Construction and Reconstruction Activities cannot exceed ten (10) percent per unit provided by the Colonia Self-Help Center Program. Direct Delivery Costs for Rehabilitation are limited to fifteen (15) percent per unit provided by the Colonia Self-Help Center Program. All Direct Delivery Costs must be eligible and based on actual expenses for the specific housing unit;

(7) Proposed HAG must include an Affirmative Fair Housing Marketing Plan as described under Chapter 20 of this Title and program parameters for Rehabilitation, Reconstruction, or New Construction;

(A) Prior to Department approval of Colonia Self-Help Center construction activity, the Colonia Self-Help Center must document that existing on-site sewage facilities (septic systems) have been inspected by a Texas Commission on Environmental Quality-authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366 and the rules adopted under that chapter. Cesspools that have not been previously permitted are unacceptable and must be replaced by an appropriately sized on-site sewage facility or the home must be connected to a Department-approved source of potable water and wastewater disposal.

(B) New Construction, Reconstruction, and Rehabilitation activities under the Colonia Self-Help Center Program must adhere to TDHCA's Minimum Energy Efficiency Requirements for Single Family Construction Activities under Chapter 21 of this Title.

(8) Evidence of model subdivision rules adopted by the County;

(9) Written policies and procedures, as applicable, for:

- (A) Solid waste removal;
 - (B) Construction skill classes;
 - (C) Homeownership classes;
 - (D) Technology access, including any technology hardware inventory purchased with Colonia Self-Help Center funds;
 - (E) Homeownership assistance; and/or
 - (F) Tool lending library, including any library inventory purchased with Colonia Self-Help Center funds. All Colonia Self-Help Centers are required to operate a tool lending library;
- (10) Authorized signatory form and direct deposit authorization;
- (11) UGLG resolution authorizing the submission of the Application and appointing the primary signatory for all Contract documents;
- (12) Acquisition report (even if there is no acquisition activity);
- (13) Certification of exemption for HUD funded projects; and
- (14) Initial disclosure report for the Texas Department of Agriculture.
- (g) Upon receipt of the Application, the Department will perform an initial review to determine whether the Application is complete and that each Activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)).

(h) The Department may reduce the funding amount requested in the Application in accordance to subsection (c) of this Section. Should this occur, the Department shall notify the appropriate Administrator before the Application is submitted to C-RAC for review, comments and approval. The Department and the Administrator will work together to jointly agree on the performance measures and proposed funding amounts for each Activity.

(i) The Department shall execute a four (4) year Contract with the Administrator. No Contract extensions will be allowed. If the Administrator requirements are completed prior to the end of the four (4) year Contract period, the Administrator may submit a new Application.

(j) The Department may decline to fund any Application if the Activities do not, in the Department's sole determination, represent a prudent use of Colonia Self-Help Center funds. The Department is not obligated to proceed with any action pertaining to any Application which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702826
 Timothy K. Irvine
 Executive Director
 Texas Department of Housing and Community Affairs
 Effective date: August 20, 2017
 Proposal publication date: May 12, 2017
 For further information, please call: (512) 936-7800



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 45. MARKETING PRACTICES SUBCHAPTER C. STANDARDS OF IDENTITY FOR MALT BEVERAGES

16 TAC §45.75

The Texas Alcoholic Beverage Commission adopts an amendment to §45.75, relating to Mandatory Label Information for Malt Beverages, without changes to the proposed text as published in the June 9, 2017 issue of the *Texas Register* (42 TexReg 2990).

Section 45.75 prescribes the information that must be on a label of beer, ale or malt liquor. The section references other rules of the commission that contain further details about each of the required pieces of information.

The amendment to §45.75(1)(B) simply corrects the reference to the title of §45.77, which should read Class and Type instead of Class and Types.

The commission reviewed the section pursuant to Government Code §2001.039 and determined that the need for the rule continues to exist but that this change to the prior version of the rule is appropriate.

No comments were received.

The amendment is adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

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

Filed with the Office of the Secretary of State on July 25, 2017.

TRD-201702783
 Martin Wilson
 Assistant General Counsel
 Texas Alcoholic Beverage Commission
 Effective date: August 14, 2017
 Proposal publication date: June 9, 2017
 For further information, please call: (512) 206-3489



16 TAC §45.76

The Texas Alcoholic Beverage Commission adopts amendments to §45.76, relating to Brand Names, without changes to the proposed text as published in the June 9, 2017 issue of the *Texas Register* (42 TexReg 2991).

Section 45.76 addresses the use of brand names on labels of beer, ale and malt liquor.

Subsection (a) requires that a brand name appear on the label. Subsection (b) addresses the use of brand names with geographical significance. If the use of a geographical name or adjective, whether alone or in conjunction with any statement, design or device on the label, creates the impression that the product is produced in a place other than where it is actually

produced, the agency may require additional information on the label to correct the misleading impression.

The amendments update the reference to the word "administrator" in the rule. Alcoholic Beverage Code §5.11(b) provides that the administrator is also known as the executive director. In conducting its review of rules under Government Code §2001.039, the commission as a matter of style is changing references to the "administrator" to refer instead to the "executive director". The amendments, also as a matter of style in the rule review process, change a term to render the wording of the rule gender neutral.

The commission reviewed the section pursuant to Government Code §2001.039 and determined that the need for the rule continues to exist but that these changes to the prior version of the rule are appropriate.

No comments were received.

The amendments are adopted pursuant to Alcoholic Beverage Code §5.31, which grants authority to prescribe rules necessary to carry out the provisions of the Code.

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

Filed with the Office of the Secretary of State on July 25, 2017.

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Texas Alcoholic Beverage Commission

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For further information, please call: (512) 206-3489



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

19 TAC §97.1005

The Texas Education Agency (TEA) adopts an amendment to §97.1005, concerning accountability and performance monitoring. The amendment is adopted without changes to the proposed text as published in the June 2, 2017 issue of the *Texas Register* (42 TexReg 2897) and will not be republished. The amendment adopts the 2017 Performance-Based Monitoring Analysis System (PBMAS) Manual. Earlier versions of the manual will remain in effect with respect to the school years for which they were developed.

REASONED JUSTIFICATION. House Bill 3459, 78th Texas Legislature, 2003, added the Texas Education Code (TEC), §7.027, limiting and redirecting monitoring done by the TEA to that required to ensure school district and charter school compliance with federal law and regulations; financial accountability, including compliance with grant requirements; and data integrity for purposes of the Public Education Information Management

System and accountability under TEC, Chapter 39. Legislation passed in 2005 renumbered TEC, §7.027, to TEC, §7.028. To meet this monitoring requirement, the agency developed the PBMAS, which is used in conjunction with other evaluation systems, to monitor performance and program effectiveness of special programs in school districts and charter schools.

The TEA has adopted its PBMAS Manual in rule since 2005. The PBMAS is a dynamic system that evolves over time, so the specific criteria and calculations for monitoring performance and program effectiveness may differ from year to year. The intent is to update 19 TAC §97.1005 annually to refer to the most recently published PBMAS Manual.

The adopted amendment to 19 TAC §97.1005 updates the current rule by adopting the 2017 PBMAS Manual, which describes the specific criteria and calculations that will be used to assign 2017 PBMAS performance levels (PLs).

The 2017 PBMAS includes several key changes from the 2016 system. Revisions to the State of Texas Assessments of Academic Readiness (STAAR®) are reflected in the 2017 PBMAS with the final administrations of the STAAR® A and STAAR® L in December 2016. In addition, the availability of an additional year's data enables the Special Analysis component to be reinstated for many of the STAAR® performance indicators and for Required Improvement (RI) to be available for the English language arts (ELA) end-of-course (EOC) indicators.

RI is also available for bilingual education/English as a second language (BE/ESL) Indicator #7 (LEP Graduation Rate). This graduation rate indicator was revised in the 2016 PBMAS to reflect graduation rates based on students identified as English language learners (ELLs) at any time while attending Grades 9-12 in a Texas public school rather than determined only based on students identified as ELLs in their last year in a Texas public school. Additionally, the PL cut points for the two Texas English Language Proficiency Assessment System (TELPAS) indicators are aligned through minor adjustments to BE/ESL Indicator #8 (TELPAS Reading Beginning Proficiency Level Rate).

A PL 4 designation was added to CTE Indicator #2(iv) (CTE LEP STAAR EOC Passing Rate - ELA) and CTE Indicator #4(iv) (CTE SPED STAAR EOC Passing Rate - ELA). These changes align the CTE LEP and CTE SPED STAAR EOC ELA indicators with the BE/ESL and SPED STAAR EOC ELA indicators that already include a PL 4 designation.

For the 2017 PBMAS, each course listed in Appendix A of the 2016 PBMAS Manual was evaluated based on information from the Office of Career, Technical, and Adult Education and the National Alliance for Partnerships in Equity to determine if the course should still be considered nontraditional for males or females. Based on that information, approximately 30 courses were deleted from the list and 40 courses were added. Appendix A in this manual reflects the updated course lists for males and females. Because the changes are significant, CTE Indicator #7 (CTE Nontraditional Course Completion Rate - Males) and CTE Indicator #8 (CTE Nontraditional Course Completion Rate - Females) are assigned PLs of Report Only for the 2017 PBMAS.

Since 2013, TEA has been implementing a transition plan for the PBMAS SPED program area in anticipation of new federal regulations under 34 Code of Federal Regulations Part 300, which were finalized and issued on December 19, 2016. These regulations require 98 separate indicators to evaluate districts' data regarding (a) special education representation [49 indicators]; (b) disciplinary removals [35 indicators]; and (c) educational place-

ments [14 indicators]. These indicators will be used to assign PLs of significant disproportionality based on seven racial/ethnic groups and six disability categories, as required. The federal regulations also require thresholds be set to determine which districts will be identified for significant disproportionality. As with all PBMAS PL cut points, the 2017 PBMAS thresholds for these new indicators were set with advice from stakeholder groups.

Because the PBMAS representation and educational placements indicators were already well aligned with federal requirements and had included preliminary calculations of disproportionality, the expanded federal requirements pertaining to those two components can immediately be incorporated into SPED Indicator #11 (SPED Representation - Ages 3-21), SPED Indicator #7 (SPED Regular Class <40% Rate - Ages 6-21), and a new SPED Indicator #8 (SPED Separate Settings Rate - Ages 6-21). The three PBMAS discipline indicators, however, will need to be replaced with the 35 discipline indicators required to implement the new federal regulations. There is insufficient time for those indicators to be developed and included with the 2017 PBMAS. Therefore, the discipline indicators will be integrated into the 2018 PBMAS.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began June 2, 2017, and ended July 3, 2017. Following is a summary of public comments received and corresponding agency responses.

Comment. A school district special education director requested that the agency consider the impact of an increase of nearly 100 new special education indicators measuring significant disproportionality (SD) and the impossible challenge these indicators will present to school districts. The commenter expressed concern that the new indicators could have the unintended effect of limiting services to students with disabilities as districts strive to meet these new requirements, particularly since there will be a financial impact to districts that exceed the SD thresholds. The commenter emphasized that the decision to establish eligibility and begin special education services should be made by the admission, review, and dismissal (ARD) committee based on parent input, staff observations, and assessment data, not based on indicators that will cause districts to be subject to monitoring consequences. The commenter further suggested that the agency should be required to obtain approval from the U.S. Department of Education (USDE) for the new indicators.

Agency Response. The agency disagrees that it has not considered the impact of the new SD indicators, and it provides the following clarification. As stated in the proposed 2017 PBMAS Manual (page 5), the 98 new SD indicators are required by the USDE under 34 Code of Federal Regulations (CFR) Part 300. Also, as stated on page 5, the agency has reiterated since the inception of the PBMAS Manual rule adoption process that districts are obligated to follow federal law irrespective of their anticipated PBMAS results. The federal regulations repeat TEA's long-standing position by adding a rule of construction asserting that nothing in the federal regulations, including the potential consequences of exceeding the thresholds for SD, authorizes the development or implementation of policies, practices, or procedures that result in actions that violate federal law, including requirements related to child find and ensuring that a free appropriate public education is available to all eligible children with disabilities.

Comment. Disability Rights Texas, Coalition of Texans with Disabilities, the Arc of Texas, and the Texas Council for Developmental Disabilities commented that (1) the proposed addition of

SD indicators to the PBMAS do not reflect the emphasis on public input evident in USDE's regulations under 34 CFR Part 300; (2) the 2016 PBMAS discipline indicators should remain in place; and (3) the 2016 PBMAS LEP Representation Indicator should not be deleted. These organizations also provided comments on the Texas Continuous Improvement Steering Committee (TCIS), the Continuous Advisory Committee (CAC), the Annual Performance Report (APR), and House Bill (HB) 674.

Agency Response. The agency disagrees that LEP representation is not evaluated in the 2017 PBMAS and that the 2016 PBMAS discipline indicators should remain in place. Additionally, the agency provides the following three clarifications. First, the 2017 PBMAS Manual rule adoption process and the opportunity for public comment it provides are in compliance with Texas Government Code, Title 10, General Government, Chapter 2001, Administrative Procedure, Subchapter B, Rulemaking. Comments regarding stakeholder input specified in federal regulations under 34 CFR Part 300, including comments about the TCIS and CAC, are outside the scope of the current rule proposal, and those comments will be provided to the TEA Division of Special Student Populations for further consideration.

Second, as described in the proposed 2017 PBMAS Manual (page 5), there was insufficient time for the agency to develop the 35 new discipline indicators required under 34 CFR Part 300 and include them with the 2017 PBMAS. Instead, the discipline indicators will be previewed in the 2017 Discipline Data Validation system. Because all available agency resources will be devoted to developing the new discipline indicators required by USDE, there are no agency resources available to implement the 2016 PBMAS discipline indicators in the 2017 PBMAS as the commenters suggest.

Third, as described in the proposed 2017 PBMAS Manual, the LEP Representation Indicator as well as the Hispanic and African American Representation Indicators from the 2016 PBMAS have been replaced with Indicator #11 in the 2017 PBMAS. Also as described in the proposed 2017 PBMAS Manual, if a district's LEP representation risk ratio exceeds the SD threshold, it will be included on the district's report and assigned a performance level of 3. These changes ensure Indicator #11 in the 2017 PBMAS is aligned with the provisions under 34 CFR Part 300.

Comments regarding the APR and HB 674 are outside the scope of the current rule proposal, and those comments will be provided to the TEA Division of Special Student Populations for further consideration.

Comment. The Texas Council of Administrators of Special Education (TCASE) recommended aligning PL cut points for SPED Indicators #1(i-v), #2(i-v), and #3(i-iv) with a 60% Index 1 target used in the state accountability system for the same data elements.

Agency Response. The agency agrees that the PL cut points proposed for use in the 2017 PBMAS are different from the Index 1 target adopted in the 2017 state academic accountability system but disagrees that the PBMAS and the state academic accountability system are measuring the same data elements. Because the PBMAS and the state academic accountability systems are designed differently and the indicators evaluated are substantially different, each system includes targets or cut points appropriate for the purposes, goals, design, and requirements of the particular system. One of the critical differences between the two systems is evident in the distinction between a single, pass/fail accountability index target and a range

of PBMAS PL assignments. The comment related to the alignment of cut points incorrectly equates a single-standard, pass/fail system (the state academic accountability system) with a multi-level PL system (PBMAS). Because of this major difference between a single standard/target in the academic accountability system and a range of PLs in PBMAS, the agency disagrees that the values associated with assigning PBMAS PLs are unfair. In fact, compared to the single 60% Index 1 target, only districts with passing rates less than 20% on Indicator 1(i-v), 50% on Indicator 2(i-v), and, depending on subject area, less than 19% to 35% on Indicator 3(i-iv) are assigned the lowest PL in the 2017 PBMAS.

Comment. TCASE recommended allowing districts to earn badges or academic distinctions based on data from SPED Indicator #2(i-v).

Agency Response. This comment is outside the scope of the current rule proposal.

Comment. TCASE recommended moving SPED Indicator #4 to Report Only to comply with the Every Student Succeeds Act (ESSA), contending ESSA specifically prohibits setting a cap on local districts for the percentage of students who can take an alternate assessment.

Agency Response. The agency disagrees that SPED Indicator #4 sets a cap on local districts for the percentage of students who can take an alternate assessment. Comparisons between the ESSA requirements regarding alternate assessments and SPED Indicator #4 are not appropriate given the purpose, definitions, and methodology are significantly different between ESSA and PBMAS. SPED Indicator #4 does not set a cap on local districts for the percentage of students who can take an alternate assessment, and regardless of how many students are administered the STAAR® Alternate 2 in any district, there are no limits in PBMAS on the number or percent of those results that may be included in other PBMAS indicators that evaluate districts' STAAR® subject-area proficiency rates.

Independent from ESSA's provisions related to alternate assessments, however, there are state and federal requirements that SPED Indicator #4 is specifically designed to meet. These include state statute (Texas Education Code, §39.057) that requires the agency to determine when "excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through instruments developed or adopted under Section 39.023(b) [alternate assessments]." Additionally, a key component of the USDE state assessments peer review process requires each state to monitor (1) the administration of its state assessments to ensure standardized test administration procedures are implemented with fidelity across districts and schools; and (2) test administration in its districts and schools to ensure appropriate assessments, with or without appropriate accommodations, are selected for students with disabilities under the Individuals with Disabilities Education Act (IDEA), students covered by Section 504, and English language learners so that they are appropriately included in assessments and receive accommodations that are: consistent with the state's policies for accommodations; appropriate for addressing a student's disability or language needs for each assessment administered; consistent with accommodations provided to the students during instruction and/or practice; consistent with the assessment accommodations identified by a student's individualized education program (IEP) team or 504 team for students with disabilities, or another process for an English language learner; and administered with fidelity to test administration procedures.

The agency is also required to ensure it has implemented a state data audit system that assesses data quality, validity, and reliability of individual student data, including student assessment data. Furthermore, in making state determinations under IDEA, §616(d), USDE holds states accountable for the percentage of children with disabilities who participate in regular statewide assessments compared to the percentage who participate in alternate assessments.

SPED Indicator #4 enables the agency to respond to these and other diverse state and federal requirements while at the same time allowing districts to make appropriate assessment decisions for students based on individual students' needs and the extent to which students meet the eligibility requirements for a particular assessment or accommodation. Moreover, because the STAAR® Alternate 2 does have specific eligibility requirements and districts evaluated by the agency's monitors for their students' participation in the STAAR® Alternate 2 have not always been able to provide evidence that justified the administration of the alternate assessment, SPED Indicator #4 will continue to be an important component of the agency's monitoring system.

Comment. TCASE recommended replacing the current calculations for SPED Indicators #9 and #10 and using Senate Bill (SB) 1867, 84th Texas Legislature, 2015, to calculate graduation and dropout rates or to create an appeals process for PL assignments to be adjusted based on data analysis using SB 1867 rate calculations. Additionally, TCASE offered a general recommendation regarding the use of endorsement data in future iterations of PBMAS.

Agency Response. The agency disagrees. SPED Indicators #9 and #10 are designed to meet federal requirements specific to dropout and graduation rates. Provisions under SB 1867 do not meet federal requirements. The comment about future iterations of the PBMAS is outside the scope of the current rule proposal.

Comment. TCASE recommended consolidating future discipline and disproportionality indicators, resulting in one PL with sub-indicators for each specific data element.

Agency Response. The comment about future PBMAS indicators is outside the scope of the current rule proposal. The agency notes, however, that future PBMAS discipline and disproportionality indicators will be implemented as required by federal regulations under 34 CFR Part 300, which do not permit one consolidated PL as the commenter recommends.

Comment. TCASE recommended allowing districts two or more years to make necessary programming adjustments in response to the new SD calculations or adding an appeals process to incentivize greater student achievement and allow use of the most current data.

Agency Response. The agency disagrees and provides the following clarification. The agency is implementing federal regulations under 34 CFR Part 300 as required by the USDE. These regulations specify the timeline and process states must use for making SD determinations, and they do not provide for the commenter's recommendation.

Comment. TCASE offered general recommendations concerning the Texas Student Data System Public Education Information Management System (TSDS PEIMS) and residential facilities monitoring.

Agency Response. This comment is outside the scope of the current rule proposal.

Comment. TCASE offered general recommendations for increasing transparency of PBMAS, developing continuous improvement plans or corrective action plans, and streamlining the overall systems of special education compliance, monitoring, and accountability.

Agency Response: This comment is outside the scope of the current rule proposal. However, the agency notes that the status of many of these recommendations is included in *A Report on the Texas Education Agency's Efforts in Implementing the Provisions of Rider 70*, available on the TEA website at http://tea.texas.gov/Reports_and_Data/Legislative_Reports/Legislative_Reports/.

Comment. The Coalition of Human Rights Policy Advocates (CHRPA) recommended that all PBMAS SPED indicators have special analysis and not minimum size requirements (MSR) of 30 in the denominators, contending an MSR of 30 in the denominators does not properly represent the population and is not statistically sound.

Agency Response. The agency disagrees. The availability of the PBMAS special analysis process, which requires multiple years of comparable data, depends on each particular indicator. The agency includes special analysis when appropriate and applicable. As currently outlined in federal regulations, the new SD indicators are based on single-year calculations for which USDE has determined that a denominator MSR of 30 and numerator MSR of 10 are "presumptively reasonable." MSRs for each PBMAS indicator are evaluated annually to ensure an appropriate balance between the proposed rule's guiding principle of maximum inclusion and the essential requirement for statistical reliability and validity.

Comment. CHRPA requested further definition of how the PBMAS special analysis process is implemented.

Agency Response. The agency provides the following clarification. The proposed 2017 PBMAS Manual includes a full description of how the PBMAS special analysis process is implemented (pages 14-15). The commenter is encouraged to contact the agency with any specific questions regarding this process that are not described in those pages.

Comment. CHRPA recommended that more indicators be added to the SPED program in PBMAS, including one that would measure IEP goals and another that would measure the percentage of progress against the measure in the IEP goal.

Agency Response. This comment is outside the scope of the current rule proposal. Additionally, the agency notes that, given the significant amount of agency resources required to develop and implement the new 98 SD indicators required by federal regulations under 34 CFR Part 300, it is unable to consider any additional discretionary indicator development at this time.

Comment. An individual recommended that the STAAR® Spanish results be taken out of the denominators for SPED Indicators #1(i-v), #2(i-v), and #4 and instead recommended adding three new indicators to the PBMAS BE/ESL program area, contending the STAAR® Spanish results are an unnecessary mix of significantly different data that ensures the results are skewed.

Agency Response. In the absence of any evidence indicating the STAAR® Spanish results are skewed, the agency disagrees with the recommendation. The agency further notes that indicators in the PBMAS BE/ESL program area already evaluate STAAR® Spanish results, including results of students served in BE/ESL who are also receiving special education services.

