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

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

THE 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-0062

The Honorable Larry Phillips

Chair, Committee on Homeland Security and Public Safety

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Questions relating to the position of Vice Chairman on the Maverick County Hospital District Board of Directors (RQ-0044-KP)

S U M M A R Y

A court would likely conclude that the position of vice chair on the board of the Maverick County Hospital District is valid.

Absent guidance from chapter 1118 of the Special District Local Laws Code, questions regarding the role and duties of the vice chair upon the resignation of the chair are for the District's board to resolve.

Opinion No. KP-0063

The Honorable Jane Nelson

Chair, Committee on Finance

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a water supply district may assign to another district certain duties and rights, including approval of the annual budget and contracting for certain services (RQ-0045-KP)

S U M M A R Y

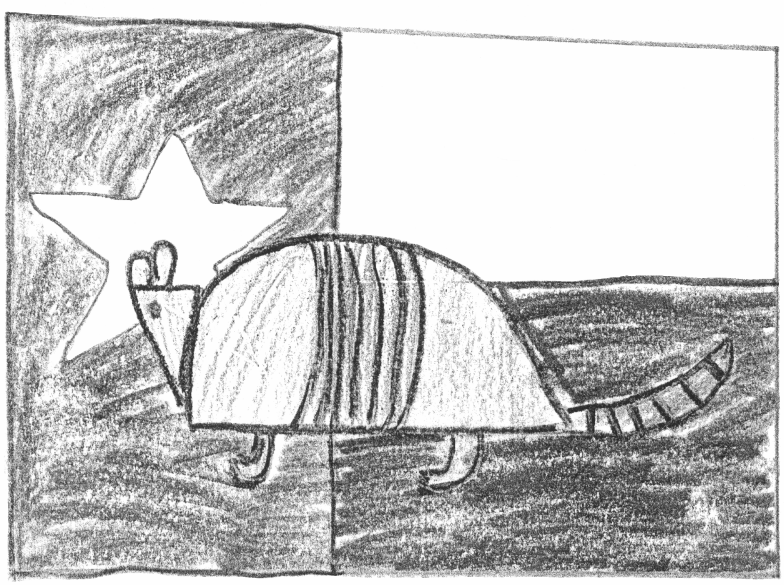
A governmental entity may not delegate its legislatively entrusted authority to another entity except as authorized by the Legislature. A court would likely conclude that one water district may contract for another water district to perform the rights, powers, and duties of the first only to the extent the contract is authorized by the Interlocal Cooperation Act, section 49.213 of the Water Code, or other state law and does not abrogate the first district's fiscal responsibilities under section 49.067 of the Water Code.

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

TRD-201600570
Amanda Crawford
General Counsel
Office of the Attorney General
Filed: February 4, 2016

♦ ♦ ♦

Cristina Bustos
7th 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 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 19. QUARANTINES AND NOXIOUS AND INVASIVE PLANTS

SUBCHAPTER Y. FUSARIUM WILT QUARANTINE OF QUEEN PALM AND MEXICAN FAN PALM

4 TAC §§19.650 - 19.653

The Texas Department of Agriculture (the Department) adopts on an emergency basis new Chapter 19, Subchapter Y, titled Fusarium Wilt Quarantine of Queen Palm and Mexican Fan Palm, §§19.650 - 19.653, which establishes a quarantine to prevent the spread of a lethal disease of palms known as "Fusarium wilt of queen palm and Mexican fan palm." The disease is caused by a fungus *Fusarium oxysporium* f. sp. *palmarum* that was documented in Florida in 2010. The new sections are adopted on an emergency basis to prevent the introduction and spread of this disease into Texas. The disease is host-specific to queen palm, *Syagrus romazoffiana,* and Mexican fan palm, *Washingtonia robusta.* Mule palm, a cross between *S. romazoffiana* and *Butia capitata,* and desert fan palm, *W. filifera,* are also known to be susceptible to the disease under experimental conditions.

The fungus produces short-lived spores (micro- and macro-conidia) and long-lived chlamydospores that apparently can live in the soil or in infected plant tissue for years. The disease typically causes yellowing or browning on one side of the rachis of the lower leaves of palm, resulting in one-sided wilt while the other side may stay green. Reddish-brown or dark-brown streaks develop on the petiole and rachis on the affected side of desiccated or dead leaflets. Eventually, the entire leaf dies and hangs around the palm trunk. The disease progresses towards the top, wilting the younger leaves. The fungus causes a vascular wilt, obstructing water conducting xylem tissue, which results in leaf wilt, decline and death of the infected palms. Laboratory diagnosis using molecular techniques is required to confirm the fusarium wilt fungus.

The disease generally occurs in mature landscape palms, but has also been observed in juvenile palms in a few nurseries in Florida. Diseased palms decline, die quickly and become unmarketable. Once the central spear leaf has died due to the disease, scientists recommend removal of the tree as soon as possible. Treatment options to control the disease are limited to preventive management, consisting of the removal and incineration of infected palms, disinfection of pruning tools and avoidance of planting host palms at locations where the disease has been found. The disease has been present in Florida since 2010 or earlier and is currently widespread throughout most of the state. In 2013, it was identified in a Mexican fan palm sample received from a dying landscape palm in Harris County, Texas, by Texas A&M AgriLife Extension Service. However, there have been no confirmed cases in Texas since then. During November-December 2015, a total of 31 samples were collected by the Department at nurseries and in landscapes in Cameron, San Patricio, Harris, Hidalgo and Cameron counties; all of the samples tested negative for *F. oxysporum* f. sp. *palmarum.* All the samples were taken from established symptomatic palms. The mode of spread of this disease to mature landscape palms remains unknown, but is suspected to be via airborne spores.

The Department believes that immediate action is necessary to prevent the introduction and spread of this fusarium wilt from infested palms to commercial palm nurseries, production areas and landscape palms of Texas through the importation of queen and Mexican fan palms from infected areas. Adoption of this quarantine on an emergency basis is both necessary and appropriate.