Comment. An individual recommended developing a Spanish STAAR® Alternate 2.

Agency Response. This comment is outside the scope of the current rule proposal.

Comment. An individual recommended that SPED Indicators #6-#8 not be Report Only.

Agency Response. The agency disagrees and provides the following clarification. As noted on page 63 of the proposed 2017 PBMAS Manual, only Indicator #8 has a Report Only component. The agency recognizes that the proposed rule's guiding principle of system evolution creates a dynamic in which indicators are added, revised, or deleted in response to changes and developments that occur outside of the system, including new federal requirements. The agency is engaged in an ongoing process of integrating and aligning its special education monitoring responsibilities, as noted in *A Report on the Texas Education Agency's Efforts in Implementing the Provisions of Rider 70*, available at http://tea.texas.gov/Reports_and_Data/Legislative_Reports/Legislative_Reports/. As part of that process, the agency will continue the phase-in approach to new indicator development evident in previous years' PBMAS releases. This may require components of certain new indicators to be Report Only for a period of time prior to full implementation.

Comment. An individual recommended that SPED Indicators #6-#8 include disaggregation by disability category.

Agency Response. The agency disagrees. The 2017 PBMAS SPED Indicators #6-#8 are disaggregated in accordance with federal regulations under 34 CFR Part 300.

Comment. An individual stated that schools do not follow IEPs.

Agency Response. This comment is outside the scope of the current rule proposal.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §7.028, as that section existed before amendment by Senate Bill (SB) 1488, 85th Texas Legislature, Regular Session, 2017, which authorizes the agency to monitor as necessary to ensure school district and charter school compliance with state and federal law and regulations; TEC, §29.001(5), which authorizes the agency to effectively monitor all local educational agencies (LEAs) to ensure that rules relating to the delivery of services to children with disabilities are applied in a consistent and uniform manner, to ensure that LEAs are complying with those rules, and to ensure that specific reports filed by LEAs are accurate and complete; TEC, §29.010(a), which authorizes the agency to adopt and implement a comprehensive system for monitoring LEA compliance with federal and state laws relating to special education, including ongoing analysis of LEA special education data; TEC, §29.062, as that section existed before amendment by House Bill (HB) 22, 85th Texas Legislature, Regular Session, 2017, which authorizes the agency to monitor the effectiveness of LEA programs concerning students with limited English proficiency; TEC, §39.051 and §39.052, as that section existed before amendment by HB 22, 85th Texas Legislature, Regular Session, 2017, which authorize the commissioner to determine criteria for accreditation statuses and to determine the accreditation status of each school district and open-enrollment charter school; TEC, §39.054(b-1), which authorizes the agency to consider the effectiveness of district programs for special populations, including career and technical education programs, when determining accreditation statuses; TEC, §§39.056, 39.057, as that section existed before amend-

ment by SB 7 and SB 1488, 85th Texas Legislature, Regular Session, 2017, and 39.058, which authorize the commissioner to adopt procedures relating to onsite and special accreditation investigations; TEC, §39.102 and §39.104, as those sections existed before repeal by SB 1488, 85th Texas Legislature, Regular Session, 2017, which authorize the commissioner to implement procedures to impose interventions and sanctions for school districts and open-enrollment charter schools.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §7.028, as that section existed before amendment by Senate Bill (SB) 1488, 85th Texas Legislature, Regular Session, 2017; §29.001(5); §29.010(a); §29.062, as that section existed before amendment by House Bill (HB) 22, 85th Texas Legislature, Regular Session, 2017; §39.051; §39.052, as that section existed before amendment by HB 22, 85th Texas Legislature, Regular Session, 2017; §39.054(b-1); §39.056; §39.057, as that section existed before amendment by SB 7 and SB 1488, 85th Texas Legislature, Regular Session, 2017; §39.058; and §39.102 and §39.104, as those sections existed before repeal by SB 1488, 85th Texas Legislature, Regular Session, 2017.

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

Filed with the Office of the Secretary of State on July 25, 2017.

TRD-201702775

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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Proposal publication date: June 2, 2017

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



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) adopts amendments to §661.31, concerning Definitions, with changes to the proposed text due to typographical errors as published in the February 17, 2017, issue of the *Texas Register* (42 TexReg 647) and will be republished.

The section defines terms used within chapter 661 and updates one of the terms to permit the use of technology when sealing land surveying documents.

The adopted amendment to paragraph (12), adds the word "electronic" to permissible seal designs in the definition of seals.

No comments were received regarding the adoption of the amendment.

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

§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) Act--The Professional Land Surveying Practices Act and Amendment.

(2) Board seal--The seal of the Board shall be as authorized by the Board.

(3) Certificate of registration and certificate of licensure--A license to practice professional land surveying in Texas. A certificate of licensure is a license to practice state land surveying in Texas.

(4) Construction estimate--"construction estimate", as used in §1071.004 of the Act, means a depiction of a possible easement route for planning purposes.

(5) Contested case--A proceeding, including, but not restricted to, ratemaking and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for adjudicative hearing.

(6) Direct supervision--To be able to recognize and respond to any problem that may arise; give instruction for the solution to a problem; give instructions for such research of adequate thoroughness to support collection of relevant data; the placement of all monuments; the preparation and delivery of all Documents.

(7) Firm--Any business entity including but not limited to a partnership, limited partnership, association, corporation, limited liability company, limited liability partnership and/or other entity conducting business under an assumed name.

(8) Offer of surveying services--Any form of advertisement which contains the firm contact information and offers land surveying services, including but not limited to verbal offer, hard copy, electronic web site, telephone listing, written proposal or other marketing materials.

(9) Renewal--The payment of a fee annually as set by the Board within the limits of the law for the certificate of registration or the certificate of licensure.

(10) Report--Survey drawing, written description, and/or separate narrative depicting the results of a land survey performed and conducted pursuant to this Act.

(11) Rule--Any Board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the Board. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the Board and not affecting the private rights or procedures.

(12) Seal--An embossed, 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 adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702838

Tony Estrada
Executive Director
Texas Board of Professional Land Surveying
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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

The Texas Board of Professional Land Surveying (Board) adopts an amendment to §663.13, concerning Introduction, with changes to the proposed text as published in the February 17, 2017, issue of the *Texas Register* (42 TexReg 648). The text of the rule is republished below.

The adopted 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 Subdivision Plats and not §663.16, concerning Boundary Construction.

No comments were received regarding the adoption of the amendment.

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

§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 of this title (relating to Subdivision Plat).

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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Tony Estrada
Executive Director
Texas Board of Professional Land Surveying
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For further information, please call: (512) 239-5263



22 TAC §663.16

The Texas Board of Professional Land Surveying (Board) adopts the amendment to §663.16, concerning Boundary Construction with changes to the proposed text as published in the February

17, 2017, issue of the *Texas Register* (42 TexReg 648) and will be republished.

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

Four comments were received regarding the adoption of the amendment. Concerns were raised that the new language could be interpreted as constituting a certification by a surveyor that the boundaries of two tracts were adjoining even though the adjoining property had not been surveyed to confirm this. Concerns were also raised that by removing the existing language in §663.19(f), surveyors would presume that they would not have to perform research on adjoining properties. The intent of the language is for surveyors to provide information regarding research the surveyor had done on the adjoining property, not to cite the new language as grounds for not having performed research on adjoining property.

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

§663.16. Boundary Construction.

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

- (1) Respect junior/senior rights for boundary retracement;
- (2) Follow the footsteps of the original land surveyor;
- (3) Follow the documented records of the land title affecting the boundaries being surveyed;
 - (A) Rely on the appropriate deeds and/or other documents including those for adjoining parcels for the location of the boundaries of the subject parcel(s).
 - (B) A land surveyor assuming the responsibility of performing a land survey also assumes the responsibility for such research of adequate thoroughness to support the determination of the location of the boundaries of the land being surveyed. The land surveyor may rely on record data related to the determination of boundaries furnished for the registrants' use by a qualified provider, provided the registrant reasonably believes such data to be sufficient and notes, references, or credits the documentation by which it is furnished.
 - (C) All boundaries shall be connected to identifiable physical monuments related to corners of record dignity. In the absence of such monumentation the land surveyor's opinion of the boundary location shall be supported by other appropriate physical evidence, which shall be explained in a land surveyor's sketch or written report.
 - (D) Shall review the record instruments that identify the adjacent properties researched to prepare the boundary and cite the record instruments on the drawing.

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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Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

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



22 TAC §663.18

The Texas Board of Professional Land Surveying (Board) adopts the amendments to §663.18, concerning Certification, without changes to the proposed text as published in the February 17, 2017, issue of the *Texas Register* (42 TexReg 648). The text of the rule will not be republished.

The adopted amendment to §663.18 added 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 adopted new subsection were re-lettered accordingly.

Four comments received were all in favor of this amendment. One comment raised concern that the term "verifiable" was not defined and therefore left open to interpretation. All surveys have to be verifiable so this requirement is no different than what is currently required of a surveyor.

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

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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Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

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



22 TAC §663.19

The Texas Board of Professional Land Surveying (Board) adopts the amendments to §663.19, concerning Survey Drawing/Written Description/Report, without changes to the proposed text as published in the February 17, 2017, issue of the *Texas Register* (42 TexReg 649). The text of the rule will not be republished.

The adopted amendment removed subsection (f). The language was moved to §663.16(3) as new subparagraph (D). This new location is more appropriate because it pertains to boundary location. The subsections that followed the deleted subsection were re-lettered.

There was one public comment that raised concern over the language used to describe the change in the preamble. The commenter noted that the language was not being moved to §663.16 from §663.19. Rather, the language was different by no longer

requiring that adjoiner be shown on the survey plat in all cases and they were opposed to the change. The intent behind the new language is to require surveyors to show their research by providing information on what had been done concerning adjoining properties.

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

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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Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 229. FOOD AND DRUG

SUBCHAPTER GG. SANITARY

TRANSPORTATION OF HUMAN FOODS

25 TAC §229.801

(Editor's Note: In the July 28, 2017 issue of the Texas Register (42 TexReg 3789), the Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (DSHS), adopted 25 TAC §229.801 with changes to the proposed rule. Due to an error by the Texas Register, §229.801 was not republished. The preamble and the text of §229.801 are republished below.)

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (DSHS), adopts the repeal of §§229.61 - 229.73, concerning Juice Hazard Analysis Critical Control Point (HACCP) Systems without changes; §§229.121 - 229.129, concerning Seafood HACCP without changes; the repeal of §§229.210 - 229.222, concerning Current Good Manufacturing Practice and Good Warehousing Practice in Manufacturing, Packing, or Holding Human Food without changes; new §§229.210-229.212, §229.214- 229.223 and 229.225, concerning Current Good Manufacturing Practice and Good Warehousing Practice in Manufacturing, Packing, or Holding Human Food without changes; and new §229.803 and §229.807, concerning Sanitary Transportation of Human Food without changes to the proposed text as published in the March 3, 2017, issue of the *Texas Register* (42 TexReg 971) and therefore, the sections will not be republished.

Sections 229.213, 229.224, 229.801, 229.802 and 229.804 - 229.806 are adopted with changes to the proposed text as pub-

lished in the March 3, 2017 issue of the *Texas Register* (42 TexReg 971) and the sections will be republished.

The new sections are authorized by Texas Health and Safety Code, §431.241 and §431.244, which provide DSHS with the authority to adopt rules for efficient enforcement and adopt rules under the Federal Act; Government Code, §531.0055; and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001. Review of §§229.210 - 229.222 implements Government Code, §2001.039.

§229.801. *Purpose and Scope.*

(a) Except for non-covered businesses as defined in §229.802 of this title (relating to Definitions) and as provided for in subsection (b) of this section, the requirements of this subchapter apply to shippers, receivers, loaders, and food transporters engaged in transportation operations whether or not the food is being offered for or enters interstate commerce. The requirements of this subchapter apply in addition to any other requirements of this chapter that are applicable to the transportation of food, e.g., in §§229.210 - 229.225 of this title (relating to Current Good Manufacturing and Good Warehousing Practice in Manufacturing, Packing, or Holding of Human Food) and §§229.541 - 229.555 of this title (relating to Regulation of Food Salvage Establishments and Brokers).

(b) The requirements of this subchapter do not apply to shippers, receivers, loaders, or food transporters when they are engaged in transportation operations:

(1) Of food that is transshipped through the United States to another country; or

(2) Of food that is imported for future export, in accordance with the Federal Food, Drug, and Cosmetic Act, §801(d)(3) and that is neither consumed nor distributed in the United States; or

(3) Of food when it is located in food facilities as defined in 21 Code of Federal Regulations, §1.227, that are regulated exclusively, throughout the entire facility, by the U.S. Department of Agriculture under the Federal Meat Inspection Act (21 United States Code 601 et seq.), the Poultry Products Inspection Act (21 United State Code 451 et seq.), or the Egg Products Inspection Act (21 United States Code 1031 et seq.)

(c) The criteria and definitions of this subchapter apply in determining whether food is adulterated within the meaning of Texas Health and Safety Code, §431.081(a) in that the food has been transported or offered for transport by a shipper, food transporter by motor vehicle, loader, or receiver engaged in transportation operations under conditions that are not in compliance with this subchapter.

(d) The failure by a shipper, food transporter by motor vehicle, loader, or receiver engaged in transportation operations to comply with the requirements of this subchapter is a prohibited act under Texas Health and Safety Code, §431.021.

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

Filed with the Office of the Secretary of State on July 31, 2017.

TRD-201702638

Lisa Hernandez

General Counsel

Department of State Health Services

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For further information, please call: (512) 776-6972

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 17. TEXAS STATE SOIL AND WATER CONSERVATION BOARD

CHAPTER 523. AGRICULTURAL AND SILVICULTURAL WATER QUALITY MANAGEMENT

31 TAC §523.6

The Texas State Soil and Water Conservation Board (State Board) adopts amendments to §523.6 concerning conflict of interest issues in the administration of the Agricultural and Silvicultural Water Quality Management Program (WQMP) with changes due to spelling error. Specifically the adopted amendments are contained in §523.6(f)(2) - (10) as published in the June 16, 2017, issue of the *Texas Register* (42 TexReg 3114).

Section 523.6(f)(2) is adopted to cover conflict of interest by describing who is ineligible for cost-share (financial assistance) agreement while employed by the State Board or serving as a member of the State Board.

Section 523.6(f)(3) is adopted to set the procedures conflict of interest district directors and district employees must follow to avoid conflict of interest.

Section 523.6(f)(3)(A) is adopted to address the procedure district directors and district employees must follow to avoid conflict of interest.

Section 523.6(f)(3)(B) is adopted to direct districts that their meeting minutes must reflect that district directors or district employees recuse themselves from any discussion of deliberation of WQMP contract involving themselves and did not exert any influence on the deliberations.

Section 523.6(f)(3)(C) is adopted to direct that the same prohibitions apply in certifying work on a contract and may not certify payment for any financial assistance regarding a contract.

Section 523.6(f)(2) is changed to be §523.6(f)(4).

Section 523.6(f)(4)(A) - (E) there is no change.

Section 523.6(f)(3) - (8) is adopted and changed to be §523.6(f)(5) - (10), respectively.

The 30 day comment period ended July 16, 2017. During this period the State Board did not receive any comments regarding the rules as proposed in the *Texas Register*.

The amendments are authorized by the Texas Agriculture Code, Chapter 201, §201.020 which provides the State Board with the authority to adopt rules as necessary for the performance of its functions under Chapter 201, Texas Agriculture Code

§523.6. Cost-Share Incentive Funding for Soil and Water Conservation Land Improvement Measures.

(a) Purpose. The purpose of cost-share funding is to provide an incentive to landowners or operators to install soil and water conservation land improvement measures consistent with the purpose of controlling erosion, conserving water, and/or protecting water quality in accordance with a water quality management plan certified by the State Board.

(b) Definitions. For the purposes of this section the following definitions shall apply.

(1) Allocated funds--Funds budgeted through the State Board either allocated directly to a specific soil and water conservation district or to a cost-share incentive priority for utilization by multiple soil and water conservation districts. For the purposes of the chapter, funds directly allocated to a specific soil and water conservation district shall be referred to as a direct allocation.

(2) Applicant--A person who applies for cost-share incentive funding from the soil and water conservation district.

(3) Available funds--Monies budgeted, unobligated and approved by the State Board for cost-share incentive funding.

(4) Conservation practice(s)--The conservation land improvement measure(s) approved by the State Board and applied to the land to control soil erosion or improve the quality and/or quantity of water.

(5) Cost-share incentive funding--An award of money made to an eligible person for conservation land improvement measures pursuant to the terms of Agriculture Code §201.301.

(6) Cost-share incentive priority--A geographic location such as a watershed, a soil and water conservation district or other political subdivision boundary, or a specific agricultural or silvicultural activity, or a combination thereof, that is adopted by the State Board as a specified priority for receiving an allocation of cost-share incentive funding. Cost-share incentive priorities must be consistent with the purpose of controlling erosion, conserving water, and/or protecting water quality.

(7) District director--A member of the governing board of a soil and water conservation district.

(8) Eligible land--Those lands that are eligible for application of conservation land improvement measures using cost-share incentive funding.

(9) Eligible person--Any of the land holders eligible to apply for cost-share incentive funding or any person designated to represent the applicant as provided by a durable power of attorney, court order or other valid legal document.

(10) Eligible practices--Those conservation land improvement measures that have been approved by the State Board.

(11) Landowner--Any person, firm or corporation holding title to land lying within a soil and water conservation district.

(12) Maintenance agreement--A written agreement between the eligible person and the soil and water conservation district wherein the eligible person(s) agrees to implement and maintain all conservation practices included in the water quality management plan in accordance with the implementation schedule, all technical requirements of the applicable practice standards, and specified life expectancies of practices until such time that the certification of the State Board is withdrawn. The maintenance agreement shall specify that any practices installed through the payment of cost-share incentive

funding, to any extent, must be maintained in accordance with the applicable practice standards and specified life expectancies regardless of whether or not the water quality management plan continues to be certified or not. Failure to maintain cost-shared practices may result in the requirement for all or a prorated portion of the cost-share funding to be returned to the State Board. It is the expectation of the State Board that a water quality management plan be maintained by the landowner for an indefinite period of time.

(13) Obligated funds--Monies from a soil and water conservation district's allocated funds or from a cost-share incentive priority which have been committed to an applicant after final approval of the application.

(14) Operating Unit--Land or lands, whether contiguous or non-contiguous, owned and/or operated in a manner that contributes or has the potential to contribute agricultural or silvicultural nonpoint source pollution to water in the state. An operating unit must be determined through mutual agreement by the holder of the water quality management plan, the soil and water conservation district, and the State Board.

(A) Contiguous lands under the same ownership and/or operational control must be considered one operating unit.

(B) Non-contiguous lands under the same ownership and/or operational control may be considered as more than one operating unit when there is mutual agreement by the soil and water conservation district and the potential holder of the water quality management plan unless the lands are associated with an animal feeding operation.

(C) An operating unit, when devised for an animal feeding operation, must at a minimum encompass all land or lands owned and/or operated by the holder of the water quality management plan that are used to produce feed that is consumed by the animals, as well as all land or lands owned and/or operated by the potential holder of the water quality management plan where manures or other agricultural by-products are beneficially used as a source of nutrients to produce food or fiber for any use.

(D) Land or lands within the scope of an existing operating unit for certified water quality management plan may not be separated from the existing operating unit to establish another operating unit unless the ownership of the lands being separated into a new operating unit has changed.

(E) Where mutual agreement regarding an operating unit's consistency with this section is not achieved by the potential holder of the water quality management plan, the soil and water conservation district, and the State Board, the State Board will make a final determination whether or not to certify the water quality management plan.

(15) Performance agreement--A written agreement between the eligible person and the soil and water conservation district wherein the eligible person agrees to perform conservation land improvement measures for which allocated funds are being paid.

(16) Practice standard--A technical specification for a conservation practice within the NRCS FOTG that contains information on why and where the practice should be applied, and sets forth the minimum quality criteria that must be met during the application of that practice in order for it to achieve its intended purpose(s).

(17) Priority system--The system devised by the soil and water conservation district, under guidelines of the State Board, for ranking approved conservation practices and for facilitating the disbursement of allocated funds in line with the soil and water conservation district's priorities.

(18) Program year--The period from September 1 to August 31.

(19) Soil and water conservation district (SWCD)--A governmental subdivision of this state and a public body corporate and politic, organized pursuant to Chapter 201 of the Agriculture Code.

(20) State Board--The Texas State Soil and Water Conservation Board organized pursuant to Chapter 201 of the Agriculture Code.

(c) Stakeholder Process. The State Board shall use a stakeholder process to develop cost-share incentive priorities, goals and performance measures for cost-share incentive priorities, and routinely share the results of program activities with stakeholders to gather input for program improvement actions.

(d) Responsibilities.

(1) The State Board shall:

(A) Establish a procedure to allocate funds to a specific SWCD or to cost-share incentive funding priorities for utilization by multiple soil and water conservation districts.

(B) Establish conservation practices eligible for cost-share incentive funding and their standards, specifications, maintenance and expected life.

(C) Establish maximum cost-share rate for each conservation practice approved for cost-share incentive funding.

(D) Establish, prior to September 1 of each year, the minimum cost-share incentive funding amount that may be made under the program and the maximum cost-share incentive funding amount that an eligible person may be obligated from in any one program year.

(E) Provide verification to a SWCD that an application qualifies for cost-share incentive funding from a selected cost-share incentive priority prior to SWCD obligation of funds.

(F) Perform clerical, administrative and record-keeping responsibilities required for carrying out cost-share incentive funding activities.

(G) Receive and maintain monthly reports from SWCDs which have been directly allocated an amount of cost-share incentive funding showing the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month.

(H) Receive requests for reallocated funds and funds reverted from participating SWCDs that received a direct allocation.

(I) Act on appeals filed by applicants.

(J) Process vouchers and issue warrants for cost-share to eligible recipients.

(2) The SWCDs shall:

(A) Designate, from State Board approved list, those conservation practices that will be eligible for cost-share incentive funding in their SWCD.

(B) Administer cost-share incentive funding with funds allocated by the State Board if the SWCD received a direct allocation.

(C) Establish, under guidelines of the State Board, the priority system to be used for evaluation of applications for incentive funding through a direct allocation to the SWCD, and to be used for evaluation of applications for cost-share incentive priorities.

(D) Establish the period(s) of time, under the guidelines of the State Board, for accepting applications and announce the availability of cost-share incentive funding locally.

(E) Accept and process cost-share incentive funding applications.

(F) Determine eligibility of lands and persons for cost-share incentive funding under guidelines established by the State Board.

(G) Notify applicants of the SWCD's decisions on approval of applications.

(H) File approved applications in the SWCD's copy of the applicant's water quality management plan.

(I) Obligate allocated funds for applications receiving final approval.

(J) Provide or arrange for technical assistance to applicants, or approve applicant and provide for an alternate source of technical assistance.

(K) Certify completed conservation practices to the State Board prior to payment.

(L) Submit required reports on the unobligated balance of directly allocated funds and on accomplishments to the State Board.

(e) Administration of Funds.

(1) Allocation of Funds. The State Board may allocate funds appropriated from general revenue fund and other sources for cost-share incentive funding among particular soil and water conservation land improvement measures, specific SWCDs, among areas of the state through cost-share incentive priorities, or a combination thereof, and may adjust such allocations throughout the year as available funds and SWCD needs and priorities change in order to achieve the most efficient use of state funds. The State Board may designate a portion of the funds allocated to a SWCD or to cost-share incentive priorities to reimburse SWCDs for obligations incurred in administering cost-share incentive activities.

(2) Approval of Cost-share Incentive Priority Allocations. The State Board may allocate cost-share incentive funding to priorities identified by the State Board, local SWCDs through the stakeholder process described at subsection (c) of this section, and other entities. Higher consideration will be given to priorities recommended through the stakeholder process. Priorities will be approved consistent with the purpose of cost-share incentives specified at subsection (a) of this section. A cost-share incentive priority shall exist for no more than two program years without re-approval by the State Board.

(3) Requests for Direct Allocations. SWCDs within areas designated for cost-share program may submit requests for a direct cost-share incentive fund allocation to the State Board. Such requests must be submitted by September 1st of each program year, and must include a description of how the allocation will control soil erosion, conserve water, and/or protect water quality. Allocations requested to address documented problems with water quality will be considered before other requests, and any request will be subject to the availability of funds after allocations are made to approved cost-share incentive priorities as described in paragraph (2) of this subsection.

(4) Approval of Direct Allocations to SWCDs. The State Board shall consider and approve, reject or adjust SWCD requests for direct allocations giving consideration to the amount of available funding not already allocated to cost-share incentive priorities, relative need for funding and SWCD workload and fund balances, as well as other information deemed necessary by the State Board. Only SWCDs for

which the State Board has established an allocation are eligible to directly claim cost-share incentive funds.

(5) Maximum Allowable Amount of Cost-Share Funds per Operating Unit. The maximum allowable amount of cost-share funds that may be applied to any single operating unit is \$15,000. This provision applies only to general revenue funds appropriated by the Texas Legislature to assist program participants with the implementation of soil and water conservation land improvement measures as allowed by Agriculture Code §201.301. In cases where the funding for cost-share incentives originates from sources other than appropriations made directly to this program by the Texas Legislature, the maximum allowable amount of cost-share incentive funding per operating unit will be established by the terms of the contractual agreement providing the funds until otherwise specified by the State Board.

(f) Eligibility for Cost-Share Incentive Funding.

(1) Eligible person. Any individual, partnership, administrator for a trust or estate, family-owned corporation, or other legal entity who as an owner, lessee, tenant, or sharecropper, participates in an agricultural or silvicultural operation and has a certified water quality management plan on an operating unit within a SWCD shall be eligible for cost-share incentive funding.

(2) Ineligible for Cost-Share Assistance. State Board Members and State Board Employees are governed by a July 17, 2003, State Board policy that prohibits persons employed by the State Board and members of the State Board from entering into a cost-share (financial assistance) agreement while employed or serving on the State Soil and Water Conservation Board.

(3) Conflict of Interest for Cost-Share Assistance. District Directors and District Employees must follow all WQMP guidelines, complete all required WQMP forms, and recuse themselves from any and all discussions and considerations of the application for a WQMP contract.

(A) District Directors and District Employees must recuse themselves in any situation in which a relative, as defined by Chapter 573, Government Code, Nepotism Prohibitions, has applied for a WQMP contract.

(B) SWCD Board minutes are required to reflect that any District Director or District Employee recuse himself/herself from the deliberation on a contract and there was no undue influence regarding consideration of a contract.

(C) These same prohibitions apply to certifying work performed on a contract and any certification for payment of financial assistance under an approved WQMP contract.

(4) In accordance with the terms of this chapter an eligible person may receive cost-share only once for an operating unit. The State Board, on a case-by-case project or watershed basis and in consultation with the SWCD, may grant a waiver to this requirement in situations where:

(A) Research and/or advanced technology indicate(s) a plan modification to include additional measures to meet Texas surface water quality standards is needed;

(B) The operating unit is significantly increased in size by the addition of new land areas or the amount of animal waste production is significantly increased requiring additional conservation practices, not previously cost-shared, in order to meet Texas surface water quality standards;

(C) More stringent measures become necessary to meet Texas surface water quality standards;

(D) A landowner has assumed the responsibility of a maintenance agreement in cases where the landowner was not the applicant; or

(E) A landowner has previously received cost-share through this program but an additional practice or practices has/have been subsequently mandated by state law or the laws, rules, or regulations of a political subdivision. This waiver is only applicable to the mandated practice or practices and may not be applied more than one time to a single practice.

(5) Eligible land. Any of the following categories of land shall be eligible for cost-share incentive funding:

(A) Land within the State that is privately owned by an eligible person.

(B) Land leased by an eligible person over which he/she has adequate control and which land is utilized as a part of his/her operating unit.

(C) Land owned by the State, a political subdivision of the State, or a nonprofit organization that holds land in trust for the state.

(6) Ineligible lands. Allocated funds shall not be used:

(A) To reimburse other units of government for implementing conservation practices.

(B) On privately owned land not used for agricultural or silvicultural production.

(7) Eligible purposes. Cost-share incentive funding shall be available only for those eligible practice measures included in a certified water quality management plan and determined to be needed by the SWCD to:

(A) Reduce erosion; and/or

(B) Improve water quality and/or quantity.

(8) Eligible practices. Conservation practices which the State Board has approved and which are included in the applicant's approved water quality management plan shall be eligible for cost-share incentive funding. The list of eligible practices will be approved as needed by the State Board. The SWCDs shall designate their list of eligible practices from those practices approved by the State Board. SWCDs may request the State Board's approval to offer cost-share incentive funding for conservation practices not included in the State Board's list of approved practices. The use of special conservation practices is limited to those measures that can solve unique problems in a SWCD and which conform with one or more of the purposes of the program. Requests for special conservation practices will be filed in writing with the State Board in time to obtain action and notification in writing from the State Board of its decision(s) prior to announcing the availability of cost-share incentive funding locally for the program year. Conservation practices may be included in a SWCD's list of eligible practices offered for cost-share incentive funding only as approved by the State Board.

(9) Requirement to file an application. In order to qualify for cost-share incentive funding, an eligible person shall file an application with the local SWCD.

(10) Persons required to sign applications and agreements. All applications and agreements shall be signed by:

(A) The eligible person and;

(B) the landowner in cases where the eligible person does not hold title to the land constituting the operating unit.

(g) Cost-Share Incentive Funding Processing Procedures.

(1) Responsibility of applicants. Applicants for cost-share incentive funding for conservation practices shall:

(A) Complete and submit an application to the SWCD.

(B) Where an applicant does not have an approved water quality management plan and has not determined the anticipated total cost of the requested measure(s), he/she, as part of the application, may request assistance from the SWCD in developing such plan and determining costs.

(C) After being notified of approval and obligation of funds by the SWCD, request technical assistance through the SWCD to design and layout the approved practices or request approval of alternate sources of technical assistance.

(D) Secure any approved contractor(s) needed and all contractual or other agreements necessary to construct or perform the approved practice(s). Cost-share will not be allowed for work begun before the application is approved.

(E) Complete and sign performance and maintenance agreements and any amendments to those agreements.

(F) Supply the documents necessary to verify completion of the approved practice(s) along with a completed and signed certification of cost.

(2) Responsibilities of SWCDs. SWCDs shall:

(A) Establish the period(s) of time for accepting applications, under the guidelines of the State Board, and announce the availability of cost-share incentive funding locally.

(B) Accept cost-share applications at the SWCD's office.

(C) Determine eligibility of lands and persons for cost-share incentive funding under either the SWCD's local program for a direct allocation or under a cost-share incentive priority. If an applicant's land is in more than one SWCD, the respective SWCD boards of directors will review the application and agree to oversee all works, administrate all contracts and obligate all funds from one SWCD or prorate the funding between SWCDs.

(D) Give initial approval to those applications that meet the eligibility requirements.

(E) Evaluate the initially approved applications under either the SWCD's priority system for a direct allocation or under a cost-share incentive priority and give final approval to the high priority applications that can be funded.

(F) For applications that may qualify for a cost-share incentive priority, submit the applications to the appropriate State Board office for confirmation of qualification and availability of funds.

(G) Obligate funds for the approved conservation practices that can be funded and notify the applicant(s) that his/her conservation practice(s) has/have been approved for cost-share incentive funding and to proceed with installation. Allocated funds must be obligated by the last day of April of the fiscal year allocated. All unobligated allocations, regardless of whether they exist in a direct SWCD allocation or a cost-share incentive priority, shall become unallocated on May 1st of each year and may be reallocated to other priorities at the discretion of the State Board to ensure the most efficient use of cost-share incentive funds.

(H) Determine compliance with standards and specifications and certify completed conservation land treatment measure(s) that meet standards.

(3) Amended Applications for Allocated Funds.

(A) In the event that an adjustment to the estimated cost of conservation practice(s) is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit an amendment to his/her application for allocated funds to the SWCD for approval or denial by the SWCD. If the obligated funds originate from a cost-share incentive priority, the SWCD will confer with the State Board to determine if additional funds are available.

(B) The SWCD may elect to adjust the amount of funds obligated for the conservation practices, provided funds are available, or to request additional funds from the State Board. If the obligated funds originate from a cost-share incentive priority, the SWCD will confer with the State Board to determine if additional funds are available.

(C) In the event additional funds are not available, the conservation practice(s) may be redesigned, if possible, to a level commensurate with available funds, provided the redesign still meets practice standards established by the State Board; or the applicant can agree to assume full financial responsibility for the portion of the cost of conservation practice(s) in excess of the amount authorized.

(4) Performance Agreement. As a condition for receipt of cost-share incentive funding for conservation practices, the eligible person receiving the benefit of such incentive funding shall agree to perform those measures in accordance with standards established by the State Board. Completion of the performance agreement and the signature of the eligible person are required prior to payment.

(5) Maintenance Agreement. A written maintenance agreement must be signed between the eligible person and the soil and water conservation district wherein the eligible person(s) agrees to implement and maintain all conservation practices included in the water quality management plan in accordance with the implementation schedule, all technical requirements of the applicable practice standards, and specified life expectancies of practices until such time that the certification of the State Board is withdrawn. The maintenance agreement shall specify that any practices installed through the financing of cost-share incentive funding, to any extent, must be maintained in accordance with the applicable practice standards and specified life expectancies regardless of whether or not the water quality management plan continues to be certified or not. Failure to maintain cost-shared practices may result in the requirement for all or a prorated portion of the cost-share funding to be returned to the State Board. Completion of the maintenance agreement and all appropriate signatures are required prior to payment.

(6) Payment to Recipients.

(A) The SWCD shall determine eligibility of the applicant to receive payment of cost-share incentive funding, and provide certification to the State Board that measure(s) have been installed consistent with established standards.

(B) The State Board shall issue warrants for payment of cost share incentive funding.

(7) Applications Held in Abeyance Because of Lack of Funds. In those cases where funds are not available, the applications will be held by the SWCD until allocated funds become available or until the end of the program year. When additional funds are received, the SWCD will obligate those funds. The SWCD may shift all unfunded applications held in abeyance because of lack of funds

that are on hand at the end of a program year to the new program year or require all new applications as it deems appropriate.

(8) Applications Denied for Reasons Other Than Lack of Funds. Applications for funds which are denied by the SWCD directors for other than lack of funds shall be retained in the records of the SWCD in accordance with the SWCD's established record retention policy. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied.

(9) Applications Withdrawn. An application may be withdrawn by the applicant at any time prior to receipt of cost-share incentive funding by notifying the SWCD in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the SWCD in accordance with the SWCD's established record retention policy.

(10) Appeals.

(A) An applicant may appeal the SWCD decisions relative to his/her application for allocated funds.

(B) The applicant shall make any appeal in writing to the SWCD which received his/her application for allocated funds and shall set forth the basis for the appeal.

(C) The SWCD shall have 60 days in which to make a decision and notify the applicant in writing.

(D) The decision of the SWCD may be appealed by the applicant to the State Board.

(E) All appeals made to the State Board shall be made in writing and shall set forth the basis for the appeal.

(F) All State Board decisions shall be final.

(h) Maintenance of Practices.

(1) Requirements for maintenance of practices applied using cost-share incentive funds will be outlined in the eligible person's water quality management plan and reviewed with the eligible person at the time of application.

(2) A properly executed maintenance agreement shall be signed by the successful applicant prior to receipt of payment of cost-share incentive funding from the SWCD for a conservation practice(s) installed.

(3) The SWCD will request refund of all or a prorated portion of the cost-share incentive funding paid to an eligible person when the applied conservation practice(s) has not been maintained in compliance with applicable design standards and specifications for the practice during its expected life as agreed to by the eligible person. The State Board may grant a waiver to this requirement on a case-by-case basis in consultation with the SWCD.

(4) Failed Practice Restoration.

(A) When conservation practices that have been successfully completed and which later fail as the result of floods, drought, or other natural disasters, and not the fault of the applicant, the applicant may apply for and SWCD may allocate additional cost-share incentive funds to restore them to their original design standards and specifications. These funds must come from either a current direct allocation to the SWCD or from a current cost-share incentive priority with confirmation from the State Board from the current program year.

(B) When conservation practices that have been successfully completed and which later fail as the result of error or omission on the part of the State Board staff, the SWCD staff, or the

USDA-Natural Resources Conservation Service staff while assisting the SWCD, and not the fault of the applicant, the State Board may approve additional cost-share incentive funds to restore the measure(s) to the correct design standards and specifications where an investigation approved by the Executive Director or his designee shows good cause. These funds must come from either a current direct allocation to the SWCD or from a current cost-share incentive priority with confirmation from the State Board from the current program year.

(5) In cases of hardship, death of the participant, or at the time of transfer of ownership of land where a conservation practice(s) has been applied using cost-share incentive funding and the expected life assigned the practice has not expired, the participant, heir(s), or buyer(s) respectively, must agree to maintain the practice(s) or the participant, heir(s) or the buyer by agreement with seller must refund all or a prorated portion of the cost-share incentive funds received for the practice as determined by the SWCD. The State Board on a case-by-case basis in consultation with the SWCD may grant a waiver to this requirement.

(i) Determining Status of Practices During Transfer of Land Ownership.

(1) A seller of agricultural land with respect to which a maintenance agreement is in effect may request the SWCD to inspect the practices. If the practices have not been removed, altered, or modified, the SWCD shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

(2) The buyer of lands covered by a maintenance agreement may also request that the SWCD inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the SWCD will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

(3) The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

(j) Reporting and Accounting. The State Board shall receive and maintain required reports from SWCDs showing the unobligated balance of directly allocated funds as shown on each ledger at the close of the last day of each month.

(k) Pursuant to Agriculture Code §201.311, one or more SWCDs may be designated to administer portions of this section as determined by the State 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.

Filed with the Office of the Secretary of State on July 26, 2017.

TRD-201702796

Mel Davis

Special Projects Coordinator

Texas State Soil and Water Conservation Board

Effective date: August 15, 2017

Proposal publication date: June 16, 2017

For further information, please call: (254) 773-2250 x252

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER I. VALUATION PROCEDURES

34 TAC §9.4001

The Comptroller of Public Accounts adopts amendments to §9.4001, concerning valuation of open-space and agricultural lands, without changes to the proposed text as published in the March 31, 2017, issue of the *Texas Register* (42 TexReg 1728). These amendments are to reflect updates and revisions to the manual for the appraisal of agricultural land.

The amendments update and revise the manual for the appraisal of agricultural land that has been in effect since 1990. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising land used for agriculture and open-space land under Tax Code, Chapter 23, Subchapters C and D. The updates and revisions to the manual generally reflect statutory changes; changes dictated by case law; changes to examples to reference more current prices, expenses, and values; changes to organization names and information available from different sources; the addition of footnotes for citations to Tax Code sections and case law referenced; and the removal of verbatim Tax Code sections. The proposed amendments also provide that appraisal districts are required to use this manual in qualifying and appraising open-space land. Pursuant to Tax Code, §23.52(d), a majority of the committee composed of the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office, or their designees, has approved of the updated and revised manual for the appraisal of agricultural land.

The comptroller received numerous comments regarding these amendments.

Carla Pope-Osborne, a property tax practitioner, requests that the manual not be approved until after the 85th Legislative Session is over so that changes made during the session can be reflected in the manual. The comptroller is going forward with adoption of the manual since it has already been approved by a majority of the committee of public officials as required by Tax Code, §23.52(d). In the near future the comptroller intends on updating the manual for changes made by the 85th Legislature and after every session thereafter as necessary.

Frank McAllister, a member of the Texas and Southwestern Cattle Raisers Association, suggests that the comptroller's agricultural manual should "clearly state that chief appraisers are required by law to implement and follow the processes, procedures, and eligibility rules as provided by this Manual, and its updates." The comptroller declines to adopt this change because the suggested addition is addressed in the rule and the introduction of the manual on page 1. Mr. McAllister also requests that the comptroller add specific examples of "all special depreciated deduction methodologies and example calculations" to the manual. The comptroller declines to make this change because the purpose of the manual is to provide guidance on overall methodologies and calculations specific to the appraisal of agricultural land and applicable across all appraisal districts, leaving the treatment of special depreciated deductions to the professional judgment of the individual chief appraiser.

Mr. McAllister also requests that the comptroller define all "incomes and expenses used in determining the net to land" and provide "a transparent process and procedure for their determination" in the manual. The comptroller understands the commenter is asking for more specificity in the manual regarding particular types of income and expenses in determining the net-to-land value; the comptroller responds that the purpose of the manual is to provide guidance on agricultural appraisal issues and not detailed appraisal instructions. The comptroller declines to make the change regarding transparency because the suggested addition is addressed on page 18 regarding the Uniform Standards of Professional Appraisal Practice (USPAP) Record Keeping Rule. Mr. McAllister asks that the comptroller add a requirement to the manual that chief appraisers are to complete and return the Comptroller's Farm & Ranch Survey each year. The comptroller declines to add this requirement as it is outside the scope of the manual.

J. Scott Morris, an attorney who represents several ranches in Texas, suggested that the proposed manual does not adequately or properly address language added by H.B. 3607, 78th Legislature, amending Tax Code, §23.51(4), which states that for land that qualifies as wildlife management property, the chief appraiser may not consider in the calculation of net to land income due the property owner under a hunting or recreational use of the land. Mr. Morris requests that several references to this provision be added several places throughout the manual. The comptroller notes that reference to this provision is included on page 17 of the manual which states that income received from hunting or recreational leases on qualified open space land, other than wildlife management land, is also included in the net-to-land calculations. The comptroller believes that this reference is adequate and correct and notes that wildlife management can be more fully addressed when the wildlife management manual is revised.

Amanda Sauls, with the Williamson Central Appraisal District, comments that on page 6 of the manual which addresses current and principal agricultural use, the manual discusses swine and poultry. She notes that on page 8 the manual addresses fish and horses along with exotic animals more in depth, but does not include poultry or swine. Ms. Sauls suggests that poultry and swine should also be addressed more in depth on page 8. The comptroller believes that the manual adequately addresses current and principal agricultural use and additional examples of this issue specific to poultry and swine are not necessary. Ms. Sauls also comments that the manual should include guidance on the use of greenhouses and plants grown in containers and whether they qualify for open space appraisal. The comptroller believes that the treatment of greenhouses and plants grown in containers is a fact intensive issue which should be left to the discretion of the chief appraiser.

Ms. Sauls comments that additional information should be included regarding the chief appraiser's ability to set a degree of intensity for maintaining an animal, in particular horses. She suggests that a question be added to the FAQs regarding a property qualifying if the degree of intensity is typical and is set by the chief appraiser. The comptroller is of the opinion that the ability of a chief appraiser to establish a degree of intensity standard is adequately addressed on pages 9 and 10 of the manual.

Ms. Sauls states that she would like information regarding the time period requirement for the qualification of ecological laboratories. She then goes on to pose a series of questions regarding ecological laboratories converting to wildlife management treat-

ment. The comptroller points out that the manual provides that once land qualifies under Tax Code, Chapter 23, Subchapter D as a type of open space land, then the land - including land used principally as an ecological laboratory - can convert to wildlife management. Ms. Sauls would like elaboration in the manual on the definition of ecological laboratory and the requirements to qualify. The comptroller notes that there is no statutory definition of an ecological laboratory nor are there any statutory requirements for qualification. A definition and eligibility requirements would have to be provided by the legislature. Article VIII, Section 1-d-1(a) creates open-space land appraisal and provides that the legislature by general law may provide eligibility limitations under Section 1-d-1. Ms. Sauls asks that examples of qualifying or non-qualifying conditions be included in the manual. The comptroller believes that any examples of the application of any eligibility requirements that would be applicable statewide would have to be provided by the legislature; consequently, this issue cannot be specifically addressed in the manual. Ms. Sauls asks that the ecological laboratories section be rewritten to include a definition of ecological laboratory and to include certain requests for certain information in the ecological laboratories application. The comptroller believes that a definition needs to be provided by statute. Adding requests for information to the application (Form 50-166) may be considered by the comptroller apart from this rulemaking.

Ms. Sauls points out that in the third paragraph, the last sentence on page 13 has a reference to Tax Code, §23.54(a), which is not relevant to the topic addressed in the paragraph. The comptroller believes that the footnote 85 reference to Tax Code, §23.54(a), is appropriate since it addresses the filing of a valid application with the chief appraiser which is the subject matter of the paragraph. Ms. Sauls requests that the manual reiterate the property owner's responsibility of notifying the chief appraiser of any changes of use and possible penalties. The comptroller believes that the references to this issue on pages 14 and 16 are sufficient to address informing property owners of their obligation of notifying the chief appraiser of changes of use.

The Tarrant Appraisal District (TAD) submitted comments based on language in the proposed manual regarding the application of the court's holding in *Bexar Appraisal District v. Savage Investments, Ltd., et al*, 2014 Tex. App. LEXIS 12472 (Tex. App. - San Antonio, November 19, 2014) (memorandum opinion). TAD comments that the mention of *Savage* should be moved from the discussion of rollback procedures on page 31 to page 15 which discusses property which erroneously receives agricultural appraisal. TAD also comments that if the reference to *Savage* is not moved, there should at least be a cross-reference to the discussion of erroneously granted special appraisal. TAD also asks that the manual should make clear that *Savage* only deals with reappraisal situations. The comptroller makes no change. The reference to the *Savage* case in the manual is minimal and is correct in the context in which it is referenced. The passage in the manual in discussing the court's holding does reference reappraisal.