New §19.650 defines the quarantined pest. New §19.651 designates the infested areas subject to the quarantine. New §19.652 lists the articles subject to the quarantine. New §19.653 prescribes requirements for movement of the quarantined articles from the quarantined area to Texas. The Department may propose adoption of this emergency rule on a permanent basis in a separate submission.

The new sections are adopted on an emergency basis under the Texas Agriculture Code, §71.001 and §71.002, that authorize the Department to establish quarantines against in-state and out-of-state diseases and pests; §71.004, that authorizes the Department to establish emergency quarantines; §71.007, that authorizes the Department to adopt rules as necessary to protect agricultural and horticultural interests, including rules to provide for specific treatment of quarantined articles; and the Texas Government Code, §2001.034, which provides for the adoption of administrative rules on an emergency basis without notice and comment.

§19.650. Quarantined Pest.

The quarantined pest is Fusarium wilt of queen palm and Mexican fan palm, caused by a fungus *Fusarium oxysporium* f. sp. *palmarum.*

§19.651. Quarantined Areas.

The quarantined area is the entire State of Florida and any other infested areas.

§19.652. Quarantined Articles.

(a) The quarantined pest is a quarantined article.

(b) The following articles are quarantined: queen palm *(Syagrus romanzoffiana),* Mexican fan palm *(Washingtonia robusta), Washingtonia filifera* and mule palm (a cross between *S. romanzoffiana* and *Butia capitate),* and any of their parts except seed.

§19.653. Restrictions.

Quarantined articles are prohibited entry into Texas.

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 February 8, 2016.

TRD-201600587
Jessica Escobar
Assistant General Counsel
Texas Department of Agriculture
Effective date: February 8, 2016
Expiration date: June 6, 2016
For further information, please call: (512) 463-4075

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 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 12. SWORN COMPLAINTS

SUBCHAPTER B. FILING AND INITIAL PROCESSING OF A COMPLAINT

1 TAC §12.53

The Texas Ethics Commission (the commission) proposes an amendment to Texas Ethics Commission Rule §12.53, regarding complaints initiated by the commission.

Section 12.53 relates to a preliminary review initiated by the commission. Chapter 571 of the Texas Government Code provides the commission's enforcement duties and requirements. Those requirements include certain confidentiality requirements provided by §571.140, Government Code, that apply to proceedings at a preliminary review hearing, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion. Additionally, §571.139(a) provides that the Public Information Act (Chapter 552) does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion and §571.139(b) provides that the Open Meetings Act (Chapter 551) does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion. Section 571.124(b), Government Code, provides that, on a motion adopted by an affirmative vote of at least six commission members, the commission, without a sworn complaint, may initiate a preliminary review of the matter that is the subject of the motion. Section 12.53 of the Commission Rules provides that a preliminary review initiated by the commission under §571.124(b) is deemed to be a complaint for purposes of all further proceedings under Chapter 571 of the Government Code and Chapter 12 of the Commission Rules. The proposed amendment clarifies that the confidentiality provisions applicable to sworn complaints in §571.140 and the exemptions under §571.139 apply to the gathering of information and discussions between the commission and commission staff that occur in contemplation of or in preparation for a commission initiated preliminary review.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Ashley has also determined that for each year of the first five years the proposed amendment is in effect the public benefit will be clarification in the commission's rules regarding the applicability of the confidentiality provisions and the Open Meetings Act and Public Information Act exemptions to the gathering of information and discussions between the commission and commission staff that occur in contemplation of or in preparation for a commission initiated preliminary review. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amended rule.

The commission invites comments on the proposed amendment from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed amendment may do so at any commission meeting during the agenda item relating to the proposed amendment. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The amendment to §12.53 is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §12.53 affects Chapter 571 of the Government Code.

§12.53. Commission Initiated Complaint.

(a) A preliminary review initiated by the commission under section 571.124(b) of the Government Code is deemed to be a complaint for purposes of all further proceedings under chapter 571 of the Government Code and of this chapter.

(b) Documents or evidence gathered by the commission and commission staff in contemplation of, or in preparation for, a commission initiated preliminary review are related to the processing of a preliminary review or motion for the purposes of sections 571.139 and 571.140 of the Government Code.

(c) Discussions between the commission and commission staff regarding gathering documents or evidence in contemplation of, or in preparation for, a commission initiated preliminary review are related to the processing of a preliminary review or motion for the purposes of sections 571.139 and 571.140 of the 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 February 4, 2016.

TRD-201600568
Natalia Luna Ashley
Executive Director
Texas Ethics Commission
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 463-5800

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CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

SUBCHAPTER A. GENERAL RULES

1 TAC §20.3

The Texas Ethics Commission (the commission) proposes an amendment to Texas Ethics Commission Rule §20.3, regarding the requirements to file campaign finance reports with the commission.

Section 20.3 provides when the commission is the appropriate filing authority for campaign finance reports. Prior to the 2015 regular legislative session, §254.130 of the Texas Election Code required all campaign finance reports and campaign treasurer appointments to be filed with the same filing authority, depending on the type of filer and the filer's purposes. Under that law, a specific-purpose committee (SPAC) that only supported or opposed a school bond measure had to file all reports with the school district. In the 2015 session, the Texas Legislature amended §254.130 to require an SPAC created to support or oppose a measure on the issuance of bonds by a school district to file its campaign finance reports with the commission. Thus, those SPACs must now file a campaign treasurer appointment with the school board and all campaign finance reports with the commission. The amendment to §20.3 is consistent with the statutory amendment to §254.130, Texas Election Code, to require an SPAC that supports or opposes a school bond measure to file campaign finance reports with the commission.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Ashley has also determined that for each year of the first five years the proposed amendment is in effect the public benefit will be clarification in the commission's rules regarding where SPACs that support or oppose a measure on the issuance of bonds by a school district must file their campaign finance reports. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amended rule.

The commission invites comments on the proposed amendment from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed amendment may do so at any commission meeting during the agenda item relating to the proposed amendment. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The amendment to §20.3 is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §20.3 affects §254.130 of the Election Code.

§20.3. Reports Filed with the Commission.

The Ethics Commission is the appropriate filing authority for reports filed by:

(1) a candidate for one of the following offices:

(A) a statewide office;

(B) a district office filled by voters in more than one county;

(C) a seat in the state legislature;

(D) a seat on the State Board of Education;

(E) an office of a political subdivision other than a county, if the governing body of the political subdivision has not been formed and if the political subdivision includes territory in more than one county; or

(F) a judicial district office filled by voters of only one county, subject to §20.5(b);

(2) a person holding an office listed in paragraph (1) of this section;

(3) the secretary of state;

(4) a specific-purpose committee supporting or opposing a candidate or officeholder required to file with the commission; or

(5) a specific-purpose committee supporting or opposing:

(A) a measure to be submitted to the voters of the entire state; or

(B) a measure that concerns a political subdivision other than a county, if the governing body of the political subdivision has not been formed and if the political subdivision includes territory in more than one county;

(6) a specific-purpose committee created to support or oppose a measure on the issuance of bonds by a school district; or

(7) [~~(6)~~] a general-purpose committee.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600561
Natalia Luna Ashley
Executive Director
Texas Ethics Commission
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 463-5800

♦ ♦ ♦

1 TAC §20.7

The Texas Ethics Commission (the commission) proposes an amendment to Texas Ethics Commission Rule §20.7, regarding

the requirements to file campaign finance reports with a local filing authority.

Section 20.7 provides when the secretary of a political subdivision (or the presiding officer if the political subdivision has no secretary) is the appropriate filing authority for the filing of campaign finance reports. Prior to the 2015 regular legislative session, §254.130 of the Texas Election Code, required all campaign finance reports and campaign treasurer appointments to be filed with the same filing authority, depending on the type of filer and the filer's purposes. Under that law, a specific-purpose committee (SPAC) that only supported or opposed a school bond measure had to file all reports with the school district. In the 2015 session, the Texas Legislature amended §254.130 to require an SPAC created to support or oppose a measure on the issuance of bonds by a school district to file its campaign finance reports with the commission. Thus, those SPACs must now file a campaign treasurer appointment with the school board and all campaign finance reports with the commission. The amendment to §20.7 is consistent with the statutory amendment to §254.130, Texas Election Code, to require an SPAC that supports or opposes a school bond measure to file campaign finance reports with the commission. The amendment also provides that the campaign treasurer of such an SPAC should file with the commission a file-stamped copy of the campaign treasurer appointment that it files locally. The purpose of the rule is to encourage those SPACs to notify the commission of their filing status so that the commission can inform them of filing requirements and help ensure that reports are timely filed with the commission.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Ashley has also determined that for each year of the first five years the proposed amendment is in effect the public benefit will be clarification in the commission's rules regarding where certain SPACs must file their campaign finance reports. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amended rule.

The commission invites comments on the proposed amendment from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed amendment may do so at any commission meeting during the agenda item relating to the proposed amendment. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The amendment to §20.7 is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §20.7 affects §254.130 of the Election Code.

§20.7. Reports Filed with Other Local Filing Authority.

(a) Except as provided by §20.3(6) of this title (relating to Reports Filed with the Commission), the [~~The~~] secretary of a political subdivision (or the presiding officer if the political subdivision has no secretary) is the appropriate filing authority for reports filed by:

(1) a candidate for an office of a political subdivision other than a county;

(2) a person holding an office of a political subdivision other than a county; or

(3) a specific-purpose committee supporting or opposing a measure to be submitted at an election ordered by the authority of a political subdivision other than a county.

(b) The campaign treasurer of a specific-purpose committee created to support or oppose a measure on the issuance of bonds by a school district should file with the commission a file-stamped copy of any campaign treasurer appointment filed with the appropriate local filing authority.

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

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Natalia Luna Ashley
Executive Director
Texas Ethics Commission
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For further information, please call: (512) 463-5800

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SUBCHAPTER E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

1 TAC §20.315

The Texas Ethics Commission (the commission) proposes an amendment to Texas Ethics Commission Rule §20.315, regarding the termination of a campaign treasurer appointment.

Section 20.315 provides the manner by which a campaign treasurer appointment for a specific-purpose committee (SPAC) is terminated. Prior to the 2015 regular legislative session, §254.130, Texas Election Code, required all campaign finance reports and campaign treasurer appointments to be filed with the same filing authority, depending on the type of filer and the filer's purposes. Under that law, an SPAC that only supported or opposed a school bond measure had to file all reports with the school district. In the 2015 session, the Texas Legislature amended the law to require an SPAC created to support or oppose a measure on the issuance of bonds by a school district to file its campaign finance reports with the commission. Thus, those SPACs must now file a campaign treasurer appointment with the school board and all campaign finance reports with the commission. An SPAC may also terminate its campaign treasurer appointment by filing a campaign finance report designated as a "termination report." The amendment to §20.315 states that a school bond measure SPAC must file its dissolution report with the commission, and must file its campaign treasurer appointment with the secretary of the school board (or the presiding officer if the school board has no secretary). The amendment is consistent with the statutory amendment to §254.130, Texas Election Code.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Ashley has also determined that for each year of the first five years the proposed amendment is in effect the public benefit will be clarification in the Commission's rules regarding where certain SPACs must file their campaign treasurer appointments and dissolution reports. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amended rule.

The commission invites comments on the proposed amendment from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed amendment may do so at any commission meeting during the agenda item relating to the proposed amendment. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The amendment to §20.315 is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §20.315 affects §254.130 of the Election Code.

§20.315. Termination of Campaign Treasurer Appointment.

(a) A specific-purpose committee may terminate a campaign treasurer appointment at any time by:

(1) notifying the filing authority in writing of the termination;

(2) filing a campaign treasurer appointment for a successor campaign treasurer; or

(3) filing a dissolution report.

(b) A committee's campaign treasurer may resign by immediately notifying both the appointing authority and the filing authority in writing.