These amendments are adopted under Tax Code, §§5.05 (Appraisal Manuals and Other Materials); 23.41 (Appraisal); and 23.52 (Appraisal of Qualified Agricultural Land), which provide the comptroller with the authority to prepare and issue publications relating to the appraisal of property and to promulgate rules specifying the methods to apply and the procedures to use in appraising qualified agricultural and open-space land for ad valorem tax purposes.

These amendments implement Tax Code, §23.41 (Appraisal) and §23.52 (Appraisal of Qualified Agricultural Land).

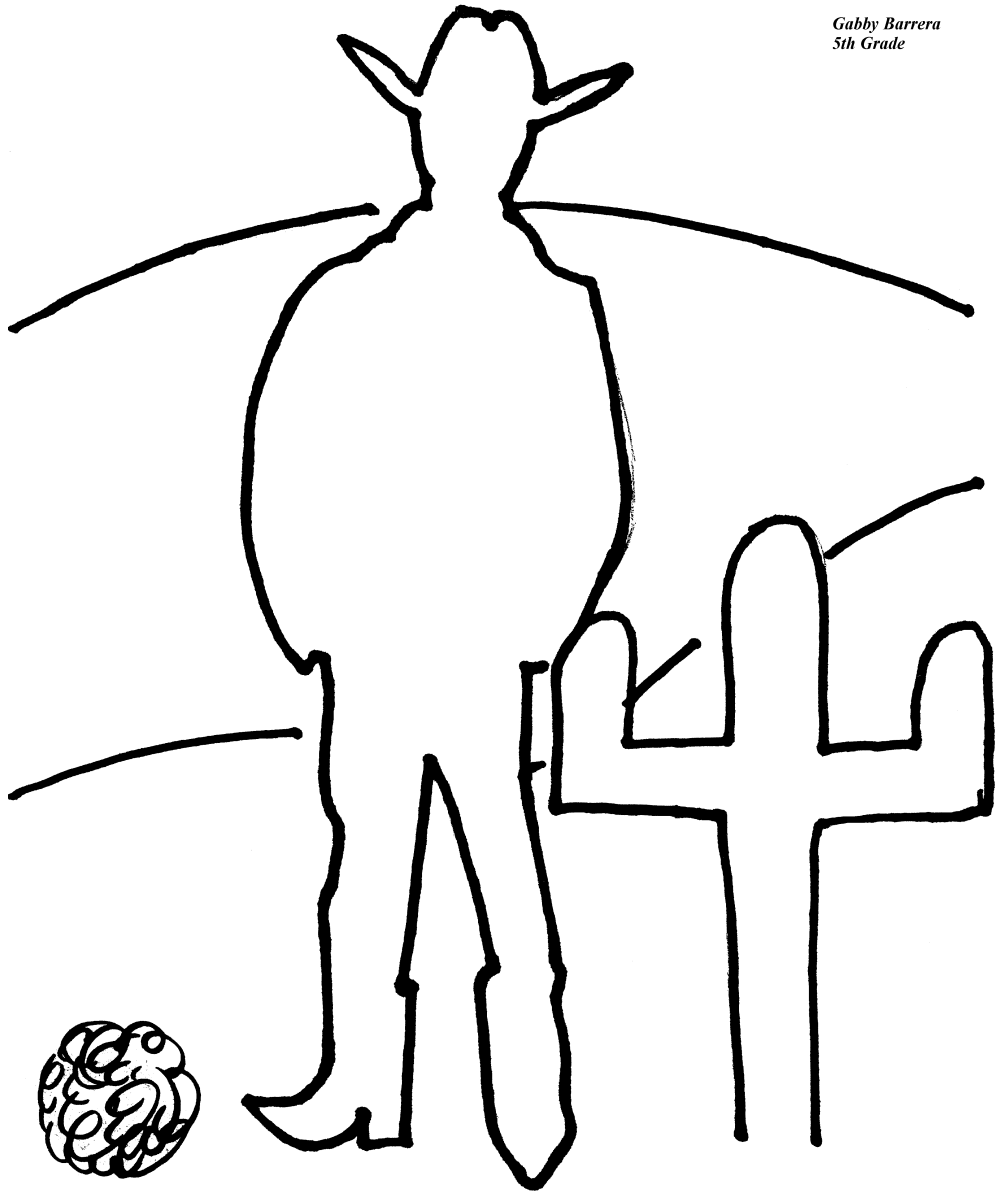
The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 26, 2017.

TRD-201702790
Lita Gonzalez
General Counsel
Comptroller of Public Accounts
Effective date: August 15, 2017
Proposal publication date: March 31, 2017
For further information, please call: (512) 475-0387

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Gabby Barrera
5th Grade



REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Commission on State Emergency Communications

Title 1, Part 12

The Commission on State Emergency Communications (CSEC) is conducting its annual review of the definitions of the terms "local exchange access line" and "equivalent local exchange access line" as required by Health and Safety Code §771.063(c). Due to the potentially disruptive changes resulting from advancements in technology, particularly with respect to mobile Internet Protocol-enabled services, CSEC takes no position on whether the definitions in §255.4 sufficiently define the foregoing terms.

Persons wishing to comment on CSEC's initial determination or recommend amendments to §255.4 may do so by submitting written comments within 30 days following publication of this notice in the *Texas Register* to Patrick Tyler, General Counsel, Commission on State Emergency Communications, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701-3942; by facsimile to (512) 305-6937; or by email to patrick.tyler@csec.texas.gov. Please include "Comments on CSEC's Annual Review of Rule 255.4" in the subject line of your letter, fax, or email.

TRD-201702806

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Filed: July 27, 2017



Texas Historical Commission

Title 13, Part 2

The Texas Historical Commission files this notice of intent to review and consider for re-adoption, revision or repeal all rules in the following chapters of the Texas Administrative Code, Title 13, Part 2, Texas Historical Commission:

Chapter 11 Administrative Department

Chapter 12 Texas Historic Courthouse Preservation Program

Chapter 14 Texas Historical Artifacts Acquisition Program

Chapter 15 Administration of Federal Programs

Chapter 16 Historic Sites

Chapter 17 State Architectural Programs

Chapter 20 Awards

Chapter 22 Cemeteries

Chapter 23 Publications

Chapter 25 Office of the State Archeologist

Chapter 26 Practice and Procedure

Pursuant to Texas Government Code §2001.039, the Texas Historical Commission will assess whether the reason(s) for initially adopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, reflects current legal and policy considerations, reflects current general provisions in the governance of the Commission and/or whether it is in compliance with Chapter 2001 of the Texas Government Code (Administrative Procedures Act).

Elsewhere in this issue of the *Texas Register*, the Texas Historical Commission concurrently proposes amendments to rules in Chapter 11 (Administration Dept.); Chapter 12 (Texas Historic Courthouse Preservation Program); Chapter 15 (Administration of Federal Programs); Chapter 16 (Historic Sites); Chapter 17 (State Architectural Programs); Chapter 22 (Cemeteries); Chapter 25 (State Archeological Program); and Chapter 26 (Practice and Procedure).

The Commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*. Comments as to whether the reasons for initially adopting these rules continue to exist may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276, or by email to mark.wolfe@thc.state.tx.us. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TRD-201702878

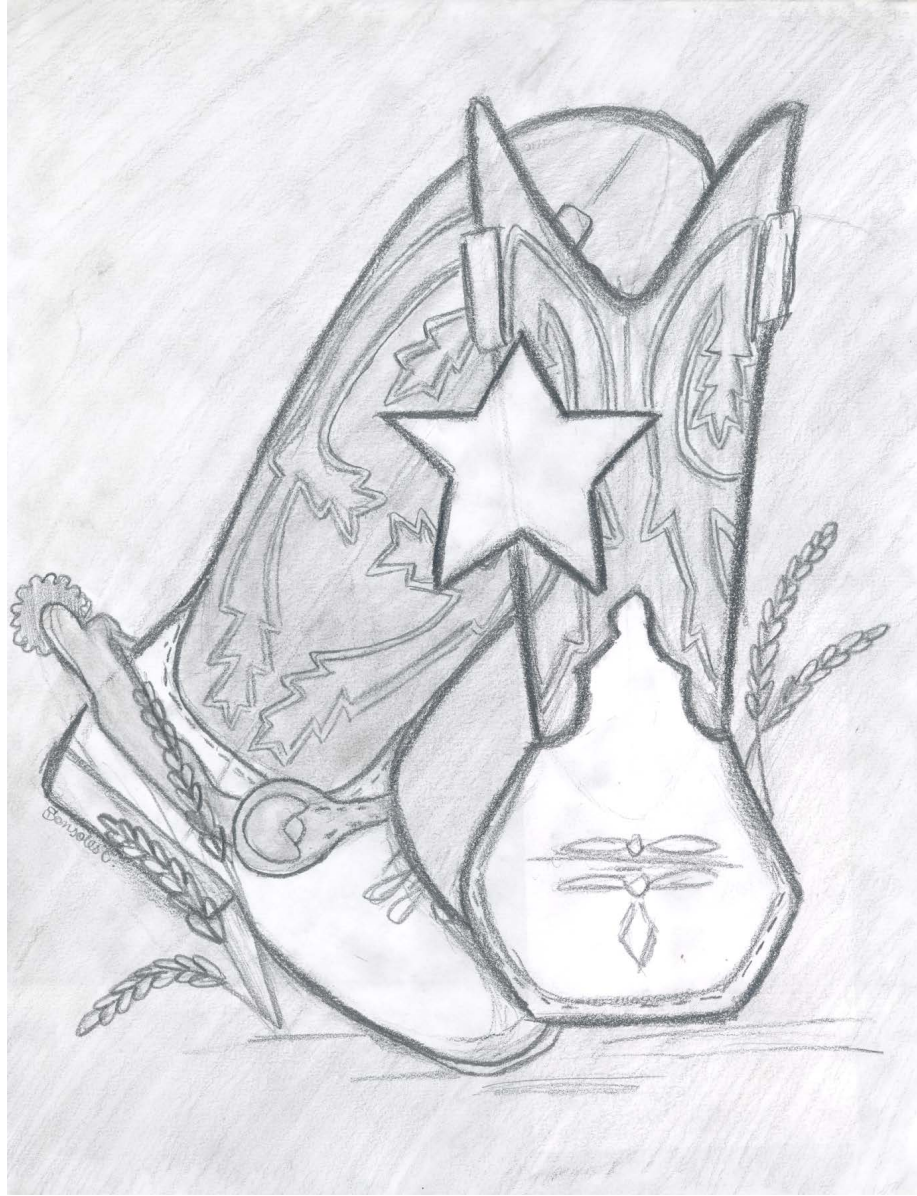
Mark Wolfe

Executive Director

Texas Historical Commission

Filed: August 1, 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.

Texas Department of Agriculture

Request for Grant Applications

Pursuant to the Texas Agriculture Code Chapter 21, the Texas Department of Agriculture (TDA) requests applications for projects, to be completed during the period from October 1, 2017, through September 30, 2019, that collect and distribute surplus agricultural products to food banks and other charitable organizations that serve needy or low-income individuals.

Eligibility.

Grant applications will be accepted from non-profit organizations that have been determined by the Internal Revenue Service (IRS) to be exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. These organizations must be established and operate for religious, charitable or educational purposes and not for financial gain. Additionally, these organizations must not distribute any of their income to their members, directors or officers. Organizations must have at least 5 years of experience coordinating a statewide network of food banks and charitable organizations that serve each of the 254 counties in this state.

For purposes of this application, the term "agricultural product" means an agricultural, apicultural, horticultural, or vegetable food product, either in its natural or processed state, for human consumption, including: (1) fish or other aquatic species; (2) livestock, a livestock product, or a livestock by-product; (3) poultry, a poultry product, or a poultry by-product; (4) wildlife processed for food or by-products; and (5) fruit, vegetables and grains. In addition to agricultural products grown in excess of a producer's needs, the term "surplus" includes any products not meeting that definition that are made available by a producer for distribution to food banks and other charitable organizations that serve the needy or low-income individuals.

TDA will follow §2155.444 of the Texas Government Code, relating to preference to Texas and United States products and Texas services, in making awards under this request for applications.

Funding Parameters.

Awards are subject to the availability of funds. If funds are not appropriated or collected for this purpose, Applicants will be informed accordingly.

Applications are limited to a total of \$4,300,000 in fiscal year 2018 and \$4,300,000 in fiscal year 2019. Funding is limited to the operation of a program that coordinates the collection and transportation of surplus agricultural products to a statewide network of food banks or other charitable organizations that provide food to needy or low-income individuals.

Application Requirements.

Application and information can be downloaded from the Grants Office section under the Grants and Services tab at www.TexasAgriculture.gov.

Submission Information.

Only materials actually received by TDA by 5:00 p.m. CT on Thursday, August 24, 2017, will be reviewed as part of the proposal.

For questions regarding submission of the proposal and/or TDA requirements, please contact TDA's Grants Office, at (512) 463-6695, or by email at Grants@TexasAgriculture.gov.

TRD-201702848

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Filed: July 31, 2017

Office of the Attorney General

Texas Water Code and Texas Health and Safety Code Settlement Notice

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

Case Title and Court: *State of Texas v. Jewel Thomas Rutledge*; Cause No. D-1-GN-14-004614, in the 201st Judicial District Court, Travis County, Texas.

Nature of the Defendant's Operations: Jewel Thomas Rutledge ("Defendant") owns approximately 3.5 acres of land near Groesbeck, Texas in Limestone County (the "Site"). Defendant leased the Site to B & M Unclaimed Freight, Inc., which disposed of solid waste at the Site without authorization from the Texas Commission on Environmental Quality. Waste illegally disposed and stored at the Site includes wood pallets, unlabeled drums, trash, vehicles, scrap tires, scrap metal, paint, paint containers, transformers, and batteries. TCEQ investigations revealed that various barrels stored in trailers at the Site were leaking their contents from the trailers and onto the ground. In addition, there were open and exposed containers of muriatic acid, naphtha, and drain cleaner on the ground at the Site. Defendant has removed the trailers and their contents, but the piles of waste still remain at the Site.

Proposed Agreed Judgment: The Agreed Final Judgment awards the State of Texas civil penalties in the amount of \$12,500 and attorney's fees in the amount of \$2,800. The Agreed Final Judgment also requires the Defendant to remove and properly dispose of any remaining waste at the Site, and determine whether the release is subject to the Texas Risk Reduction Program.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment, and written comments on the proposed settlement, should be directed to Amy Davis, Assistant Attorney General, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911. Written com-

ments must be received within 30 days of publication of this notice to be considered.

TRD-201702902
Amanda Crawford
General Counsel
Office of the Attorney General
Filed: August 2, 2017

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/07/17 - 08/13/17 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 08/07/17 - 08/13/17 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and §303.009³ for the period of 08/01/17 - 08/31/17 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 08/01/17 - 08/31/17 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

Section number and title	Texas Register page number of error at adoption	Rule text as filed as adopted	Corrected rule text
19 TAC §127.13. Applied Mathematics for Technical Professionals (One Credit), Adopted 2015.	40 TexReg 6592	(c)(2)(E) express numbers as powers of 10 as applied to business and industry settings;	(c)(2)(E) express numbers as powers of 10 in business and industry settings;

TRD-201702904
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 2, 2017

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Correction of Error: 19 TAC Chapter 130, Subchapters A, B, G, H, L, and P

The Texas Education Agency filed on December 2, 2015, the following adoptions for publication in the December 18, 2015 issue of the *Texas Register*:

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter A, Agriculture, Food, and Natural Resources (TRD #201505253)
- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter B, Architecture and Construction (TRD #201505254)

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

³ For variable rate commercial transactions only.

TRD-201702853
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: August 1, 2017

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Texas Education Agency

Correction of Error: 19 TAC Chapter 127, Subchapter B

The Texas Education Agency filed on September 10, 2015, the following adoption for publication in the September 25, 2015 issue of the *Texas Register*:

- Adopted New 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter B, High School (TRD #201503676)

The State Board of Education adopted new 19 TAC Chapter 127, Subchapter B, to be effective August 28, 2017. The following non-substantive, technical correction has been identified subsequent to publication of the adoption in the September 25, 2015 issue of the *Texas Register*: Due to error by the Texas Education Agency, the following change should be made.

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter G, Government and Public Administration (TRD #201505255)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter H, Health Science (TRD #201505256)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter L, Law, Public Safety, Corrections, and Security (TRD #201505258)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter P, Transportation, Distribution, and Logistics (TRD #201505260)

The State Board of Education adopted new 19 TAC Chapter 130, Subchapters A, B, G, H, L, and P, to be effective August 28, 2017. The following non-substantive, technical corrections have been identified subsequent to publication of the adoptions in the December 18, 2015 issue of the *Texas Register*: Due to error by the Texas Education Agency, the following changes should be made.

Section number and title	Texas Register page number of error at adoption	Rule text as filed as adopted	Corrected rule text
19 TAC §130.24. Greenhouse Operation and Production (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(3)(B) develop knowledge of plant anatomy structures and functions for plant identification; and	(c)(3)(B) develop knowledge of plant anatomical structures and functions for plant identification; and
19 TAC §130.45. Building Maintenance Technology II (Two Credits), Adopted 2015.	40 TexReg 9153	(c)(6)(B) explain how to read and convert from one scale to another using test equipment;	(c)(6)(B) explain how to read test equipment and convert from one scale to another;
19 TAC §130.58. Electrical Technology II (Two Credits), Adopted 2015.	40 TexReg 9175	(c)(9)(C) install lugs and connector onto conductors;	(c)(9)(C) install lugs and connectors onto conductors;
19 TAC §130.208. Public Management and Administration (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(8)(A) maintain thorough familiarity with public information requirements; records maintenance and retention requirements such as the Public Information Act, Texas Government Code, Chapter 552; and the records retention requirements of Texas Government Code, Chapter 441, and Texas Local Government Code, Chapters 201-205;	(c)(8)(A) maintain thorough familiarity with public information requirements and records maintenance and retention requirements such as the Public Information Act (Texas Government Code, Chapter 552) and the records retention requirements of Texas Government Code, Chapter 441, and Texas Local Government Code, Chapters 201-205;
19 TAC §130.228. Health Informatics (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: Business Management I and Medical Terminology. Students shall be awarded one credit for successful	(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: Business Information Management I and Medical Terminology. Students shall be awarded one credit for

		completion of this course.	successful completion of this course.
19 TAC §130.230. Pharmacology (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(2)(D) trace the interaction and antagonist receptor;	(c)(2)(D) trace the interaction and antagonist receptors;
19 TAC §130.230. Pharmacology (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(8)(B) describe how technology applications approve efficiency in the pharmacy; and	(c)(8)(B) describe how technology applications improve efficiency in the pharmacy; and
19 TAC §130.337. Law Enforcement II (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(3)(A) support the use of telecommunication mobile, handheld radio systems, and current technology;	(c)(3)(A) support the use of telecommunication mobile and handheld radio systems and current technology;
19 TAC §130.337. Law Enforcement II (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(3)(C) conduct simulated radio and data communications using mobile data computer and handheld radios;	(c)(3)(C) conduct simulated radio and data communications using mobile data computers and handheld radios;
19 TAC §130.337. Law Enforcement II (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(9)(C) differentiate domestic violence protective orders, no-contact orders, and orders to pick up children; and	(c)(9)(C) differentiate among domestic violence protective orders, no-contact orders, and orders to pick up children; and
19 TAC §130.338. Criminal Investigation (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(3)(E) create and plan on how to use digital investigative photography during an investigation and crime scene;	(c)(3)(E) plan how to use digital investigative photography during an investigation at a crime scene;
19 TAC §130.338. Criminal Investigation (One Credit), Adopted 2015.	40 TexReg 9123 (not republished)	(c)(15)(D) describe the composition and method of analysis for gunshot residue and primer residue; and	(c)(15)(D) describe the composition of and method of analysis for gunshot residue and primer residue; and
19 TAC § 130.339 Forensic Science (One Credit), Adopted 2015.	40 TexReg 9232	(c)(14)(D) describe the composition and method of analysis for gunshot residue and primer residue; and	(c)(14)(D) describe the composition of and method of analysis for gunshot residue and primer residue; and
19 TAC §130.404. Principles of Technology (One Credit), Adopted 2015.	40 TexReg 9237	(c)(3)(L) express and manipulate relationships among physical variables	(c)(3)(L) express and manipulate relationships among physical variables

		quantitatively, including the use of graphs, charts, and equations.	quantitatively, including using graphs, charts, and equations.
19 TAC §130.446. Small Engine Technology II (Two Credits), Adopted 2015.	40 TexReg 9269	(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Small Engine Technology. Students shall be awarded two credits for successful completion of this course.	(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Small Engine Technology I. Students shall be awarded two credits for successful completion of this course.
19 TAC §130.446. Small Engine Technology II (Two Credits), Adopted 2015.	40 TexReg 9270	(c)(6)(A) use a variety of resources to research, trouble shoot, and diagnosis concerns and failures; and	(c)(6)(A) use a variety of resources to research, trouble shoot, and diagnose concerns and failures; and
19 TAC §130.447. Automotive Basics (One Credit), Adopted 2015.	40 TexReg 9272	(c)(1)(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as safety glasses, other personal protective equipment (PPE), and safety data sheets (SDS);	(c)(1)(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as wearing safety glasses and other personal protective equipment (PPE) and maintaining safety data sheets (SDS);
19 TAC §130.449. Automotive Technology I: Maintenance and Light Repair (Two Credits), Adopted 2015.	40 TexReg 9273	(c)(1)(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as safety glasses and other personal protective equipment (PPE) and safety data sheets (SDS);	(c)(1)(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as wearing safety glasses and other personal protective equipment (PPE) and maintaining safety data sheets (SDS);

19 TAC §130.450. Automotive Technology II: Automotive Service (Two Credits), Adopted 2015	40 TexReg 9275	(c)(1)(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as safety glasses and other personal protective equipment (PPE) and safety data sheets (SDS);	(c)(1)(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as wearing safety glasses and other personal protective equipment (PPE) and maintaining safety data sheets (SDS);
19 TAC §130.450. Automotive Technology II: Automotive Service (Two Credits), Adopted 2015.	40 TexReg 9276	(c)(6)(I) remove and install starter in a vehicle;	(c)(6)(I) remove and install a starter in a vehicle;
19 TAC §130.455. Basic Collision Repair and Refinishing (One Credit), Adopted 2015.	40 TexReg 9283	(c)(1)(A) demonstrate awareness of workplace safety and environmental responsibilities in automotive collision and refinishing and understand the use of personal protective equipment;	(c)(1)(A) demonstrate awareness of workplace safety and environmental responsibilities in automotive collision repair and refinishing and understand the use of personal protective equipment;
19 TAC §130.456. Collision Repair (Two Credits), Adopted 2015.	40 TexReg 9284	(c)(4)(D) demonstrate knowledge of new and emerging collision repair.	(c)(4)(D) demonstrate knowledge of new and emerging collision repair technologies.