(c) Except as provided by subsection (e) of this section, if the campaign treasurer resigns or otherwise leaves the position, the termination is effective on the date the committee actually receives the notice or on the date the filing authority actually receives the notice, whichever is later.

(d) Section 20.23 of this title (relating to Timeliness of Action by Mail) does not apply to subsection (c) of this section.

(e) For purposes of the termination report required by §20.317 of this title (relating to Termination Report), a campaign treasurer's resignation is effective on the date the treasurer resigns as provided by subsection (b) of this section.

(f) Section 20.23 of this title (relating to Timeliness of Action by Mail) applies to subsection (e) of this section.

(g) A termination of a specific-purpose committee's campaign treasurer appointment and the filing of the termination report by themselves do not dissolve the specific-purpose committee. A specific-purpose committee can be dissolved only by filing a dissolution report.

(h) For purposes of this section, the appropriate filing authority for a campaign treasurer appointment of a specific-purpose committee created to support or oppose a measure on the issuance of bonds by a school district is the secretary of the school board (or the presiding officer if the school board has no secretary), except that the commission is the appropriate filing authority for a dissolution report.

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

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CHAPTER 34. REGULATION OF LOBBYISTS
SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §34.1

The Texas Ethics Commission (the commission) proposes an amendment to Texas Ethics Commission Rule §34.1, Definitions. The amendment affects paragraph (5) regarding the definition of "independent contractor."

Section 34.1(5) relates to the definition of "independent contractor" that previously was used in Chapter 305 of the Texas Government Code (state lobby law). Prior to the 2015 regular legislative session, independent contractors were permitted to receive a sales commission to lobby state agencies regarding purchasing decisions. In 2015, the Texas Legislature passed House Bill 3517, which amended §305.0041, Texas Government Code, to delete a provision that exempted from the lobby registration requirements an independent contractor who receives compensation to communicate regarding state agency purchasing decisions if the compensation is not contingent on the outcome of any administrative action. The bill also repealed §305.022(c-1) and (c-3), which provided that certain sales commissions payable to an independent contractor of a vendor of a product or service were not compensation contingent on the outcome of an administrative action. Section 305.022 now prohibits independent contractors from receiving those sales commissions. As a result, the rules that the commission adopted regarding sales commissions for independent contractors are obsolete, including §34.1(5).

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Ashley has also determined that for each year of the first five years the proposed amendment is in effect the public benefit will be the deletion of an obsolete rule and clarification that independent contractors may not receive a sales commission to lobby state agencies regarding purchasing decisions. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amended rule.

The commission invites comments on the proposed amendment from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed amendment may do so at any commission meeting during the agenda item relating to the proposed amendment. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The amendment to §34.1, which deletes paragraph (5), is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §34.1, which deletes paragraph (5), affects Chapter 305 of the Government Code.

§34.1. Definitions.

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

(1) Communicates directly with, or any variation of that phrase--In Government Code, Chapter 305, and in this chapter includes communication by facsimile transmission.

(2) Expenditure--In Government Code, Chapter 305, and in this chapter does not include a payment of less than $200 that is fully reimbursed by the member of the legislative or executive branch who benefits from the expenditure if the member of the legislative or executive branch fully reimburses the person making the payment before the date the person would otherwise be required to report the payment.

(3) Lobby activity--Direct communication with and preparation for direct communication with a member of the legislative or executive branch to influence legislation or administrative action.

(4) Registrant--In Government Code, Chapter 305, and in this chapter means a person who is required to register as well as a person who has registered regardless of whether that person's registration was required.

~~[(5) Independent contractor--In Section 305.022 of the Government Code and this chapter, means a person, including a consultant, who communicates with a member of the executive branch concerning state agency purchasing decisions involving a product, service, or service provider or negotiations regarding such decisions. The term does not include an employee, as defined by Section 305.022(e) of the Government Code, of a vendor.]~~

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

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Natalia Luna Ashley
Executive Director
Texas Ethics Commission
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1 TAC §34.14

The Texas Ethics Commission (the commission) proposes new Texas Ethics Commission Rule §34.14, regarding Expenditures for Fact-Finding Trips.

Section 34.14 relates to when an expenditure for transportation or lodging provided by a lobbyist to a member of the legislative or executive branch would be for a fact-finding trip. Section 305.024 of the Government Code restricts travel expenditures by lobbyists for members of the legislative and executive branches. However, §305.025(4), Texas Government Code, permits a lobbyist to provide, in part, "necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips." The proposed §34.14 provides clarity on what constitutes a fact-finding trip and how to disclose the purpose of such an expenditure on a lobby activities report when detailed itemization is required.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed new rule.

Ms. Ashley has also determined that for each year of the first five years the proposed new rule is in effect the public benefit will be clarification in the Commission's rules regarding when a lobbyist may provide transportation or lodging to a member of the legislative or executive branch for a fact-finding trip, and how the purpose of such an expenditure must be reported on a lobby activities report. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed new rule.

The commission invites comments on the proposed new rule from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed new rule may do so at any commission meeting during the agenda item relating to the proposed new rule. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The proposed new rule, §34.14, is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed new rule, §34.14, affects Chapter 305 of the Government Code.

§34.14. Expenditures for Fact-Finding Trips.

(a) For purposes of §305.025(3), Government Code, an expenditure for transportation or lodging provided to a member of the legislative or executive branch is for a fact-finding trip only if:

(1) the expenditure is necessary for the member to obtain facts that directly relate to the member's official duties;

(2) the member cannot obtain the facts by any means, electronic or otherwise, without the expenditure; and

(3) the expenditure is not for the member's attendance at a merely ceremonial event or pleasure trip.

(b) If an expenditure made for transportation or lodging for a fact-finding trip is required to be disclosed on a lobby activities report by §305.0061(a), Government Code, the purpose of the transportation or lodging must include a description of the facts that the expenditure was necessary to obtain under subsection (a) of this section.

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

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Natalia Luna Ashley
Executive Director
Texas Ethics Commission
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For further information, please call: (512) 463-5800

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SUBCHAPTER B. REGISTRATION REQUIRED

1 TAC §34.46

The Texas Ethics Commission (the commission) proposes the repeal of Texas Ethics Commission Rule §34.46, regarding registration under §305.0041 of the Government Code.

Section 34.46 relates to registration of certain independent contractors as lobbyists. Prior to the 2015 regular legislative session, independent contractors were permitted to receive a sales commission to lobby state agencies regarding purchasing decisions. In 2015, the Texas Legislature passed House Bill 3517, which amended §305.0041, Texas Government Code, to delete a provision that exempted from the lobby registration requirements an independent contractor who receives compensation to communicate regarding state agency purchasing decisions if the compensation is not contingent on the outcome of any administrative action. The bill also repealed §305.022(c-1) and (c-3), which provided that certain sales commissions payable to an independent contractor of a vendor of a product or service were not compensation contingent on the outcome of an administrative action. Section 305.022 now prohibits independent contractors from receiving those sales commissions. As a result, the rules that the commission adopted regarding sales commissions for independent contractors are obsolete, including §34.46.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repealed rule.

Ms. Ashley has also determined that for each year of the first five years the repeal is in effect the public benefit will be the deletion of an obsolete rule and clarification that independent contractors may not receive a sales commission to lobby state agencies regarding purchasing decisions. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repealed rule.

The commission invites comments on the proposed repeal from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed repeal may do so at any commission meeting during the agenda item relating to the proposed repeal. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The repeal of §34.46 is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The repeal of §34.46 affects Chapter 305 of the Government Code.

§34.46. Registration under §305.0041 of the 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.

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Natalia Luna Ashley
Executive Director
Texas Ethics Commission
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SUBCHAPTER C. COMPLETING THE REGISTRATION FORM

1 TAC §34.73

The Texas Ethics Commission (the commission) proposes the repeal of Texas Ethics Commission Rule §34.73, regarding reporting by independent contractors under Chapter 305 of the Government Code.

Section 34.73 relates to reporting by certain independent contractors under Chapter 305 of the Texas Government Code (state lobby law). Prior to the 2015 regular legislative session, independent contractors were permitted to receive a sales commission to lobby state agencies regarding purchasing decisions. In 2015, the Texas Legislature passed House Bill 3517, which amended §305.0041, Texas Government Code, to delete a provision that exempted from the lobby registration requirements an independent contractor who receives compensation to communicate regarding state agency purchasing decisions if the compensation is not contingent on the outcome of any administrative action. The bill also repealed §305.022(c-1) and (c-3), which provided that certain sales commissions payable to an independent contractor of a vendor of a product or service were not compensation contingent on the outcome of an administrative action. Section 305.022 now prohibits independent contractors from receiving those sales commissions. As a result, the rules that the commission adopted regarding sales commissions for independent contractors are obsolete, including §34.73.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repealed rule.

Ms. Ashley has also determined that for each year of the first five years the proposed repeal is in effect the public benefit will be the deletion of an obsolete rule and clarification that independent contractors may not receive a sales commission to lobby state agencies regarding purchasing decisions. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repealed rule.

The commission invites comments on the proposed repeal from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed repeal may do so at any commission meeting during the agenda item relating to the proposed repeal. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

The repeal of §34.73 is proposed under Texas Government Code §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The repeal of §34.73 affects Chapter 305 of the Government Code.

§34.73. Reporting by Independent Contractor.

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

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Natalia Luna Ashley
Executive Director
Texas Ethics Commission
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For further information, please call: (512) 463-5800

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CHAPTER 46. DISCLOSURE OF INTERESTED PARTIES

1 TAC §46.3

The Texas Ethics Commission (the commission) proposes an amendment to Texas Ethics Commission §46.3, relating to the disclosure of interested parties in certain contracts with a governmental entity or state agency.

House Bill 1295, adopted by the 84th Texas Legislature, created §2252.908, Texas Government Code. Section 2252.908 requires a business entity entering into certain contracts with a governmental entity or state agency to file with the governmental entity or state agency a disclosure of interested parties at the time the business entity submits the signed contract to the governmental entity or state agency. In relevant part, House Bill 1295 requires the commission to adopt rules necessary to implement the new disclosure requirement and to prescribe the disclosure form. Section 2252.908 provides definitions of certain terms occurring in the section. House Bill 1295 provides that §2252.908 applies only to a contract entered into on or after January 1, 2016.

In December 2015, the commission adopted rules (effective December 24, 2015) necessary to implement §2252.908, including §46.3 and additional rules in Chapter 46. Section 46.3 defines several terms related to §2252.908, including the terms "controlling interest," "interested party," and "intermediary." The commission has also implemented an electronic filing application that must be used to file the disclosure form (Form 1295) required under §2252.908. Since the implementation of the Form 1295, the commission has received inquiries from persons expressing confusion about how the definitions in §46.3 apply and how to complete Form 1295. The proposed amendment to §46.3 would clarify that the definition of "interested party" applies in the same way that Form 1295 requires interested parties to be listed: as either having a controlling interest or as an intermediary (or both), as applicable.

Natalia Luna Ashley, Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Ashley has also determined that for each year of the first five years the proposed amendment is in effect the public benefit will be clarification in the commission's rules regarding the definition of "interested party" for purposes of Form 1295, Disclosure of Interested Parties. There will not be an effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amended rule.

The commission invites comments on the proposed amendment from any member of the public. A written statement should be emailed to *public_comment@ethics.state.tx.us,* or mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070 or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed amendment may do so at any commission meeting during the agenda item relating to the proposed amendment. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or on the commission's website at www.ethics.state.tx.us.

Statutory Authority:

The amendment to §46.3 is proposed under §2252.908(g), Texas Government Code, which requires and authorizes the commission to adopt rules necessary to implement §2252.908.

The proposed amendment to §46.3 affects §2252.908 of the Government Code.

§46.3. Definitions.