TRD-201702905
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 2, 2017



Correction of Error: 19 TAC Chapter 130, Subchapters C, D, F, I, and J

The Texas Education Agency filed on September 10, 2015, the following adoptions for publication in the September 25, 2015 issue of the *Texas Register*:

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter C, Arts, Audio/Video Technology, and Communications (TRD #201503677)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter D, Business Management and Administration (TRD #201503678)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter F, Finance (TRD #201503680)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter I, Hospitality and Tourism (TRD #201503681)

- Adopted New 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter J, Human Services (TRD #201503682)

The State Board of Education adopted new 19 TAC Chapter 130, Subchapters C, D, F, I, and J, to be effective August 28, 2017. The following non-substantive, technical corrections have been identified subsequent to publication of the adoptions in the September 25, 2015 issue

of the *Texas Register*. Due to error by the Texas Education Agency, the following changes should be made.

Section number and title	Texas Register page number of error at adoption	Rule text as filed as adopted	Corrected rule text
19 TAC §130.83. Animation I (One Credit), Adopted 2015.	40 TexReg 6620	(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Art I or Principals of Art, Audio/Video Technology, and Communications. Recommended corequisite: Animation I Lab. Students shall be awarded one credit for successful completion of this course.	(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Art I or Principles of Art, Audio/Video Technology, and Communications. Recommended corequisite: Animation I Lab. Students shall be awarded one credit for successful completion of this course.
19 TAC §130.84. Animation I Lab (One Credit), Adopted 2015.	40 TexReg 6621	(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Art I and Principals of Arts, Audio/Video Technology, and Communications. Corequisite: Animation I. This course must be taken concurrently with Animation I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Animation I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.	(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Art I and Principles of Arts, Audio/Video Technology, and Communications. Corequisite: Animation I. This course must be taken concurrently with Animation I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Animation I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.
19 TAC §130.88. Audio/Video Production I Lab (One Credit), Adopted 2015.	40 TexReg 6628	(a) General requirements. This course is recommended for students in Grades 9-12.	(a) General requirements. This course is recommended for students in Grades 9-12.

		<p>Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications or Digital and Interactive Media in the Information Technology Career Cluster. Corequisite: Audio/Video Production I. This course must be taken concurrently with Audio/Video Production I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Audio/Video Production I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.</p>	<p>Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications or Digital Media in the Information Technology Career Cluster. Corequisite: Audio/Video Production I. This course must be taken concurrently with Audio/Video Production I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Audio/Video Production I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.</p>
<p>19 TAC §130.91. Digital Audio Technology I (One Credit), Adopted 2015.</p>	<p>40 TexReg 6634</p>	<p>(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications or Digital and Interactive Media (DIM) or both Audio/Video Production I and Audio/Video Production I Lab. Students shall be awarded one credit for successful completion of this course.</p>	<p>(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications or Digital Media or both Audio/Video Production I and Audio/Video Production I Lab. Students shall be awarded one credit for successful completion of this course.</p>
<p>19 TAC §130.91. Digital Audio Technology I (One Credit), Adopted 2015.</p>	<p>40 TexReg 6635</p>	<p>(b)(3) Digital Audio Technology I was designed to provide students interested in audio production careers such</p>	<p>(b)(3) Digital Audio Technology I was designed to provide students interested in audio production careers such as</p>

		<p>as audio for radio and television broadcasting, audio for video and film, audio for animation and game design, music production and live sound, and additional opportunities and skill sets. Digital Audio Technology I does not replace Audio Video Production courses but is recommended as a single credit, co-curricular course with an audio production technical emphasis. This course can also be paired with Digital and Interactive Media. Students will be expected to develop an understanding of the audio industry with a technical emphasis on production and critical-listening skills.</p>	<p>audio for radio and television broadcasting, audio for video and film, audio for animation and game design, music production and live sound, and additional opportunities and skill sets. Digital Audio Technology I does not replace Audio Video Production courses but is recommended as a single credit, co-curricular course with an audio production technical emphasis. This course can also be paired with Digital Media. Students will be expected to develop an understanding of the audio industry with a technical emphasis on production and critical-listening skills.</p>
<p>19 TAC §130.92. Digital Audio Technology II (One Credit), Adopted 2015.</p>	<p>40 TexReg 6636</p>	<p>(b)(3) Digital Audio Technology II was designed to provide additional opportunities and skill sets for students interested in audio production careers such as audio for radio and television broadcasting, audio for video and film, audio for animation and game design, and music production and live sound. Digital Audio Technology II does not replace Audio Video Production courses but is recommended as a single credit, co-curricular course with an audio production technical emphasis. This course can also be paired with Digital</p>	<p>(b)(3) Digital Audio Technology II was designed to provide additional opportunities and skill sets for students interested in audio production careers such as audio for radio and television broadcasting, audio for video and film, audio for animation and game design, and music production and live sound. Digital Audio Technology II does not replace Audio Video Production courses but is recommended as a single credit, co-curricular course with an audio production technical emphasis. This course can also be paired with Digital</p>

		and Interactive Media (DIM). Students will be expected to develop an understanding of the audio industry with a technical emphasis on production and critical-listening skills.	Media. Students will be expected to develop an understanding of the audio industry with a technical emphasis on production and critical-listening skills.
19 TAC §130.132. Principles of Business, Marketing, and Finance (One Credit), Adopted 2015.	40 TexReg 6601 (not republished)	(c)(4)(C) identify factors affecting a business' profits, revenues, and expenses.	(c)(4)(C) identify factors affecting business profits, revenues, and expenses.
19 TAC §130.133. Touch System Data Entry (One-Half Credit), Adopted 2015.	40 TexReg 6601 (not republished)	(c)(3)(D)-(F) (D) compose a variety of business documents under timed situations; (E) apply speed and accuracy in production of documents; and (F) demonstrate mastery of basic grammar, including using punctuation marks, capitalization, and sentence structure correctly.	[Delete (c)(3)(F)] (D) compose a variety of business documents under timed situations; and (E) apply speed and accuracy in production of documents.
19 TAC §130.136. Business Information Management I (One Credit), Adopted 2015.	40 TexReg 6679	(c)(6)(D) demonstrate writing techniques generating ideas and gathering information relevant to the topic and purpose while maintaining accurate records of outside sources;	(c)(6)(D) demonstrate writing techniques by generating ideas and gathering information relevant to the topic and purpose while maintaining accurate records of outside sources;
19 TAC §130.190. Statistics and Business Decision Making (One Credit), Adopted 2015.	40 TexReg 6601 (not republished)	(c)(16)(G) understand and demonstrate hypothesis one-tail tests, critical value, and p-value; and	(c)(16)(G) understand and demonstrate a one-tail test hypothesis and its associated critical values and p-value; and
19 TAC §130.190. Statistics and Business Decision Making (One Credit), Adopted 2015.	40 TexReg 6601 (not republished)	(c)(16)(H) understand and demonstrate hypothesis two-tail tests, critical value, and p-value.	(c)(16)(H) understand and demonstrate a two-tail test hypothesis and its associated critical values and p-value.

19 TAC §130.259. Hotel Management (One Credit), Adopted 2015.	40 TexReg 6707	(c)(6)(G)-(I): (G) research the local labor workforce market to determine opportunities for lodging employment; (H) investigate professional lodging organizations and development training opportunities to keep current on relevant trends and information within the lodging industry; and (I) create, design, and present lodging entrepreneurship opportunities.	[Delete (c)(6)(I)] (G) research the local labor workforce market to determine opportunities for lodging employment; and (H) investigate professional lodging organizations and development training opportunities to keep current on relevant trends and information within the lodging industry.
19 TAC §130.259. Hotel Management (One Credit), Adopted 2015.	40 TexReg 6708	(c)(12)(C) differentiate the functions of meeting and event planning as it correlates to the individual lodging property; and	(c)(12)(C) differentiate the functions of meeting and event planning and how they correlate to the individual lodging property; and
19 TAC §130.276. Counseling and Mental Health (One Credit), Adopted 2015.	40 TexReg 6715	(c)(2) The student applies mathematics, science, English language arts, and social studies in health science. The student is expected to:	(c)(2) The student applies mathematics, science, English language arts, and social studies in human services. The student is expected to:
19 TAC §130.384. Entrepreneurship (One Credit), Adopted 2015.	40 TexReg 6601 (not republished)	(c)(8)(A) explain and define basic accounting functions and terms, including assets and types of assets, cash, accounts receivable, fixed, liquid, illiquid, and inventory goods on hand;	(c)(8)(A) explain and define basic accounting functions, terms, assets, and types of assets, including cash; accounts receivable; fixed, liquid, and illiquid assets; and inventory goods on hand;

TRD-201702906
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 2, 2017

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on

the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is September 11, 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 re-

quirements 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 September 11, 2017. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: AMT ENTERPRISES, INCORPORATED dba AMT Food Mart 1; DOCKET NUMBER: 2017-0590-PST-E; IDENTIFIER: RN101558906; LOCATION: Weatherford, Parker 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; 30 TAC §334.74, by failing to investigate a suspected release of regulated substance within 30 days of discovery; and 30 TAC §334.50(d)(9)(A)(iv) and §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; PENALTY: \$13,788; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 2309 Gravel Drive Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: BARNHART WATER SUPPLY CORPORATION; DOCKET NUMBER: 2017-0369-PWS-E; IDENTIFIER: RN101265288; LOCATION: Barnhart, Irion County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(e) and Texas Health and Safety Code, §341.033(a), by failing to operate the water system under the direct supervision of a water works operator who holds an applicable, valid license; 30 TAC §290.46(t), by failing to post a legible sign at the facility's production, treatment, and storage facilities, that contains the name of the facility and an emergency telephone number where a responsible official can be contacted; 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements; 30 TAC §290.46(m)(1)(A), by failing to conduct an annual inspection of the facility's standpipe; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; and 30 TAC §290.43(c)(4), by failing to provide all water storage tanks with a liquid level indicator located at the tank site; PENALTY: \$301; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(3) COMPANY: City of Alton; DOCKET NUMBER: 2017-0472-MSW-E; IDENTIFIER: RN109705665; LOCATION: Alton, Hidalgo 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; PENALTY: \$12,000; ENFORCEMENT COORDI-

NATOR: Jonathan Nguyen, (512) 239-1661; REGIONAL OFFICE: 1804 West Jefferson Avenue Harlingen, Texas 78550-5247, (956) 425-6010.

(4) COMPANY: City of Tahoka; DOCKET NUMBER: 2016-1571-MLM-E; IDENTIFIER: RN101234847; LOCATION: Tahoka, Lynn County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(e)(3)(G), by failing to obtain an exception, pursuant to 30 TAC §290.39(l), to blend water containing chloramines and water containing free chlorine; 30 TAC §290.42(c)(1) and §290.111(a)(2), by failing to provide a minimum treatment consisting of coagulation with direct filtration and adequate disinfection for groundwater under the influence of surface water; 30 TAC §290.41(c)(1)(C), by failing to ensure that no water well is located within 500 feet of animal feed lots; 30 TAC §290.44(h)(1)(A), by failing to install a backflow prevention assembly or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TAC §290.47(f); 30 TAC §290.44(h)(3), by failing to provide overhead bulk water dispensing stations with an air gap between the filling outlet hose and the receiving tank to protect against back siphonage and cross-contamination; 30 TAC §290.46(u), by failing to plug or test an abandoned public water supply well owned by the system with cement according to 16 TAC Chapter 76; 30 TAC §290.41(c)(1)(F), by failing to obtain sanitary control easements that cover the land within 150 feet of the facility's five wells; 30 TAC §290.46(j), by failing to complete customer service inspection certificates prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities using commission Form 20699; 30 TAC §290.46(m)(1)(A), by failing to conduct an annual inspection of the 0.2 million gallon ground storage tank; 30 TAC §290.46(s)(1), by failing to calibrate the facility's five well meters at least once every three years; 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; 30 TAC §290.46(z), by failing to create a nitrification action plan for systems distributing chloraminated water; 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; 30 TAC §290.46(f)(2), (3)(B)(v), and (D)(ii), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; and 30 TAC §330.15(c), by failing to cause, suffer, allow, or permit the unauthorized disposal of municipal solid waste; PENALTY: \$5,622; Supplemental Environmental Project offset amount of \$4,498; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(5) COMPANY: Colleen Ortiz dba River Oaks Water System and Gerard Ortiz dba River Oaks Water System; DOCKET NUMBER: 2017-0506-PWS-E; IDENTIFIER: RN101189348; LOCATION: Kingsland, Burnet County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §§290.46(f)(4), 290.106(e), and 290.107(e), by failing to provide the results of nitrate sampling, minerals sampling, volatile organic chemical contaminants sampling, and synthetic organic chemical contaminants sampling to the executive director (ED); 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 ED each quarter by

the tenth day of the month following the end of each quarter, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a DLQOR; 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, and 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; and 30 TAC §290.117(i)(6) and (j), by failing to timely provide consumer notification of lead tap water monitoring results to persons served at the sites that were tested, and failing to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed; PENALTY: \$1,030; ENFORCEMENT COORDINATOR: Sarah Kim, (512) 239-4728; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(6) COMPANY: COMMUNITY WATER SERVICE, INCORPORATED; DOCKET NUMBER: 2016-1947-PWS-E; IDENTIFIER: RN101268100; LOCATION: Little Elm, Denton County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 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 executive director (ED) for the January 1, 2013 - December 31, 2013, January 1, 2014 - December 31, 2014, and January 1, 2015 - December 31, 2015, monitoring periods, and 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, 2014 - December 31, 2014, and January 1, 2015 - December 31, 2015, monitoring periods; 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 failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility, and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2014; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a Disinfectant Level Quarterly Operating Report to the ED for the fourth quarter of 2015, and failing to provide the results of nitrate sampling for the January 1, 2013 - December 31, 2013, monitoring period; 30 TAC §290.117(c)(2)(D), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2004 - December 31, 2012, monitoring period; and 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 10091 for calendar years 2012 - 2015; PENALTY: \$1,840; ENFORCEMENT COORDINATOR: James Fisher, (512) 239-2537; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: Dwain Self; DOCKET NUMBER: 2017-0340-WQ-E; IDENTIFIER: RN109114413; LOCATION: Junction, Kimble County; TYPE OF FACILITY: recreational vehicle park and campsites; RULES VIOLATED: 30 TAC §281.25(a)(4), and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$1,025; ENFORCEMENT COORDINATOR: Alejandro Laje, (512) 239-2547; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(8) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2017-0174-AIR-E; IDENTIFIER: RN100210665; LOCATION: La Porte, Harris County; TYPE OF FACILITY: hydrocarbon storage

terminal; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review (NSR) Permit Number 20289, Special Conditions (SC) Number 13.B, Federal Operating Permit (FOP) Number O1339, Special Terms and Conditions (STC) Number 13, and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain a record of the oxygen concentration at an averaging period of six minutes or less in the stack for the Marine Vapor Combustor, Emissions Point Number MVCS1; 30 TAC §§101.20(1), 116.115(c), and 122.143(4), NSR Permit Number 20289, SC Number 10.A, FOP Number O1339, STC Numbers 1.A and 13, 40 Code of Federal Regulations §60.18(c)(3)(ii), and THSC, §382.085(b), by failing to operate the flare at the required minimum net heating value of 300 British thermal units per standard cubic foot; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O1339, General Terms and Conditions, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$22,625; Supplemental Environmental Project offset amount of \$11,312; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2016-1003-AIR-E; IDENTIFIER: RN102323268; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), New Source Review (NSR) Permit Number 19930, Special Conditions (SC) Numbers 11 and 24, and Federal Operating Permit (FOP) Number O1641, Special Terms and Conditions (STC) Number 19, by failing to monitor the total sulfur content of Merox Off Gas fuel to the Heat Recovery Unit burners; 30 TAC §§116.115(c), 117.310(c)(1), and 122.143(4), THSC, §382.085(b), NSR Permit Number 8418, SC Number 1, and FOP Number O1641, STC Numbers 1.A and 19, by failing to comply with the permitted carbon monoxide hourly emissions rate and concentration limit; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), THSC, §382.085(b), NSR Permit Numbers 20698 and PSDTX797M1, SC Number 19.B, and FOP Number O1641, STC Number 19, by failing to maintain the minimum liquid flow rate to the Scrubber, Emissions Point Number CS-1; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), THSC, §382.085(b), NSR Permit Numbers 19930, PSDTX797M1, and PSDTX790, SC Number 18, and FOP Number O1641, STC Number 19, by failing to comply with the maximum authorized firing rate; and 30 TAC §122.143(4) and §122.145(2)(A), THSC, §382.085(b), and FOP Number O1641, General Terms and Conditions, by failing to report all instances of deviations; PENALTY: \$119,750; Supplemental Environmental Project offset amount of \$47,900; ENFORCEMENT COORDINATOR: Jo Hunsberger, (512) 239-0577; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: EVEREST VIEW CORPORATION dba Quick Track 8; DOCKET NUMBER: 2017-0619-PST-E; IDENTIFIER: RN100533074; LOCATION: Mesquite, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: \$2,438; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: GE Packaged Power, Incorporated; DOCKET NUMBER: 2017-0353-AIR-E; IDENTIFIER: RN100217959; LOCATION: Houston, Harris County; TYPE OF FACILITY: turbines and turbine generator sets manufacturing plant; RULES VIOLATED: 30 TAC §122.121 and §122.210(a), and Texas Health and Safety Code, §382.054 and §382.085(b), by failing to submit a revision

application for a Federal Operating Permit to include all emissions units; PENALTY: \$4,725; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: Hannelore Crane dba Country Village Mobile Home Estates; DOCKET NUMBER: 2016-1387-PWS-E; IDENTIFIER: RN101267466, RN102675121, and RN101225506; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 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 executive director (ED), and 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 §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the ED, and 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 §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQR) to the ED each quarter by the tenth day of the month following the end of the quarter; 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 DLQR; PENALTY: \$8,049; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(13) COMPANY: HEAVENIN, INCORPORATED dba Manor Grocery; DOCKET NUMBER: 2017-0400-PST-E; IDENTIFIER: RN102356292; LOCATION: Manor, Travis County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(14) COMPANY: James A. Bray dba Texas Pride Trailers; DOCKET NUMBER: 2016-2143-AIR-E; IDENTIFIER: RN105587745; LOCATION: Madisonville, Madison County; TYPE OF FACILITY: trailer manufacturing plant; RULES VIOLATED: 30 TAC §116.110(a), and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing and operating a source of air emissions; PENALTY: \$1,125; ENFORCEMENT COORDINATOR: Shelby Orme, (512) 239-4575; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(15) COMPANY: Jana L. Marsden; DOCKET NUMBER: 2017-0604-MLM-E; IDENTIFIER: RN105883151; LOCATION: Georgetown, Williamson County; TYPE OF FACILITY: leasing and storage facility; RULES VIOLATED: 30 TAC §213.4(a)(1) and (j)(3), and Water Pollution Abatement Plan (WPAP) Number 11-10040701, Standard Conditions Number 6, by failing to obtain approval of a modification to an approved WPAP prior to initiating a regulated activity over the Edwards Aquifer Recharge Zone; 30 TAC §213.5(b)(4)(D)(ii)(II) and WPAP Number 11-10040701, Standard Conditions Number 17, by failing to submit a certified letter from a Texas licensed professional engineer stating that the permanent best management practices (BMPs) were constructed and are functioning as designed; 30 TAC §213.4(k) and §213.5(b)(5)(A), and WPAP Number 11-10040701, Standard Conditions Number 18, by failing

to maintain permanent BMPs after construction was completed; and TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of industrial wastewater into or adjacent to any water in the state; PENALTY: \$7,500; ENFORCEMENT COORDINATOR: Larry Butler, (512) 239-2543; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(16) COMPANY: JOMOVSM LLC; DOCKET NUMBER: 2017-0246-MWD-E; IDENTIFIER: RN101202836; LOCATION: Tarrant County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), and 30 TAC §305.65 and §305.125(2), by failing to maintain authorization to discharge wastewater into or adjacent to any water in the state; and TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of sewage into or adjacent to water in the state; PENALTY: \$13,387; ENFORCEMENT COORDINATOR: Ross Luedtke, (512) 239-3157; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: Lamar State College-Orange; DOCKET NUMBER: 2017-0492-PWS-E; IDENTIFIER: RN109663435; LOCATION: Orange, Orange County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(b)(1) and (e)(2), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 30 TAC §290.46(n)(1), by failing to maintain accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank at the facility; PENALTY: \$500; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(18) COMPANY: Lion Elastomers LLC; DOCKET NUMBER: 2017-0178-AIR-E; IDENTIFIER: RN100224799; LOCATION: Port Neches, Jefferson County; TYPE OF FACILITY: rubber manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), Texas Health and Safety Code, §382.085(b) Federal Operating Permit Number O1224, Special Terms and Conditions Number 13, and New Source Review Permit Number 9908, Special Conditions Number 17, by failing to maintain records for the corrective actions taken; PENALTY: \$7,500; Supplemental Environmental Project offset amount of \$3,000; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(19) COMPANY: LONE STAR CORRUGATED CONTAINER CORPORATION; DOCKET NUMBER: 2017-0581-PST-E; IDENTIFIER: RN100857358; LOCATION: Irving, Dallas County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once per month; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: MEHAR ENTERPRISES, LLC dba Brookeland Country Mart; DOCKET NUMBER: 2017-0810-PST-E; IDENTIFIER: RN101783884; LOCATION: Brookeland, Sabine County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(5)(C), by failing to have all tanks labeled in accordance with the registration using permanently affixed labels; and 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: \$3,563; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(21) COMPANY: Michael D. Emery; DOCKET NUMBER: 2017-0564-OSI-E; IDENTIFIER: RN103415931; LOCATION: Plainview, Hale County; TYPE OF FACILITY: on-site sewage facility (OSSF); RULES VIOLATED: 30 TAC §285.61(4) and Texas Health and Safety Code, §366.051(c), by failing to obtain authorization to construct prior to beginning construction of an OSSF; PENALTY: \$188; ENFORCEMENT COORDINATOR: Farhaudd Abbaszadeh, (512) 239-0779; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(22) COMPANY: Monarch Mountain Minerals and Aggregates LLC; DOCKET NUMBER: 2017-0639-AIR-E; IDENTIFIER: RN107995920; LOCATION: Cleburne, Johnson County; TYPE OF FACILITY: aggregate production site; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code (THSC), §382.085(a) and (b), by failing to prevent nuisance dust conditions; and 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to operating a source of air contaminants; PENALTY: \$2,550; ENFORCEMENT COORDINATOR: Jo Hunsberger, (512) 239-1274; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(23) COMPANY: MONTGOMERY PLACE WATER SYSTEM, INCORPORATED; DOCKET NUMBER: 2017-0203-PWS-E; IDENTIFIER: RN101210441; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(i)(6) and (j), by failing to timely mail consumer notification of lead tap water monitoring results to persons served at the sites that were tested, and failing to mail a copy of the consumer notification of tap results to the executive director (ED) along with certification that the consumer notification has been distributed for the January 1, 2016 - June 30, 2016, monitoring period in a manner consistent with TCEQ requirements; 30 TAC §290.117(f)(1)(A)(ii) and (i)(7), and §290.122(b)(2)(A) and (f), by failing to perform and submit a corrosion control study to identify optimal corrosion control treatment for the system within 12 months after the end of the January 1, 2012 - December 31, 2014, monitoring period, in which the system first exceeded the lead action level, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to perform and submit a corrosion control study for the system within 12 months after the end of the January 1, 2012 - December 31, 2014, monitoring period; and 30 TAC §290.122(c)(2)(A) and (f), by failing to timely provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a Disinfectant Level Quarterly Report for the first quarter of 2016; PENALTY: \$165; ENFORCEMENT COORDINATOR: James Fisher, (512) 239-2537; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(24) COMPANY: RSI Home Products Manufacturing, Incorporated; DOCKET NUMBER: 2017-0792-AIR-E; IDENTIFIER: RN100600287; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: wood cabinet products assembly and distribution plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(2), Federal Operating Permit (FOP) Number O2867, General Terms and Conditions (GTC), and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit a permit compliance certification no later than 30 days after the certification period; and 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O2867, GTC, and THSC, §382.085(b), by failing to submit a deviation report within 30 days after the end of each reporting period; PENALTY: \$7,313; ENFORCEMENT COORDINATOR: Trina Grieco, (210) 403-4006; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(25) COMPANY: SONORA INVESTMENTS, L.L.C.; DOCKET NUMBER: 2017-0460-PWS-E; IDENTIFIER: RN101196608; LO-