(a) "Contract" includes an amended, extended, or renewed contract.

(b) "Business entity" includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

(c) "Controlling interest" means:

(1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;

(2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or

(3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

(d) "Interested party" means:

(1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or

(2) an intermediary [~~a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity~~].

(e) "Intermediary," for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

(1) receives compensation from the business entity for the person's participation;

(2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and

(3) is not an employee of the business entity.

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

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Natalia Luna Ashley
Executive Director
Texas Ethics Commission
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TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 7. PESTICIDES

SUBCHAPTER H. STRUCTURAL PEST CONTROL SERVICE

DIVISION 3. COMPLIANCE AND ENFORCEMENT

4 TAC §7.155

The Texas Department of Agriculture (Department) proposes the repeal of Subchapter H, Division 3, §7.155, relating to incidental use for schools. The repeal will eliminate confusion as a result of the adoption of a duplicative section, Chapter 7, Subchapter H, Division 7, §7.205.

Stephen Pahl, Administrator for Consumer Protection, has determined for the first five years the repeal is in effect, there will be no fiscal implications for state government as a result of administering the proposed rule.

Mr. Pahl has also determined that for each year of the first five years the proposal is in effect, the public benefit will be the avoidance of confusion relating to sections involving incidental use for schools in two divisions of Chapter 7, Subchapter H. There will be no adverse fiscal impact on individuals, small or micro businesses as a result of the proposed rule repeal.

Written comments on the proposal may be submitted to Stephen Pahl, Administrator for Consumer Protection, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711 or by email to *Stephen.Pahl@TexasAgriculture.gov.* Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register.*

The repeal of §7.155 is proposed pursuant to Chapter 1951 of the Texas Occupations Code, which provides the Department with the authority to license and regulate structural pest control applicators.

The code affected by the proposal is the Texas Occupations Code, Chapter 1951.

§7.155. Incidental Use for Schools.

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

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Jessica Escobar
Assistant General Counsel
Texas Department of Agriculture
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For further information, please call: (512) 463-4075

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TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 115. SECURITIES DEALERS AND AGENTS

7 TAC §115.20

The Texas State Securities Board proposes new §115.20, concerning Texas crowdfunding portal registration and activities of small business development entities. New §115.20 would implement Section 44 of the Texas Securities Act, which was added by House Bill 1629 passed during the last legislative session. The bill permits an authorized small business development entity to register and operate an intrastate crowdfunding portal ("Section 44 portal").

New §115.20 would provide for registration and operation of Texas crowdfunding portals by authorized small business development entities (a variety of governmental entities, political subdivisions, and nonprofits) specified in the statute and in subsection (a)(1) of the proposal. The last category, in (a)(1)(F), is for a nonprofit community development financial institution ("CDFI") certified by the Community Development Financial Institutions Fund. A CDFI certification is a designation conferred

by the CDFI Fund (part of the United States Department of the Treasury) and is a requirement for accessing financial and technical award assistance from the CDFI Fund through the CDFI Program, Native American CDFI Assistance Program, and certain benefits under the BEA Program to support an organization's established community development financial programs. On February 28, 2015, there were 33 CDFIs in Texas, consisting of loan funds, credit unions, banks or thrifts. It is not known how many of these are organized as nonprofits that would be eligible to register to operate a Texas crowdfunding portal.

These Section 44 portals would generally be subject to the same conditions and requirements as other Texas crowdfunding portals with a few exceptions, also specified in Section 44. These exceptions permit a Section 44 portal to: (1) list on its web portal an offering of securities by an issuer in which the portal is financially interested, and (2) subcontract the operations of its crowdfunding web portal to a third party as permitted by Board rule. The first of these exceptions is addressed in subsection (d) of the proposal; the second exception is addressed in subsection (h).

Unlike other types of portals, a Section 44 portal would be required to limit offerings of securities on its web portal to securities of issuers located within the service area of the authorized small business development entity. This requirement appears in subsection (b) of the proposal.

To avoid confusion, since there would be two different intrastate crowdfunding portal rules, this proposal uses the term "registered small business development entity" (defined in (a)(2)) to refer to the Section 44 category of registered portals, rather than "Texas CF portals" (the term used throughout the other portal rule, §115.19).

To make it clear that these Section 44 portals are subject to most of the same requirements as the other registered intrastate crowdfunding portals, throughout this proposal there are numerous cross-references to the requirements in §115.19. This should also make future changes to portal requirements easier to implement since it may be possible in most instances to only amend §115.19 to have the requirements applicable to both types of portals.

Instead of filing a Form 133.15, a new Form 133.20 would be filed by these Section 44 portals. Staff determined that different information would be needed when the applicant is a nonprofit, political subdivision, or government agency. This new form is being concurrently proposed.

Section 44 permits the portal operations to be subcontracted out to a third party, as permitted by Board rule. Subsection (h) imposes certain conditions on such a subcontracting arrangement. First, since the Third Party Operator will be performing certain portal functions and will likely have required records, it should be located in the state so the Agency has ready access to the records. (Since the Third Party Operator is not registered with us as a dealer, the Agency would lack inspection authority over them.)

Second, there must be a written agreement between the Registered Small Business Development Entity and the Third Party Operator that specifies certain terms, including: (1) the scope of work to be performed by the Third Party Operator; (2) business offices and records reflecting the activities of the portal must be located in Texas and identified in the agreement; and (3) the division of responsibility between the Registered Small Business Development Entity and the Third Party Operator for maintaining records and instituting procedures to comply with requirements imposed by rule upon the portal. A copy of this written agreement must be filed with the Securities Commissioner at least 10 days before the Third Party Operator can begin work operating the web portal. When registering a crowdfunding portal under §115.19, the Registration Division looks at how the portal functions will be performed. Accordingly, if a Third Party Operator is used, it will need to be identified during the registration process and the functioning of the website available for review by Staff as is the case with portals registered under §115.19. The Section 44 portal would be responsible for providing the Commissioner access to the records and website.

Patricia Loutherback, Director, Registration Division, has determined that for the first five-year period the rule is in effect there may be fiscal implications as a result of enforcing or administering new §115.20 on state, but not local government.

The effect on state government for the first five-year period §115.20 will be in effect is a potential increase in revenue in the form of fees paid by small business development entities registering in Texas as crowdfunding portals and by their agents. Currently no small business development entities are registered in Texas as crowdfunding portals. It is anticipated that the exceptions granted in §115.20, that are not otherwise available to other Texas crowdfunding portals, would encourage the formation of Section 44 portals. The result would be a minor increase in state revenue from these potential new registrants, specifically: $75 for each firm and $35 for each agent that registers in Texas; and $40 and $20, respectively, thereafter for each annual renewal by these registrants.

Ms. Loutherback also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to allow persons restricting their activities as provided by new §115.20 to use a simplified registration process. There will be no effect on micro- or small businesses. Since the rule will have no adverse economic effect on micro- or small businesses, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

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

The new rule is proposed under Texas Civil Statutes, Articles 581-28-1 and 581-44. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 44 provides the Board with the authority to adopt rules to regulate and facilitate online intrastate crowdfunding by authorized small business development entities.

The proposal affects Texas Civil Statutes, Articles 581-12, 581-13, 581-14, 581-15, 581-18, and 581-44.

§115.20. Texas Crowdfunding Portal Registration and Activities of Small Business Development Entities.

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

(1) Authorized small business development entity--An entity incorporated or organized under the laws of Texas and authorized to do business in Texas that is:

(A) a Type A corporation authorized under the Texas Local Government Code, Chapter 504;

(B) a Type B corporation authorized under Texas Local Government Code, Chapter 505;

(C) a Texas nonprofit organization authorized by an agency or authority of the federal government to distribute housing and community development block grants;

(D) a Texas municipal corporation;

(E) the Texas Veterans Commission; or

(F) a Texas nonprofit community development financial institution certified by the Community Development Financial Institutions Fund.

(2) Registered Small Business Development Entity--An Authorized Small Business Development Entity registered as a Texas crowdfunding portal under this section.

(3) Crowdfunding Web Portal--The Internet website of a Registered Small Business Development Entity through which offers and sales of securities exempt from registration pursuant to §139.25 of this title (relating to Intrastate Crowdfunding Exemption) are made.

(4) Third Party Operator--A third party that a Registered Small Business Development Entity subcontracts with pursuant to subsection (h) of this section.

(b) Securities offered and sold. A Registered Small Business Development Entity must limit the securities offered and sold on its Crowdfunding Web Portal to those of issuers located within its service area. Such securities must be exempt from securities registration pursuant to §139.25 of this title (relating to Intrastate Crowdfunding Exemption).

(c) Internet website. The Crowdfunding Web Portal must meet the requirements in §115.19(b) of this chapter (relating to Texas Crowdfunding Portal Registration and Activities).

(d) Prohibited activities. A Registered Small Business Development Entity shall not engage in the activities listed in §115.19(c) of this chapter (relating to Texas Crowdfunding Portal Registration and Activities), except that a Registered Small Business Development Entity is permitted to hold a financial interest in an issuer offering securities on its Crowdfunding Web Portal. A Registered Small Business Development Entity may not operate or facilitate a secondary market in securities offered and sold through its Crowdfunding Web Portal.

(e) Background and regulatory checks. A Registered Small Business Development Entity must meet the requirements in §115.19(d) of this chapter (relating to Texas Crowdfunding Portal Registration and Activities).

(f) Recordkeeping. A Registered Small Business Development Entity must meet the requirements in §115.19(e) of this chapter (relating to Texas Crowdfunding Portal Registration and Activities). In lieu of a copy of Form 133.15 (relating to Texas Crowdfunding Portal registration), the Registered Small Business Development Entity must maintain a copy of Form 133.20 (relating to Texas Crowdfunding Portal Registration by an Authorized Small Business Development Entity).

(g) Filings.

(1) Application. In lieu of the application requirements in §115.2 of this title (relating to Application Requirements), a complete application of an Authorized Small Business Development Entity registering as a Texas crowdfunding portal consists of the following and must be filed with the Securities Commissioner:

(A) Form 133.20, including all applicable schedules and supplemental information;

(B) Form U-4, for the designated officer and a Form U-4 for each agent to be registered (officers of a corporation or partners of a partnership shall not be deemed agents solely because of their status as officers or partners);

(C) a copy of the articles of incorporation or other documents which indicate the form of organization, certified by the Texas Secretary of State or by an officer or partner of the applicant;

(D) any other information deemed necessary by the Commissioner to determine the financial responsibility, business repute, or qualifications of the applicant; and

(E) the appropriate registration fee(s).

(2) Post-reporting requirements. A Registered Small Business Development Entity is subject to the dealer and agent requirements in §115.9 of this title (relating to Post-Registration Reporting Requirements).

(3) Renewal. The registration of a Registered Small Business Development Entity expires at the close of the calendar year, but subsequent registration for the succeeding year shall be issued upon written application and upon payment of the appropriate renewal fee(s), without filing of further statements or furnishing any further information unless specifically requested by the Commissioner.