CATION: Sonora, Sutton County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.113(e) and (f)(1), by failing to collect Stage 1 Disinfection Byproducts samples and provide the results to the executive director (ED) for the January 1, 2010 - December 31, 2012, monitoring period; 30 TAC §290.115(e) and (f)(2), by failing to collect Stage 2 Disinfection Byproducts samples and provide the results to the ED for the January 1, 2014 - December 31, 2016, monitoring period; 30 TAC §290.109(d)(4)(B) (formerly 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 in May 2015; and 30 TAC §290.122(c)(2)(A) and (f), by failing to issue public notification, and submit a copy of the public notification to the ED regarding the failure to submit Disinfectant Level Quarterly Operating Reports for the third quarter of 2014 and the second quarter of 2015, failure to collect repeat distribution samples within 24 hours of being notified of a total coliform-positive sample for May 2015; and failure to collect a routine distribution water sample for coliform analysis for the month of August 2015; PENALTY: \$963; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(26) COMPANY: Trinidad Medina, Jr. dba Medina Pride RV; DOCKET NUMBER: 2017-0670-PWS-E; IDENTIFIER: RN106430754; LOCATION: Asherton, Dimmit County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e)(1) and (h)(1) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the executive director for review and approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's public drinking water well into service; 30 TAC §290.45(c)(1)(B)(iv) and THSC, §341.0315(c), by failing to provide a minimum pressure tank capacity of ten gallons per unit; and 30 TAC §290.45(c)(1)(B)(iii) and THSC, §341.0315(c), by failing to provide two or more service pumps having a total capacity of 1.0 gallon per minute per unit; PENALTY: \$420; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

TRD-201702849

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: August 1, 2017



Enforcement Orders

An agreed order was adopted regarding City of Hackberry, Docket No. 2011-2180-MWD-E on August 2, 2017, assessing \$31,575 in administrative penalties with \$6,315 deferred. Information concerning any aspect of this order may be obtained by contacting Melissa Castro, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Pasadena Refining System, Inc, Docket No. 2015-0096-AIR-E on August 2, 2017, assessing \$452,825 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Delta County Municipal Utility District, Docket No. 2015-0916-MWD-E on August 2, 2017, assessing

\$55,100 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding St. Mina Investments, LLC dba Texas Food Mart, Docket No. 2015-1394-PST-E on August 2, 2017, assessing \$11,526 in administrative penalties with \$2,834 deferred. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Marc Roger Meeker District, Docket No. 2015-1499-MWD-E on August 2, 2017, assessing \$21,920 in administrative penalties with \$4,384 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An order was adopted regarding The Dynamite, Inc. dba Country Food Mart, Docket No. 2015-1656-PST-E on August 2, 2017, assessing \$5,437 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Adam Taylor, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Targa Pipeline Mid-Continent WestTex LLC, Docket No. 2016-0645-AIR-E on August 2, 2017, assessing \$23,503 in administrative penalties with \$4,700 deferred. Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Chemours Company Fc, LLC, Docket No. 2016-1322-AIR-E on August 2, 2017, assessing \$10,501 in administrative penalties with \$2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Graham, Docket No. 2016-1501-MWD-E on August 2, 2017, assessing \$42,187 in administrative penalties with \$8,437 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chevron Phillips Chemical Company LP, Docket No. 2016-1778-AIR-E on August 2, 2017, assessing \$9,038 in administrative penalties with \$1,807 deferred. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Phillips 66 Company, Docket No. 2016-1939-AIR-E on August 2, 2017, assessing \$13,125 in administrative penalties with \$2,625 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lufkin Travel Plaza LLC, Docket No. 2016-2000-PST-E on August 2, 2017, assessing \$11,250 in administrative penalties with \$2,250 deferred. Information con-

cerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Burke Foundation, Docket No. 2016-2025-PWS-E on August 2, 2017, assessing \$3,644 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jason Fraley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Burleson, Docket No. 2016-2043-WQ-E on August 2, 2017, assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hayward Baker, Inc., Docket No. 2017-0123-AIR-E on August 2, 2017, assessing \$9,000 in administrative penalties with \$1,800 deferred. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Queen City, Docket No. 2017-0149-MWD-E on August 2, 2017, assessing \$4,400 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ariel Ramirez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Doughtie Construction Co., Inc., Docket No. 2015-1309-WQ-E on August 1, 2017, assessing \$7,189 in administrative penalties with \$1,437 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Laredo, Docket No. 2015-1842-PWS-E on August 1, 2017, assessing \$600 in administrative penalties with \$120 deferred. Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Water Control and Improvement District 96, Docket No. 2016-0421-PWS-E on August 1, 2017, assessing \$1,164 in administrative penalties with \$232 deferred. Information concerning any aspect of this order may be obtained by contacting Jason Fraley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Red Creek Municipal Utility District, Docket No. 2016-0486-PWS-E on August 1, 2017, assessing \$802 in administrative penalties with \$160 deferred. Information concerning any aspect of this order may be obtained by contacting Sarah Kim, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Point, Docket No. 2016-0745-PWS-E on August 1, 2017, assessing \$526 in administrative penalties with \$105 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement

Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Mertzson, Docket No. 2016-0748-PWS-E on August 1, 2017, assessing \$2,940 in administrative penalties with \$588 deferred. Information concerning any aspect of this order may be obtained by contacting Katy Montgomery, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ANS Platinum LLC dba Lacy Lakeview Food Mart, Docket No. 2016-0889-PST-E on August 1, 2017, assessing \$3,750 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TAHA INVESTMENTS "INC" dba Lee's Quik Pak, Docket No. 2016-1232-PST-E on August 1, 2017, assessing \$4,125 in administrative penalties with \$825 deferred. Information concerning any aspect of this order may be obtained by contacting Jonathan Nguyen, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RESEARCH LABORATORIES INC, Docket No. 2016-1326-TTR-E on August 1, 2017, assessing \$5,000 in administrative penalties with \$1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Liquid Environmental Solutions of Texas, LLC, Docket No. 2016-1604-MSW-E on August 1, 2017, assessing \$750 in administrative penalties with \$150 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SESHAA, LLC dba Vista Mini Mart, Docket No. 2016-1693-PST-E on August 1, 2017, assessing \$4,742 in administrative penalties with \$948 deferred. Information concerning any aspect of this order may be obtained by contacting Benjamin Sakmar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Greenbelt Municipal & Industrial Water Authority, Docket No. 2016-1718-PWS-E on August 1, 2017, assessing \$1,417 in administrative penalties with \$283 deferred. Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2016-1820-PWS-E on August 1, 2017, assessing \$970 in administrative penalties with \$194 deferred. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Gulf Coast Waste Disposal Authority, Docket No. 2016-2035-AIR-E on August 1, 2017, assessing \$3,638 in administrative penalties with \$727 deferred. Information concerning any aspect of this order may be obtained by contact-

ing David Carney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Glenda Bland, Docket No. 2016-2111-WQ-E on August 1, 2017, assessing \$2,938 in administrative penalties with \$587 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Earth Septic Systems, LLC, Docket No. 2016-2144-MLM-E on August 1, 2017, assessing \$4,600 in administrative penalties with \$920 deferred. Information concerning any aspect of this order may be obtained by contacting Ross Luedtke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kestrel Creek LLC dba Rancho Ponte Vineyard, Docket No. 2017-0033-MLM-E on August 1, 2017, assessing \$5,650 in administrative penalties with \$1,130 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Forged Products, Inc., Docket No. 2017-0047-AIR-E on August 1, 2017, assessing \$5,437 in administrative penalties with \$1,087 deferred. Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CARBINE KILO INC dba Ginas Kwik Pantry, Docket No. 2017-0059-PST-E on August 1, 2017, assessing \$6,129 in administrative penalties with \$1,225 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., Docket No. 2017-0063-WQ-E on August 1, 2017, assessing \$1,601 in administrative penalties with \$320 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kuhlken Farms, Ltd., Docket No. 2017-0068-MLM-E on August 1, 2017, assessing \$1,413 in administrative penalties with \$282 deferred. Information concerning any aspect of this order may be obtained by contacting Farhaud Abbaszadeh, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MUFADDAL VENTURES, INC. dba Friendly Mart, Docket No. 2017-0073-PST-E on August 1, 2017, assessing \$6,438 in administrative penalties with \$1,287 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Karen Risler dba One Stop Tire Shop, Docket No. 2017-0080-MSW-E on August 1, 2017, assessing \$250 in administrative penalties with \$50 deferred. Information concerning any aspect of this order may be obtained by contacting

Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ARNAV BUSINESS INC. dba 2920 Food Mart, Docket No. 2017-0104-PST-E on August 1, 2017, assessing \$2,642 in administrative penalties with \$528 deferred. Information concerning any aspect of this order may be obtained by contacting Benjamin Sakmar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Military Highway Water Supply Corporation, Docket No. 2017-0176-MWD-E on August 1, 2017, assessing \$1,437 in administrative penalties with \$287 deferred. Information concerning any aspect of this order may be obtained by contacting Sandra Douglas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Pinery, Inc dba S & T Food Store 3, Docket No. 2017-0228-PST-E on August 1, 2017, assessing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting John Paul Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RARA LLC dba Taylor Food Mart 88, Docket No. 2017-0241-PST-E on August 1, 2017, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Shelby Orme, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NITA CORPORATION dba Rock Island Food Mart, Docket No. 2017-0262-PST-E on August 1, 2017, assessing \$3,563 in administrative penalties with \$712 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Owens Corning Insulating Systems, LLC, Docket No. 2017-0285-AIR-E on August 1, 2017, assessing \$6,880 in administrative penalties with \$1,376 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ABF, INC., Docket No. 2017-0291-PWS-E on August 1, 2017, assessing \$1,008 in administrative penalties with \$201 deferred. Information concerning any aspect of this order may be obtained by contacting Ross Luedtke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kevin Enterprises Inc dba E Z Buy, Docket No. 2017-0325-PST-E on August 1, 2017, assessing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TXBR Ramblewood MHP, LLC, Docket No. 2017-0367-PWS-E on August 1, 2017, assessing

\$326 in administrative penalties with \$65 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Granite Shoals, Docket No. 2017-0377-PWS-E on August 1, 2017, assessing \$2,343 in administrative penalties with \$468 deferred. Information concerning any aspect of this order may be obtained by contacting Benjamin Sakmar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Time Manufacturing Company, Docket No. 2017-0466-AIR-E on August 1, 2017, assessing \$938 in administrative penalties with \$187 deferred. Information concerning any aspect of this order may be obtained by contacting Shelby Orme, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201702903

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2017



Notice of Hearing

TROPHY CLUB MUNICIPAL UTILITY DISTRICT NO. 1

SOAH Docket No. 582-17-5380

TCEQ Docket No. 2017-0567-MWD

Permit No. WQ0011593001

APPLICATION.

Trophy Club Municipal Utility District No. 1, 100 Municipal Drive, Trophy Club, Texas 76262, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011593001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,750,000 gallons per day. The draft permit also authorizes the disposal of treated domestic wastewater via irrigation of 416.9 acres of golf course. TCEQ received this application on March 1, 2016.

The facility is located at 1499 Junction Way, approximately 0.9 mile north of the intersection of State Highway 114 and Trophy Club Drive, and approximately 2.5 miles east of the intersection of U.S. Highway 377 and State Highway 114 in Denton County, Texas 76262. The treated effluent is discharged to unnamed ponds (golf course ponds) and/or an unnamed tributary; thence to Marshall Branch; thence to Grapevine Lake in Segment No. 0826 of the Trinity River Basin. The unclassified receiving water use is minimal aquatic life use for the unnamed tributary (and golf course ponds) and for Marshall Branch. The designated uses for Segment No. 0826 are high aquatic life use, public water supply, and primary contact recreation.

The TCEQ Executive Director has prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Trophy Club Municipal Utility District Svore Building, 100 Municipal Drive, Trophy Club, Texas. As a public courtesy, we have provided the following Web page to an online map of the site or the facility's

general location. The online map is not part of the application or the notice: <<https://www.tceq.texas.gov/assets/public/hb610/index.html?lat=33.005833&lng=-97.183333&zoom=13&type=r>>. For the exact location, refer to the application.

CONTESTED CASE HEARING.

The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing at:

10:00 a.m. - September 11, 2017

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The contested case hearing will be a legal proceeding similar to a civil trial in state district court. The hearing will address the disputed issues of fact identified in the TCEQ order concerning this application issued on July 12, 2017. In addition to these issues, the judge may consider additional issues if certain factors are met.

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

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

In accordance with 1 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."

INFORMATION.

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

Further information may also be obtained from CP&Y at 115 West 7th Street, Suite 1500, Fort Worth, Texas 76102 or by calling Kevin Glover, P.E. at (817) 354-0189.

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

Issued: July 26, 2017

TRD-201702892

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2017



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code

(TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the 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 **September 11, 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 A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 11, 2017**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Cecil G. Ford dba Alta Vista Mobile Home Park; DOCKET NUMBER: 2016-1673-PWS-E; TCEQ ID NUMBER: RN105874556; LOCATION: the intersection of County Road 517 and Private Road 1628 near Stephenville, Erath County; TYPE OF FACILITY: public water system; RULES VIOLATED: Texas Health and Safety Code, §341.0315(c) and 30 TAC §290.45(b)(1)(A)(i), by failing to provide a well capacity of 1.5 gallons per minute per connection; PENALTY: \$62; STAFF ATTORNEY: Eric Grady, Litigation Division, MC 175, (512) 239-0655; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: City of Paducah; DOCKET NUMBER: 2016-0216-PWS-E; TCEQ ID NUMBER: RN101385029; LOCATION: 1015 Backus Street, Paducah, Cottle County; TYPE OF FACILITY: public water system; RULES VIOLATED: 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 executive director (ED) regarding the failure to submit a Disinfectant Level Quarterly Operating Report (DLQOR), the failure to conduct routine coliform monitoring, the failure to conduct triggered source monitoring, and the failure to conduct repeat coliform monitoring; 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 failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data; 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 the quarter; and 30 TAC §290.117(c)(2)(C), (h), and (i)(1), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the ED; PENALTY: \$990; STAFF ATTORNEY: Audrey Litter, Litigation Division, MC 175, (512) 239-0684; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(3) COMPANY: City of Stockdale; DOCKET NUMBER: 2016-1972-MWD-E; TCEQ ID NUMBER: RN102916194; LOCATION: on the southeast side of County Road 401 (Old Floresville Road), approximately 1,500 feet southwest of the intersection of United States Highway 87 and County Road 401, Wilson County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(5), and Texas Pollutant Discharge Elimination System Permit Number WQ0010292001, Permit Condition Number 2.g., by failing to prevent the discharge of sewage, municipal waste, recreational waste, agricultural waste, and/or industrial waste into or adjacent to any water in the state without authorization of the commission; PENALTY: \$3,563; STAFF ATTORNEY: Elizabeth Carroll Harkrider, Litigation Division, MC 175, (512) 239-2008; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(4) COMPANY: Liberty Utilities (Woodmark Sewer) Corp.; DOCKET NUMBER: 2017-0119-WQ-E; TCEQ ID NUMBER: RN101511400; LOCATION: south of Farm-to-Market Road 346, approximately 1.2 miles west of the intersection of Farm-to-Market Road 346 and United States Highway 69, south of Tyler with associated wastewater lines along an unnamed tributary of West Mud Creek at Farm-to-Market Road 2493 and United States Highway 69, Smith County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1) and Texas Pollutant Discharge Elimination System Permit Number WQ0013168001, Permit Conditions Number 2.g., by failing to prevent the unauthorized discharge of sewage into or adjacent to water in the state; PENALTY: \$22,500; Supplemental Environmental Project offset amount of \$11,250 applied to Household Hazardous Waste Collection; STAFF ATTORNEY: Ryan Rutledge, Litigation Division, MC 175, (512) 239-0630; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(5) COMPANY: MAKLI THATTA ENTERPRISES INC dba Diamond Foods; DOCKET NUMBER: 2017-0222-PST-E; TCEQ ID NUMBER: RN103051892; LOCATION: 2331 Little York Road, Houston, Harris County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a)(1), by failing to provide corrosion protection for the UST system; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; and TWC, §26.3475(c)(2) and 30 TAC §334.51(b)(2)(B) and (C), by failing to equip each tank with spill containment and overflow prevention equipment; PENALTY: \$8,004; STAFF ATTORNEY: Adam Taylor, Litigation Division, MC 175, (512) 239-3345; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: St. PST Water Supply Corporation; DOCKET NUMBER: 2016-2114-PWS-E; TCEQ ID NUMBER: RN101194801; LOCATION: at the intersection of Farm-to-Market Road 542 and County Road 242 near Oakwood, Leon County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.117(c)(2)(B), (h), and (i), 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 executive director (ED) for the January 1 - December 31, 2013, January 1 - December 31, 2014, and January 1 - December 31, 2015, monitoring periods; 30 TAC §290.117(c)(2)(A), (h), and (i) and §290.122(c)(2)(A) and (f), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed,

and report the results to the ED for the January 1 - June 30, 2016, monitoring period, and 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 - June 30, 2016, monitoring period; and 30 TAC §290.109(c)(4)(B), by failing to collect a raw groundwater source *Escherichia coli* sample from each active source within 24 hours of being notified of a distribution total coliform-positive result during the month of October 2014; PENALTY: \$840; STAFF ATTORNEY: Eric Grady, Litigation Division, MC 175, (512) 239-0655; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-201702851
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: August 1, 2017

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Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is 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 **September 11, 2017**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO 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 DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 11, 2017**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: 242 EXPRESS, INC. dba Grapeland Express; DOCKET NUMBER: 2016-1628-PST-E; TCEQ ID NUMBER: RN102257110; LOCATION: 1110 North Highway 287 Bypass, Grapeland, Houston County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(a) and 30 TAC

§334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,877; STAFF ATTORNEY: Clayton Smith, Litigation Division, MC 175, (512) 239-6224; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: Brandon Cameron; DOCKET NUMBER: 2016-1486-OSI-E; TCEQ ID NUMBER: RN109273250; LOCATIONS: 313 County Road 629, Kirbyville (Site 1) and 2865 County Road 721, Buna (Site 2), Jasper County; TYPE OF FACILITIES: on-site sewage facilities (OSSFs); RULES VIOLATED: TWC, §37.003, Texas Health and Safety Code, §366.071(a), and 30 TAC §30.5(a) and §285.50(b), by failing to hold an OSSF installer license prior to installing OSSFs; PENALTY: \$1,619; STAFF ATTORNEY: Jess Robinson, Litigation Division, MC 175, (512) 239-0455; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-201702850

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: August 1, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions DOVA INC DBA Petromart 112

SOAH Docket No. 582-17-5289

TCEQ Docket No. 2016-2017-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. - August 31, 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 April 20, 2017, concerning assessing administrative penalties against DOVA INC dba Petromart 112, for violations in Jefferson County, Texas, of: Tex. Water Code §26.3467(a) and 30 Tex. Admin. Code §334.8(c)(4)(A)(vii), (c)(5)(A)(i), (c)(5)(A)(iii), and (c)(5)(B)(ii).

The hearing will allow DOVA INC dba Petromart 112, 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 DOVA INC dba Petromart 112, 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 **DOVA INC dba Petromart 112** 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. DOVA INC dba Petromart 112, 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 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 Eric Grady, 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-201702893

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of GANIU BELLO

SOAH Docket No. 582-17-5363

TCEQ Docket No. 2016-1234-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. - August 31, 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 January 3, 2017, concerning assessing administrative penalties against and requiring certain actions of Ganiu Bello, for violations in Tarrant County, Texas, of: 30 Tex. Admin. Code §334.47(a)(2) and TCEQ Agreed Order Docket No. 2010-0538-PST-E, Ordering Provision No. 2.a.

The hearing will allow Ganiu Bello, 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 Ganiu Bello, 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 **Ganiu Bello** 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. Ganiu Bello, 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 Elizabeth Lieberknecht, 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-201702895

Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 2, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of Jorge Varela-Mar dba Magnolias Transmission

SOAH Docket No. 582-17-5288

TCEQ Docket No. 2015-1852-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. - August 31, 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 April 17, 2017 concerning assessing administrative penalties against and requiring certain actions of Jorge Varela-Mar dba Magnolias Transmission, for violations in Nacogdoches County, Texas, of: Tex. Water Code §26.3475(d) and 30 Tex. Admin. Code §§334.10(b), 334.49(a)(1), 334.602(a), and 334.603(b).

The hearing will allow Jorge Varela-Mar dba Magnolias Transmission, 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 Jorge Varela-Mar dba Magnolias Transmission, 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 **Jorge Varela-Mar dba Magnolias Transmission** 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. Jorge Varela-Mar dba Magnolias Transmission, 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 Jess Robinson, 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 con-

tacting 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.

Issued: July 31, 2017

TRD-201702896

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2017



Notice of Public Hearing

on Assessment of Administrative Penalties and Requiring Certain Actions of Lalani's Investment Inc. dba 786 Truck Stop 1

SOAH Docket No. 582-17-5360

TCEQ Docket No. 2016-1623-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. - August 31, 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 March 17, 2017 concerning assessing administrative penalties against and requiring certain actions of LALANI'S INVESTMENT INC. d/b/a 786 Truck Stop 1, for violations in Fort Bend County, Texas, of: 30 Tex. Admin. Code §§334.7(d)(1)(C), 334.10(b)(1)(B), 334.72, and 334.74.

The hearing will allow LALANI'S INVESTMENT INC. d/b/a 786 Truck Stop 1, 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 LALANI'S INVESTMENT INC. d/b/a 786 Truck Stop 1, 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 LALANI'S INVESTMENT INC. d/b/a 786 Truck Stop 1 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. LALANI'S INVESTMENT INC. d/b/a 786 Truck Stop 1, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and chs. 7 and 26 and 30 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 Lena Roberts, 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.

Issued: July 31, 2017

TRD-201702897

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2017



Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Permit Major Amendment

PROPOSED LIMITED SCOPE AMENDMENT TO PERMIT NO. 2349

APPLICATION. Gulley-Hurst L.L.C., 4833 Saratoga Boulevard, Box 281, Corpus Christi, Nueces County, Texas 78413, owner/operator of the Gulley-Hurst Type IV Landfill, has applied to the Texas

Commission on Environmental Quality (TCEQ) for a Limited Scope Permit Major Amendment which requests authorization to revise the Waste Acceptance Plan located in Part IV of the Site Operating Plan. The revision would allow acceptance of Class 2 nonhazardous industrial solid waste that is consistent with rubbish, brush, and construction or demolition waste. The Gulley-Hurst Type IV Landfill is located at 1435 County Road 26, Corpus Christi, Nueces County, Texas 78415. The TCEQ received this application on July 5, 2017. The application is available for viewing and copying at the Coastal Bend Council of Governments, 2901 Leopard Street, Corpus Christi, Nueces County, Texas 78408, and may be viewed online at <http://www.gulleyhurst.com>. 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=27.717777&lng=-97.490833&zoom=13&type=r>. For exact location, refer to application.

The TCEQ Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination Council and has determined that the action is consistent with the applicable CMP goals and policies.

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 Gulley-Hurst L.L.C. at the address stated above or by calling Mr. R. Bryan Gulley, President at (361) 853-2500.

TRD-201702898
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 2, 2017



Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on July 28, 2017, in the matter of the Executive Director of the Texas Commission on Environmental Quality v. KCWS II, INC., Clark Thomas Winslow, and Kathryn Smith Winslow; SOAH Docket No. 582-17-0378; TCEQ Docket No. 2016-0074-PST-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against KCWS II, INC., Clark Thomas Winslow, and Kathryn Smith Winslow on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of

Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or need assistance, please contact Meghan Taack, Office of the Chief Clerk, (512) 239-3300.

TRD-201702899

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 2, 2017



Request for Nominations for the Tax Relief for Pollution Control Property Advisory Committee

In 1993, registered voters in the state of Texas voted in favor of a ballot initiative listed as Proposition 2 (Prop 2), amending the Texas Constitution to authorize the Texas Legislature to exempt from ad valorem taxation "all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by an environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution." The Texas Legislature implemented Prop 2 by enacting the Texas Tax Code (TTC), §11.31. The Texas Commission on Environmental Quality (TCEQ or commission) adopted 30 Texas Administrative Code Chapter 17, establishing the procedures for obtaining a "positive use determination" under the program. The goal of the program is to provide tax relief to individuals, companies, and political subdivisions that make capital investments to meet or exceed federal, state, or local environmental rules or regulations.

House Bills 3206 and 3544, 81st Texas Legislature, 2009, amended TTC, §11.31 to require the TCEQ to form a permanent advisory committee that will make recommendations to the TCEQ commissioners on matters relating to property tax exemptions for pollution control property. Tax Relief for Pollution Control Property Advisory Committee members were appointed by the TCEQ commissioners to four-year staggered terms. Once the members were selected by the commission, a random drawing was used to assign term lengths. Advisory committee members were initially appointed by the commission on January 27, 2010. The terms of seven advisory committee members expire on December 31, 2017.

House Bill 2280, 82nd Texas Legislature, 2011, amended TTC, §11.31(n) by adding a requirement that at least one of the advisory committee members be a representative of a school district or junior college district containing property that has or had a TTC, §11.31 tax exemption.

The TCEQ is currently accepting applications for potential committee members for the Tax Relief for Pollution Control Property Advisory Committee from the following affiliations: three industry representatives; one taxing unit representative; two appraisal district representatives; and one independent technical expert. Current members whose terms are expiring may apply for reappointment.

Applications for the advisory committee can be found on the TCEQ's website at: http://www.tceq.texas.gov/airquality/taxrelief/advisory_group.html. To apply, complete the nomination form and submit it to the TCEQ by 5:00 p.m. on September 11, 2017. Applications postmarked after that date will only be considered if there are insufficient qualified individuals in specific groups. You can apply to nominate yourself or someone else to the advisory committee, but the TCEQ asks that only interested persons be nominated.

Questions regarding the advisory committee application process can be directed by phone to Elizabeth Sartain of the Tax Relief Program at (512) 239-3933 or by email to txrelief@tceq.texas.gov.

TRD-201702854

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 1, 2017



Update to the Water Quality Management Plan

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft July 2017 Update to the Update to the Water Quality Management Plan (WQMP) for the State of Texas.

Download the draft July 2017 WQMP Update at https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_updates.html or view a printed copy at the TCEQ Library, Building A, 12100 Park 35 Circle, Austin, Texas.

The WQMP is developed and promulgated in accordance with the requirements of Federal Clean Water Act, §208. The draft update includes projected effluent limits of specific domestic dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

Deadline

All comments must be received at the TCEQ no later than **5:00 p.m. on September 12, 2017**.

How to Submit Comments

Comments must be submitted in writing to:

Nancy Vignali, Texas Commission on Environmental Quality, Water Quality Division, MC 150, P.O. Box 13087 Austin, Texas 78711-3087

Comments may also be faxed to (512) 239-4420, but must be followed up with written comments by mail within three working days of the fax date or by the comment deadline, whichever is sooner.

For further information, or questions, please contact Ms. Vignali at (512) 239-1303 or by email at Nancy.Vignali@tceq.texas.gov.

TRD-201702855

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: August 1, 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: Semiannual Report due January 17, 2017, for Committees

Terry G. Jones, Dallas County Young Democrats PAC, 13133 West Walnut Hill Lane, Apt. 116, Irving, Texas 75038

Deadline: Personal Financial Statement due May 1, 2017

Troy C. Alley, Jr., 1900 Ballpark Way, Arlington, Texas 76006

TRD-201702812

Seana Willing

Executive Director

Texas Ethics Commission

Filed: July 27, 2017



Texas Facilities Commission

Request for Proposals #303-8-20602-A

The Texas Facilities Commission (TFC), on behalf of the Health and Human Services Commission (HHSC) and the Department of Family and Protective Services (DFPS), announces the issuance of Request for Proposals (RFP) #303-8-20602-A. TFC seeks a five (5) or ten (10) year lease of approximately 18,499 square feet of office space in Alamo, Hidalgo County, Texas.

The deadline for questions is **August 21, 2017**, and the deadline for proposals is **August 31, 2017**, at 3:00 p.m. The award date is **September 28, 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=142727.

TRD-201702814

Kay Molina

General Counsel

Texas Facilities Commission

Filed: July 28, 2017



Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Payment Rate for Truman W. Smith Children's Care Center

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on August 24, 2017, at 1:00 p.m. to receive public comment on the proposed payment rate for the Truman W. Smith Children's Care Center, a nursing facility in the pediatric care facility special reimbursement class.

The public hearing will be held in Conference Room 5155, on the 5th floor of the Brown Heatly Building, located at 4900 North Lamar Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Lamar Boulevard. Free parking is available in front of the building and in the adjacent parking garage. The hearing will be held in compliance with Texas Human Resources Code §32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Proposal. HHSC proposes to increase the payment rate for the pediatric care facility special reimbursement class, of which the Truman

W. Smith Children's Care Center is the sole provider, from \$270.17 a day to \$272.86 a day. The proposed rate will be effective September 1, 2017.

Methodology and Justification. The proposed payment rate was calculated in accordance with Title 1 of the Texas Administrative Code §355.307, which addresses the reimbursement setting methodology for nursing facilities.

Briefing Package. A briefing package describing the proposed payment rate will be available at <http://www.hhsc.state.tx.us/rad/rate-packets.shtml> on or after August 11, 2017. Interested parties may also obtain a copy of the briefing package prior to the hearing by contacting the HHSC Rate Analysis Department by telephone at (512) 730-7401; by fax at (512) 730-7475; or by email at RAD-LTSS@hhsc.state.tx.us. In addition, the briefing package will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rate may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Health and Human Services Commission, Rate Analysis Department, H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Rate Analysis at (512) 730-7475; or by email to RAD-LTSS@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to the Health and Human Services Commission, Rate Analysis Department, H-400, Brown-Heatly Building, 4900 North Lamar Boulevard, Austin, Texas 78751.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis by calling (512) 730-7401 at least 72 hours prior to the hearing so appropriate arrangements can be made.

TRD-201702889

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: August 1, 2017



**Public Notice Managed Transportation Organization
Non-emergency Medical Transportation**

The Texas Health and Human Services Commission is requesting that the Centers for Medicare & Medicaid Services (CMS) approve an amendment to the Medicaid waiver for Managed Transportation Organization (MTO) Non-emergency Medical Transportation (NEMT) under Section 1915(b) of the Social Security Act. The current waiver is scheduled to expire March 31, 2022. The proposed effective date of the amendment is September 1, 2017.

The purpose of this waiver amendment is to remove Regions 1 and 10 from the waiver. The current contract with LeFleur, the contractor in Regions 1 and 10, expires on August 31, 2017. Effective September 1, 2017, services in Regions 1 and 10 will be provided under the State Plan, and a concurrent amendment to the State Plan will be submitted to CMS for approval. This Section 1915(b) waiver amendment does not impact eligibility standards, methods or procedures. Additionally, the Section 1915(b) waiver amendment does not impact cost effectiveness.

The Section 1915(b) MTO NEMT waiver allows MTOs to provide the full range of non-emergency medical transportation (NEMT) services (e.g., mass transit, mileage reimbursement, meal and lodging, and demand response) to clients in their MTO Region. Through this waiver, a managed transportation delivery model was implemented in certain counties throughout the state. These MTOs have the flexibility to meet a client's transportation needs through direct delivery and subcontracting for transportation services. The waiver did not change the NEMT

scope of benefits for the individuals who use this service. HHSC retains sole authority to approve individual services and benefits. The waiver allows the MTOs to own their own vehicles, and the State reimburses the MTOs utilizing a capitated arrangement.

To obtain a free copy of the proposed waiver amendment, or to ask questions, request additional information, or submit comments regarding this amendment, please contact Sallie Allen by mail at Texas Health and Human Services Commission, P.O. Box 85200, Mail Code H-600, Austin, Texas 78708-5200, phone (512) 424-6969, fax (512) 487-3403, or by email at TX_Medicaid_Waivers@hhsc.state.tx.us.

TRD-201702820

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: July 28, 2017



Public Notice: State Plan Amendment to Non-Emergency Medical Transportation

The Texas Health and Human Services Commission (HHSC) announces its intent to submit transmittal number 17-0018 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of this amendment is to revise the State plan for NEMT services to address changes in Regions 1 and 10. The current contract with LeFleur Transportation of Texas, the contractor in Regions 1 and 10, expires on August 31, 2017. Effective September 1, 2017, services in Regions 1 and 10, currently being provided under a 1915(b) waiver, will be provided under the State Plan. The revision to the State Plan will reflect this change in responsibility for delivery of NEMT services in Regions 1 and 10 from a prepaid ambulatory health plan (PAHP) delivery model administered by a Managed Transportation Organization to a full-risk broker model administered by a contractor under the State Plan.

This proposed amendment does not have a direct impact on client eligibility or the scope of services delivered. The requested effective date for the proposed amendment is September 1, 2017.

To obtain copies of the proposed amendment, interested parties may contact Doneshia Ates, State Plan Policy Advisor, by mail at the Health and Human Services Commission, PO Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 428-1963; by facsimile at (512) 487-3403; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201702803

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: July 26, 2017



Texas Department of Housing and Community Affairs

Notice to Public and to All Interested Mortgage Lenders

The Texas Department of Housing and Community Affairs (the "Department") intends to implement a Mortgage Credit Certificate Program (the "Program") to assist eligible very low, low, and moderate income

first-time homebuyers with the purchase of a residence located within the State of Texas.

Under the Program, a first-time homebuyer who satisfies the eligibility requirements described herein may receive a federal income tax credit in an amount equal to the product of the certificate credit rate established under the Program and the interest paid or accrued by the homeowner during the taxable year on the remaining principal of the certified indebtedness amount incurred by the homeowner to acquire the principal residence of the homeowner; provided that such credit allowed in any taxable year does not exceed \$2,000. In order to qualify to receive a mortgage credit certificate, the homebuyer must qualify for a conventional, FHA, VA or other home mortgage loan from a lending institution and must meet the other requirements of the Program.

The mortgage credit certificates will be issued to qualified mortgagors on a first-come, first-served basis by the Department, which will review applications from lending institutions and prospective mortgagors to determine compliance with the requirements of the Program and determine that mortgage credit certificates remain available under the Program. No mortgage credit certificates will be issued prior to ninety (90) days from the date of publication of this notice or after the date that all of the credit certificate amount has been allocated to homebuyers, and in no event will mortgage credit certificates be issued later than the date permitted by federal tax law.

In order to satisfy the eligibility requirements for a mortgage credit certificate under the Program: (a) the prospective residence must be a single-family residence located within the State of Texas that can be reasonably expected to become the principal residence of the mortgagor within a reasonable period of time after the financing is provided; (b) the prospective homebuyer's current income must not exceed, (1) for families of three or more persons, 115% (140% in certain targeted areas or in certain cases permitted under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code")) of the area median income; and (2) for individuals and families of two persons, 100% (120% in certain targeted areas or in certain cases permitted under applicable provisions of the Code) of the area median income; (c) the prospective homebuyer must not have owned a home as a principal residence during the past three years (except in the case of certain targeted area residences or in certain cases permitted under applicable provisions of the Code); (d) the acquisition cost of the residence must not exceed 90% (110%, in the case of certain targeted area residences or in certain cases permitted under applicable provisions of the Code) of the average area purchase price applicable to the residence; and (e) no part of the proceeds of the qualified indebtedness may be used to acquire or replace an existing mortgage (except in certain cases permitted under applicable provisions of the Code). To obtain additional information on the Program, including the boundaries of current targeted areas, as well as the current income and purchase price limits (which are subject to revision and adjustment from time to time by the Department pursuant to changes in applicable federal law and Department policy), please contact Dina Gonzalez at the Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, Texas 78701-2410; telephone (512) 475-3993.

The Department intends to maintain a list of single family mortgage lenders that will participate in the Program by making loans to qualified holders of these mortgage credit certificates. Any lender interested in appearing on this list or in obtaining additional information regarding the Program should contact Dina Gonzalez at the Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, Texas 78701-2410; (512) 475-3993. The Department may schedule a meeting with lenders to discuss in greater detail the requirements of the Program.

This notice is published in satisfaction of the requirements of §25 of the Code and Treasury Regulation §1.25-3T(j)(4) issued thereunder regarding the public notices prerequisite to the issuance of mortgage credit certificates and to maintaining a list of participating lenders.

TRD-201702831

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Filed: July 31, 2017



Texas Department of Insurance

Company Licensing

Application to do business in the state of Texas by CM SELECT INSURANCE COMPANY, a foreign fire and/or casualty company. The home office is in Merrill, Wisconsin.

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-201702900

Norma Garcia

General Counsel

Texas Department of Insurance

Filed: August 2, 2017



Texas Windstorm Insurance Association Proposed Residential Renewal Application Revisions

Reference Number: P-0717-05

SERFF State Tracking No. S643916

The Texas Windstorm Insurance Association has submitted revisions to its Residential Renewal Application to the Texas Department of Insurance for approval under 28 TAC §5.4911.

You may obtain a copy of the filing from the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or from www.tdi.texas.gov/submissions/indextwia.html.

Public Comment: To comment on the submission, you must send two copies of your comments to the Texas Department of Insurance by 5:00 p.m., Central time, on Monday, September 11, 2017. Send one copy to the chief clerk by email to chiefclerk@tdi.texas.gov, or by mail to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. Send the

other copy to Marianne Baker, Director, Property and Casualty Lines Office, by email to CommercialPC@tdi.texas.gov, or by mail to the Texas Department of Insurance, Property and Casualty Lines Office, Mail Code 104-PC, P.O. Box 149104, Austin, Texas 78714-9104.

Hearing Requests: To request a public hearing, you must submit a request separately by 5:00 p.m., Central time, on Thursday, August 31, 2017. Send the request for a hearing by email to chiefclerk@tdi.texas.gov, or by mail to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104.

TRD-201702852

Norma Garcia

General Counsel

Texas Department of Insurance

Filed: August 1, 2017



Texas Lottery Commission

Scratch Ticket Game Number 1893 "A Cut Above"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1893 is "A CUT ABOVE". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 1893 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 1893.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100, \$1,000 and \$30,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1893 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
\$2.00	TWO\$
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFT\$
\$100	ONHN
\$1,000	ONTH
\$30,000	30TH

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

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

G. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1893), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 1893-000001-001.

H. Pack - A Pack of "A CUT ABOVE" Scratch Ticket Game contains 125 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the books will be in an A, B, C and D configuration.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "A CUT ABOVE" Scratch Ticket Game No. 1893.

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 "A CUT ABOVE" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 23 (twenty-three) Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. 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 23 (twenty-three) 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 23 (twenty-three) 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 23 (twenty-three) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 23 (twenty-three) 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 ten (10) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$30,000 will each appear at least once, except on Tickets winning ten (10) 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. On all Tickets, a Prize Symbol will not appear more than two (2) times, except as required by the prize structure to create multiple wins.

H. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

I. 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).

2.3 Procedure for Claiming Prizes.

A. To claim an "A CUT ABOVE" Scratch Ticket Game prize of \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$50.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00 or \$100 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim an "A CUT ABOVE" Scratch Ticket Game prize of \$1,000 or \$30,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming an "A CUT ABOVE" 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 "A CUT ABOVE" 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 "A CUT ABOVE" 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 6,960,000 Scratch Tickets in the Scratch Ticket Game No.

1893. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1893 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	723,840	9.62
\$5	352,640	19.74
\$10	287,680	24.19
\$15	37,120	187.50
\$20	74,240	93.75
\$30	7,105	979.59
\$50	6,090	1,142.86
\$100	2,117	3,287.67
\$1,000	16	435,000.00
\$30,000	6	1,160,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.67. 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. 1893 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the 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. 1893, 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-201702891
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: August 2, 2017



Scratch Ticket Game Number 2000 "Día De Los Muertos"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2000 is "DÍA DE LOS MUERTOS". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2000 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2000.

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, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, PARTY HAT SYMBOL, 2X SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$40.00, \$50.00, \$100, \$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. 2000 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET

39	TRNI
40	FRTY
PARTY HAT SYMBOL	WIN
2X SYMBOL	DBL
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$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-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2000), 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: 2000-0000001-001.

H. Pack - A Pack of the "DÍA DE LOS MUERTOS" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "DÍA DE LOS MUERTOS" Scratch Ticket Game No. 2000.

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 "DÍA DE LOS MUERTOS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 44 (forty-four) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the

WINNING NUMBERS Play Symbols, the player wins the prize for that number. If a player reveals a "PARTY HAT" 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. Si el jugador iguala cualquier Símbolo de Juego de TUS NÚMEROS con cualquier Símbolo de Juego de NÚMEROS GANADORES, el jugador gana el premio para ese número. Si el jugador revela un Símbolo de Juego de "SOMBRERO DE FIESTA", el jugador gana el premio para ese símbolo al instante. Si el jugador revela un Símbolo de Juego de "2X", el jugador gana DOBLE el premio para ese símbolo. 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 44 (forty-four) 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 44 (forty-four) 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 44 (forty-four) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 44 (forty-four) 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. A Ticket can win up to twenty (20) times in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play Symbol and Prize Symbol patterns. Two (2) Tickets have matching Play Symbol and Prize Symbol patterns if they have the same Play Symbols and Prize Symbol in the same spots.

C. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

D. Each Ticket will have four (4) different WINNING NUMBERS/NÚMEROS GANADORES Play Symbols.

E. Non-winning YOUR NUMBERS/TUS NÚMEROS Play Symbols will all be different.

F. Non-winning Prize Symbols will never appear more than three (3) times.

G. The "PARTY HAT" (WIN) and "2X" (DBL) Play Symbols will never appear in the WINNING NUMBERS/NÚMEROS GANADORES Play Symbol spots.

H. The "2X" (DBL) Play Symbol will appear as dictated by the prize structure.

I. Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

J. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS/TUS NÚMEROS Play Symbol (i.e., 20 and \$20).

2.3 Procedure for Claiming Prizes.

A. To claim a "DÍA DE LOS MUERTOS" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "DÍA DE LOS MUERTOS" 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 "DÍA DE LOS MUERTOS" 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 "DÍA DE LOS MUERTOS" 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 "DÍA DE LOS MUERTOS" 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 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2000. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2000 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	857,600	9.38
\$10	1,125,600	7.14
\$20	214,400	37.50
\$50	53,600	150.00
\$100	34,371	233.92
\$500	1,675	4,800.00
\$1,000	50	160,800.00
\$100,000	5	1,608,000.00

*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 3.52. 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. 2000 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. 2000, 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-201702894

Bob Biard

General Counsel

Texas Lottery Commission

Filed: August 2, 2017

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Texas Board of Nursing

Invitation for Consultants to Provide Offers of Auditing Services

The Texas Board of Nursing (Board) is issuing this Invitation for Consultants to Provide Offers of Auditing Services pursuant to Texas Government Code, Chapter 2254, Subchapter B. The purpose of this solicitation is to select a consultant to perform an audit of the Texas Peer Assistance Program for Nurses (TPAPN), make recommendations, if appropriate, and report the results to the Board.

1. BACKGROUND

The Board is under a current contract with the Texas Nurses Foundation to provide peer assistance services, through TPAPN, to nurses with substance use disorders and/or mental health issues. During its recent review by the Texas Sunset Advisory Commission, (Commission), the Commission recommended that the Board establish meaningful performance goals and a clear procedure for evaluating TPAPN in order to determine the effectiveness of the program. Further, the Commission recommended that the Board consider establishing targets/goals for its current measures of recidivism and dropout rates, as well as other measures to indicate program effectiveness. The Commission also recommended that the Board consider incorporating new measures/ means to evaluate its peer assistance program in its next Request for Proposal (RFP) and consider amending its current contract with the Texas Nurses Foundation.

In order for the Board to comply with the Commission's recommendations, TPAPN must be audited. However, the Board does not possess the requisite expertise to adequately perform an audit of TPAPN, nor can the Board obtain the necessary services through a contract with another state governmental entity to perform such an audit (See Texas Government Code §2254.026). As such, the Board is now seeking a consultant to conduct an audit of TPAPN. Pursuant to Texas Government Code §§2254.022, 2254.026, and 2254.028, the Board requested a finding of fact from the Governor's Budget and Planning Office that the consulting services sought by the Board were necessary. On April 25, 2017, the Board received confirmation from the Governor's office that the auditing services were, in fact, necessary.

Pursuant to Texas Government Code §2254.022, this solicitation is made to ensure the greatest and fairest competition in the selection of a consultant by the Board and to give notice to all potential consultants of the need for, and opportunity to, provide auditing services to the Board.

2. ELIGIBLE APPLICANTS AND REQUESTED SERVICES

The requested audit must evaluate TPAPN's overall performance under the Board's contract, including a determination of whether TPAPN is performing as expected under the contract, and whether it is in the public interest to continue the contract. The requested audit must also include a review of all of TPAPN's internal performance metrics; the existence of, and adherence to, TPAPN's internal guidelines and policies; adherence to the Board's policies; consistency and fairness in the treatment of the program's participants; TPAPN's methods of internal record keeping; the appropriateness of fees paid by the participants; enrollment trends, including waiting periods for enrollment into the program; TPAPN's sustained enrollments rates; satisfaction ratings of the participants; and the completion rate of participants. The requested audit must also evaluate the level of TPAPN's managerial control over the program; TPAPN's ability to construct, produce, and maintain meaningful performance measures for the program; TPAPN's commitment to providing non-punitive, rehabilitative services to participants; TPAPN's ability to construct budgetary constraints designed to sustain and enhance the longevity of the program; and TPAPN's ability to timely enroll new participants in the program, minimize attrition, and incentivize completion of the program. Additionally, the requested audit should also include an evaluation of TPAPN's ability to meet and adjust to the changing needs of the participants, including consideration of a participant's specific diagnosis under the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-V) (i.e., mild, moderate, or severe substance use disorder).

Applicants must have knowledge of, or familiarity with, the operations of peer assistance programs and sufficient experience in evaluating and/or auditing peer assistance programs in Texas or in other states. Applicants must be able to demonstrate sufficient experience in auditing at least one state peer assistance program within the past 10 years and be able to provide a sample of a prior audit report to the Board upon request. Applicants must demonstrate their competence, expertise, and ability to produce, at a minimum, an audit report that meets the requirements described in this section. It is preferred that applicants be able to also demonstrate an appropriate understanding or familiarity with the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-V) and its relevancy to peer assistance programs.

The Board does not anticipate the value of a major consulting contract awarded in response to this solicitation to exceed \$25,000.

3. REVIEW AND AWARD CRITERIA

Pursuant to Texas Government Code §2254.027, the Board will evaluate an applicant's competence, knowledge, and qualifications, as well as the reasonableness of the proposed fee for the requested services. If other considerations are equal, preference will be given to an applicant whose principal place of business is in the State of Texas or who will manage the consulting contract wholly from an office in the state.

4. Contact Information

All offers/proposals should be submitted in writing to:

Keith LaSalle

Texas Board of Nursing

333 Guadalupe, Tower 3, Suite 460

Austin, Texas 78701

Keith.lasalle@bon.texas.gov

Tel. No. (512) 305-6857

5. Closure Date

All offers/proposals must be in writing and received in the Board's offices no later than 5 PM Central Time, September 11, 2017.

6. Award of Contract

Pursuant to Texas Government Code §2254.030, should a major consulting contract be awarded in response to this solicitation, not later than the 20th day after the effective date of the contract, the Board will file with the Secretary of State, for publication in the *Texas Register*, a description of the activities that the consultant will conduct; the name and business address of the consultant; the total value and the beginning and ending dates of the contract; and the dates on which documents, films, recordings, or reports that the consultant is required to present to the Board are due.

Pursuant to Texas Government Code §2254.0301, should a major consulting contract be awarded in response to this solicitation, not later than 10th day after the effective date of the contract, the Board will provide written notice to the Legislative Budget Board of the awarded contract for consulting services if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000.

TRD-201702888

Jena Abel

Deputy General Counsel

Texas Board of Nursing

Filed: August 1, 2017

Texas Public Finance Authority

Request for Offer #347-17-0051 - Enterprise Content Management Solution

The Texas Public Finance Authority (TPFA) is requesting offers for an Enterprise Content Management (ECM) solution software and related system modification services that can be configured to TPFA's specific needs to assist the agency in managing workflow and related document storage associated with debt issuance and ongoing post issuance debt management and compliance through the life of the outstanding debt. Submission deadline for sealed written offers is August 21, 2017, at 3:00 p.m. Copies of the Request for Offer may be obtained from the Authority's webpage at <http://www.tpfa.texas.gov/rfp.aspx>, through e-mail at RFO@tpfa.texas.gov, through the CPA's Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=142831, or by mail at Texas Public Finance Authority, P.O. Box 12906, Austin, Texas 78711-2906.

TRD-201702890

Kevin Van Oort

General Counsel

Texas Public Finance Authority

Filed: August 2, 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 July 26, 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 Comcast of Houston, LLC for Amendment to its State-Issued Certificate of Franchise Authority, Project Number 47442.

The requested amendment is to expand the service area footprint to include all areas within the unincorporated areas of Austin and Colorado counties, excluding any federal properties, and within the municipal boundaries, including future annexations, of Columbus, Danbury, and Sealy, 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 47442.

TRD-201702823

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: July 28, 2017

Notice of Application for Regulatory Approvals

Notice is given to the public of an application by Texas Transmission Holdings Corporation and NextEra Energy, Inc. filed with the Public Utility Commission of Texas (Commission) on July 28, 2017, pursuant to the Public Utility Regulatory Act, Texas Utility Code §§11.001-58.303 (West 2016), §§59.001-66.017 (West 2007 & Supp. 2016) (PURA).

Docket Style and Number: Joint Report and Application of Texas Transmission Holdings Corporation and NextEra Energy, Inc. for Regulatory Approvals Pursuant to PURA §§14.101, 39.262 and 39.915, Docket Number 47453.

The Application: Texas Transmission Holdings Corporation (TTHC) and NextEra Energy, Inc. (NextEra) filed a joint report and application for regulatory approvals of NextEra's proposed acquisition of the 19.75% minority interest in Oncor Electric Delivery Company LLC that is indirectly held by TTHC.

Persons who wish to intervene in or comment upon this application should notify the Public Utility Commission of Texas. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. The deadline to intervene is August 28, 2017. All correspondence should refer to Docket Number 47453.

TRD-201702874

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: August 1, 2017

Notice of Application to Amend a Water and Sewer Certificate of Convenience and Necessity

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) to amend a water and sewer certificate of convenience and necessity in Montgomery County.

Docket Style and Number: Application of Quadvest L.P. to Amend its Water and Sewer Certificates of Convenience and Necessity in Montgomery County, Docket Number 47440.

The Application: Quadvest L.P. filed an application to amend its water CCN No. 11612 and sewer CCN No. 20952 in Montgomery County. The total service area being requested includes approximately 134 acres and 0 current customers.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. 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 47440.

TRD-201702807
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 27, 2017



Notice of Application to Amend Water and Sewer Certificates of Convenience and Necessity

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) to amend a water and a sewer certificate of convenience and necessity in Denton and Collin Counties.

Docket Style and Number: Application of Mustang Special Utility District to Amend Water and Sewer Certificates of Convenience and Necessity in Denton and Collin Counties, Docket Number 47452.

The Application: Mustang Special Utility District filed an application to amend water certificate of convenience and necessity (CCN) number 11856 and sewer CCN number 20930 in Denton and Collin Counties. The total area being requested includes approximately 1,460 acres and 0 current customers.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P. O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. 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 47452.

TRD-201702907
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: August 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 (commission) on July 27, 2017, a petition to amend a certificate of convenience and necessity (CCN) by expedited release in Denton County, Texas.

Docket Style and Number: Petition of the Herman H. Hopkins Estate to Amend Bolivar Water Supply Corporation's and City of Denton's Certificates of Convenience and Necessity in Denton County by Expedited Release, Docket Number 47444.

The Petition: The Herman H. Hopkins Estate seeks the expedited release of approximately 60.093 acres from Bolivar Water Supply Corporation's water CCN No. 11257 and the City of Denton's water CCN No. 10195 in Denton, County under Texas Water Code §13.254(a-5) and 16 Texas Administrative Code §24.113(I).

Persons wishing to comment on the action sought should contact the commission no later than August 28, 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 47444.

TRD-201702875
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: August 1, 2017



Notice of Proceeding for 2017 Annual Compliance Affidavit Attesting to Proper Use of Texas Universal Service Fund

Notice is given to the public of the 2017 annual compliance affidavit proceeding initiated by the Public Utility Commission of Texas (commission) for eligible telecommunications providers (ETP) and resale eligible telecommunications providers (RETP) to attest to the proper use of Texas universal service funds (TUSF).

Project Title and Number: Annual Compliance Affidavit Attesting to Proper Use of Texas Universal Service Fund Pursuant to PURA §56.030. Project Number 32567.

The commission initiated this proceeding pursuant to Public Utility Regulatory Act (PURA) §56.030 and 16 Texas Administrative Code §26.417 and §26.419 (TAC). PURA §56.030 requires that on or before September 1 of each year, a telecommunications provider that receives disbursements from the TUSF file with the commission an affidavit certifying that the telecommunications provider complies with the requirements for receiving money from the TUSF and requirements regarding the use of money from TUSF program for which the telecommunications provider receives disbursements.

This certification requirement applies to every ETP and RETP receiving support from the TUSF. In accordance with PURA §56.030 and 16 TAC §26.417 and §26.419, each ETP and RETP receiving TUSF support must file with the commission a sworn affidavit (using the commission prescribed form) certifying that the provider complies with the requirements for receiving money from the TUSF and the requirements regarding the use of money from each TUSF program for which the provider receives funds. All carriers in Texas requesting certification by the commission shall submit an affidavit by August 30, 2017.

Carriers designated as ETPs may contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. Persons contacting the commission regarding this proceeding should refer to Project Number 32567.

TRD-201702811

Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 27, 2017

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Notice of Proceeding for 2017 Annual State Certification
for Designation of Common Carriers as Eligible
Telecommunications Carriers to Receive Federal Universal
Service Funds

Notice is given to the public of the 2017 annual certification proceeding initiated by the Public Utility Commission of Texas (commission) for state certification of common carriers as eligible telecommunications carriers (ETC) to receive federal universal service funds.

Project Title and Number: Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds. Project Number 24481.

Under 47 C.F.R. §54.314, the commission annually certifies that all federal high-cost support provided to carriers in Texas was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The commission must file the certification with the Federal Communications Commission and the Universal Service Administrative Company by October 1 each year in order for ETCs to receive federal high-cost support. Without certification, carriers will not receive federal high-cost support.

The certification requirement applies to all incumbent local exchange carriers and competitive eligible telecommunications carriers seeking federal high-cost support. Under 16 Texas Administrative Code §26.418(k), on or before September 1 of each year, each carrier shall provide the commission with a sworn affidavit certifying that the carrier complies with federal requirements for receiving federal high-cost support. All carriers in Texas requesting certification by the commission shall submit an affidavit by August 30, 2017.

Carriers seeking to be certified may contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. Persons contacting the commission regarding this proceeding should refer to Project Number 24481.

TRD-201702810
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 27, 2017

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Texas Department of Transportation

Aviation Division - Request for Qualifications for Professional
Engineering Services

The City of Sweetwater, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

Current Project: City of Sweetwater; TxDOT CSJ No.: 1708SWEET.

The TxDOT Project Manager is Paul Slusser.

Scope: Provide engineering and design services, including construction administration, to:

1. Install perimeter game fence;
2. Rehabilitate and mark Runway 17/35;
3. Rehabilitate and mark Runway 4/22;
4. Rehabilitate and mark Taxiways A,B,C and D; and
5. Rehabilitate apron.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 0%. The goal will be re-set for the construction phase.

The City of Sweetwater reserves the right to determine which of the services listed above may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services listed above.

To assist in your qualification statement preparation the criteria, 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 "Avenger 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 the current 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 September 6, 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 web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>

Step by step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of local government representatives. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at 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-201702824

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: July 28, 2017



Aviation Division - Request for Qualifications for Professional Engineering Services

The City of Post and Garza County, through their agent, the Texas Department of Transportation (TxDOT), intend to engage a professional engineering firm for services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

Current Project: City of Post and Garza County; TxDOT CSJ No.: 1705POSTT.

The TxDOT Project Manager is Paul Slusser.

Scope: Provide engineering and design services, including construction administration, to:

1. Replace medium intensity runway lighting Runway 17-35;
2. Install precision approach path indicator-2 on both ends Runway 17-35;
3. Replace medium intensity runway lighting Runway 6-24;
4. Pavement repair on Runway 24;
5. Repair dip on Runway 17-35;
6. Regrade ditches; and
7. Mark Runway 17-35.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 14%. The goal will be re-set for the construction phase.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Post-Garza County Municipal Airport may include the following:

Pavement rehabilitation of Runway 17-35; pavement rehabilitation of Runway 6-24; pavement rehabilitation of taxiway; pavement rehabilitation of ramp; and pavement rehabilitation of taxi lane.

The City of Post and Garza County reserve the right to determine which of the services listed above may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services listed above.

To assist in your qualification statement preparation, the criteria, 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 "Post-Garza County Municipal Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects.

AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, (800) 68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, or submits a cover page with the AVN-550, that provider will be disqualified. Responses to this solicitation WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

The completed Form AVN-550 must be received in the TxDOT Aviation eGrants system no later than September 6, 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 web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

Step by step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of local government representatives. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at (800) 68-PILOT (74568). For procedural questions, please contact 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 (800) 687-4568 or avn-egrantshelp@txdot.gov.

TRD-201702847

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: July 31, 2017

Texas Water Development Board

Applications for July 2017

Pursuant to Texas Water Code §6.195, the Texas Water Development Board provides notice of the following applications:

Project ID #62708, a request from Barton Water Supply Corporation, P.O. Box 272, Gordon, Texas 76453-0272, received August 16, 2016 for \$200,000 in principal forgiveness from the Drinking Water State Revolving Fund to finance planning, design, and construction of water system improvements.

Project ID #73764, a request from the San Jacinto River Authority, P.O. Box 329, Conroe, Texas 77305-0329, received April 3, 2017, for \$43,000,000 in financing from the Clean Water State Revolving Fund for design and construction of wastewater system improvements.

Project ID #62570, a request from the City of New Deal, P.O. Box 126, New Deal, Texas 79350-0126, received February 17, 2017, for \$1,033,800 in financial assistance consisting of a \$935,000 obligation and \$98,800 in principal forgiveness from the Drinking Water State Revolving Fund for construction of water system improvements and a waiver from the requirement to include funds to mitigate water loss as part of the project.

Project ID #62722, a request from the Bracken Christian School of Bulverde, 670 Old Boerne Rd., Bulverde, Texas 78163-3202, received February 1, 2017, for \$32,072 in principal forgiveness from the Drinking Water State Revolving Fund to connect to Canyon Lake Water Service Company.

Project ID #62749, a request from the Greater Texoma Utility Authority on behalf of the City of Krum, 5100 Airport Dr., Denison, Texas 75020-8448, received April 5, 2017, for \$1,225,000 in financing from the Drinking Water State Revolving Fund for planning, acquisition, design, and construction of a new water well and appurtenances.

Project ID #73759, a request from the City of Quinlan, 210 Hwy. 79; Suite 101, Hutton, Texas 78634, received March 3, 2017, for \$1,890,000 in financing from the Clean Water State Revolving Fund for planning, design, and construction of wastewater treatment plant and collection system improvements.

Project ID #62747, a request from the Mustang Special Utility District, 7985 FM 2931, Aubrey, Texas 76227, received March 30, 2017, for \$3,555,000 in financing from the Drinking Water State Revolving Fund for the construction of a new elevated storage tank.

Project ID #62724, a request from the City of Gordon, P.O. Box 227, Gordon, Texas 76453-0227, received September 22, 2016, for \$1,188,072 in financial assistance, consisting of a \$460,000 obligation and \$728,072 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of water system improvements.

Project ID #62743, a request from the Central Washington County Water Supply Corporation, c/o Professional General Management Services, 26550 Ranch Road 12, Unit 1, Dripping Springs, Texas 78620-4973, received February 24, 2017, for \$2,815,000 in financing from the Drinking Water State Revolving Fund for planning, acquisition, design, and construction of water system improvements.

Project ID # 73755, a request from the City of Eastland, P.O. Box 749, Eastland, Texas 76448-0749, received December 21, 2016, for \$7,599,660 in financial assistance, consisting of a \$6,765,000 obligation and \$834,660 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction of wastewater collection system and treatment plant improvements.

Project ID #62750, a request from the City of Arlington, P.O. Box 90231, MS 01-0200, Arlington, Texas 76004, received April 13, 2017, for \$11,895,777 in financial assistance consisting of a \$11,445,000 obligation and \$450,777 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of water treatment plant electrical improvements.

Project ID #51047, a request from the City of Azle, 613 SE Parkway, Azle, Texas 76020-3654, received April 28, 2017, for \$1,350,000 in financing from the State Water Implementation Revenue Fund for Texas for planning, design, and construction of water line replacement.

Project ID #51048, a request from the City of Springtown, P.O. Box 444, Springtown, Texas 76082-0444, received April 28, 2017, for \$1,390,000 in financing from the State Water Implementation Revenue Fund for Texas for planning, design, acquisition, and construction of a water supply project.

Project ID #51049, a request from Brushy Creek Regional Utility Authority, Inc., 221 E. Main, Round Rock, Texas 78664, received April 28, 2017, for \$16,995,000 in financing from the State Water Implementation Revenue Fund for Texas for construction of a water supply project.

Project ID #51052, a request from the City of Corpus Christi, P.O. Box 9277, Corpus Christi, Texas 78469-0277, received April 28, 2017, for a \$2,750,000 deferred obligation from the State Water Implementation Revenue Fund for Texas for planning of a seawater desalination project.

Project ID #51045, a request from the City of Justin, P.O. Box 129, Justin, Texas 76247, received April 28, 2017 for a \$12,000,000 multi-year low-interest obligation from the State Water Implementation Rev-

enue Fund for Texas for design and construction of a water line replacement project to address water loss.

Project ID #51050, a request from the North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098, received April 28, 2017, for \$677,120,000 in financing from the State Water Implementation Revenue Fund for Texas for planning, design, land acquisition, water treatment plant, and associated pipelines and pump stations.

Project ID #51044, a request from Hays Caldwell Public Utility Agency, 630 E. Hopkins, San Marcos, Texas 78666, received April 28, 2017, for \$213,410,000 in financing consisting of \$144,395,000 in low-interest financing and \$69,015,000 in Board Participation from the State Water Implementation Revenue Fund for Texas to finance planning, design, acquisition, and construction of a new water supply project.

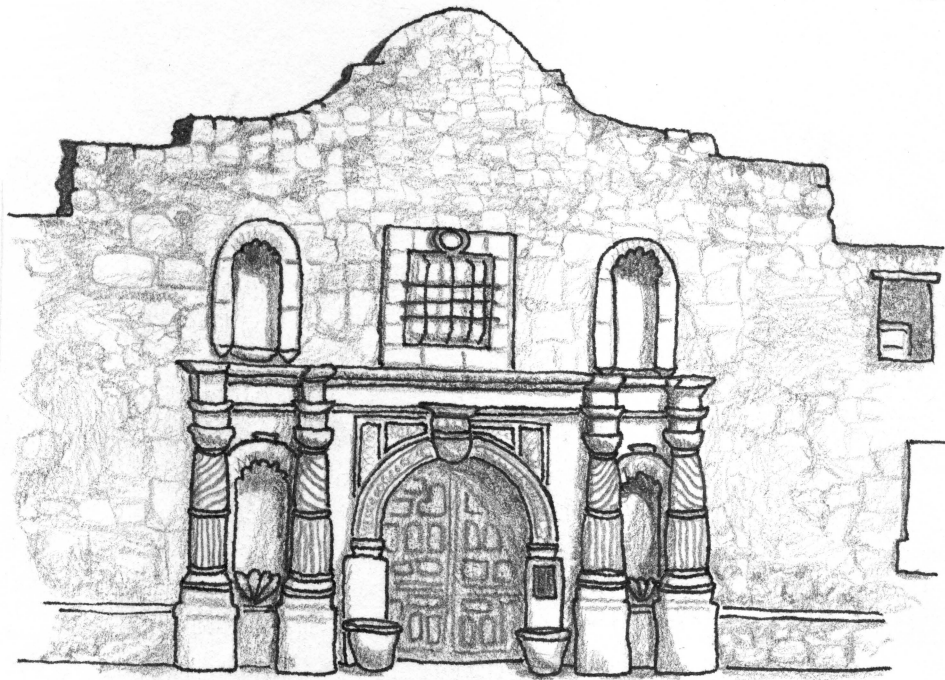
Project ID #73765, a request from the City of Ennis, P.O. Box 220, Ennis, Texas 75120-0220, received April 20, 2017, for \$10,000,000

in financing from the Clean Water State Revolving Fund for planning, design, and construction of wastewater treatment plant and collection system improvements.

Project ID #73761, a request from the City of Farmersville, 205 South Main Street, Farmersville, Texas 75442, received March 16, 2017, for \$5,845,000 in financing from the Clean Water State Revolving Fund for planning, acquisition, design, and construction of wastewater treatment plant and collection system improvements, and design of a new wastewater treatment plant.

TRD-201702819
Todd Chenoweth
General Counsel
Texas Water Development Board
Filed: July 28, 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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