(h) Subcontracting of portal operations. A Registered Small Business Development Entity may subcontract with a Third Party Operator to operate its Crowdfunding Web Portal under the following conditions:

(1) The Third Party Operator is located in Texas and authorized to do business in Texas;

(2) A written agreement is executed between the Registered Small Business Development Entity and the Third Party Operator specifying:

(A) the scope of work to be performed by the Third Party Operator;

(B) that the business offices and records reflecting the activities of the Crowdfunding Web Portal are located in Texas and those locations are identified in the written agreement; and

(C) the division of responsibility between the Registered Small Business Development Entity and the Third Party Operator for maintaining records and instituting procedures to comply with subsections (c), (d), and (e) of this section; and

(3) A copy of the written agreement required by paragraph (2) is filed with the Securities Commissioner a minimum of 10 days prior to the commencement of operations by the Third Party Operator of the Crowdfunding Web Portal;

(4) A Registered Small Business Development Entity registered as a Texas Crowdfunding Portal pursuant to this section is responsible for ensuring the Securities Commissioner is provided with access to the records and website as required by subsection (f) of this section and §115.19(e) of this chapter.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600549
John Morgan
Securities Commissioner
State Securities Board
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 305-8301

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CHAPTER 123. ADMINISTRATIVE GUIDELINES FOR REGISTRATION OF OPEN-END INVESTMENT COMPANIES

7 TAC §123.3

The Texas State Securities Board proposes an amendment to §123.3, concerning conditional exemption for money market funds. The amendment would align the Texas rule for money market funds to the federal definition of money market fund in SEC Rule 2a-7 under the Investment Company Act of 1940. The federal rule was updated as part of the SEC's money market fund reforms enacted in July 2014 in Release IC-31166. The amendment was requested by a representative of the Investment Company Institute who represented that the proposed amendment would not result in a fiscal impact to Texas because all existing money market funds that will continue to be offered to investors must qualify under the revisions to SEC Rule 2a-7.

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

Ms. Loutherback also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that money market funds meeting SEC Rule 2a-7 may continue to take advantage of the fee relief provided by the Texas rule. There will be no effect on micro- or small businesses. Since the rule will have no adverse economic effect on micro- or small businesses, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

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

The amendment is proposed under Texas Civil Statutes, Articles 581-5.T and 581-28-1. Section 5.T provides that the Board may prescribe new exemptions by rule. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The proposal affects Texas Civil Statutes, Articles 581-5, 581-7, and 581-35.

§123.3. Conditional Exemption for Money Market Funds.

(a) (No change.)

(b) Definition. In this section, a "money market fund" or "fund": is an open-end investment company which must meet all of the following conditions.

(1) (No change.)

(2) The fund must hold itself out to be a money market fund or an equivalent to a money market fund and must be in compliance with the Investment Company Act of 1940, Rule 2a-7, as revised [~~made effective~~] in Securities and Exchange Commission Release Number IC-31166 [~~IC-13380 and as amended in Release Numbers IC-14606, IC-14983, IC-18005, IC-18177, and IC-21837~~].

(3) - (7) (No change.)

(c) - (j) (No change.)

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

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John Morgan
Securities Commissioner
State Securities Board
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For further information, please call: (512) 305-8301

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CHAPTER 133. FORMS

7 TAC §133.20

The Texas State Securities Board proposes new §133.20, which adopts by reference a form concerning Texas crowdfunding portal registration by an authorized small business development entity. The form would be used by an authorized small business development entity to apply for registration as a Texas intrastate crowdfunding portal under new §115.20, which is being concurrently proposed.

The form is very similar to Form 133.15, used by an applicant for intrastate crowdfunding portal registration under §115.19 with the following exceptions: (a) Item 2, forms of organization are limited to those permitted to pursue portal registration pursuant to Section 44(C) of the Texas Securities Act; (b) Items 3, 4, and 5, and related Schedules A and B, would be required only of appli-

cants that are nonprofit organizations; (c) Item 6, collects information about any subcontract for portal operations rather than for non-securities related businesses engaged in by the applicant; and (d) Schedule D has been added to collect information about any third party operator for the portal.

Patricia Loutherback, Director, Registration Division, has determined that for the first five-year period the form is used, there will be no foreseeable fiscal implications for state or local government as a result of using the form.

Ms. Loutherback also has determined that for each year of the first five years the form is used the public benefit anticipated as a result will be that authorized small business development entities will be able to use a simplified form to register and amend their registration as Texas crowdfunding portals. There will be no effect on micro- or small businesses. Since the form will have no adverse economic effect on micro- or small businesses, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to use the form as proposed. There is no anticipated impact on local employment.

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

The new rule is proposed under Texas Civil Statutes, Articles 581-28-1 and 581-44. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 44 provides the Board with the authority to adopt rules to regulate and facilitate online intrastate crowdfunding by authorized small business development entities.

The proposal affects Texas Civil Statutes, Articles 581-12, 581-13, 581-14, 581-15, 581-18, and 581-44.

§133.20. Texas Crowdfunding Portal Registration by an Authorized Small Business Development Entity.

This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at www.ssb.texas.gov.

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

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John Morgan
Securities Commissioner
State Securities Board
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CHAPTER 139. EXEMPTIONS BY RULE OR ORDER

7 TAC §139.25

The Texas State Securities Board proposes an amendment to §139.25, concerning intrastate crowdfunding exemption. Subsection (l) of the intrastate crowdfunding exemption would be amended to take into account new Section 44 of the Texas Securities Act. The amendment to §139.25 and new §115.20, which is being concurrently proposed, would permit certain small business development entities registered as Texas intrastate crowdfunding portals to have a financial interest in an issuer listed on its Internet web portal.

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

Ms. Loutherback also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will consistency with a related statute. There will be no effect on micro- or small businesses. Since the rule will have no adverse economic effect on micro- or small businesses, preparation of an economic impact statement and a regulatory flexibility analysis is not required. There is no anticipated economic cost to persons who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

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

The amendment is proposed under Texas Civil Statutes, Articles 581-5.T, 581-12.C, 581-28-1, and 581-44. Section 5.T provides that the Board may prescribe new exemptions by rule. Section 12.C provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 44 provides the Board with the authority to adopt rules to regulate and facilitate online intrastate crowdfunding by authorized small business development entities.

The proposal affects Texas Civil Statutes, Articles 581-7, 581-12, 581-13, 581-14, 581-15, 581-18, and 581-44.

§139.25. Intrastate Crowdfunding Exemption.

(a) - (k) (No change.)

(l) Commissions and remuneration. A commission or other remuneration shall not be paid or given, directly or indirectly, for the offer or sale of the securities unless the person receiving such compensation is registered in Texas as a dealer or agent or as a Texas crowdfunding portal. The issuer may not list its securities on the Internet website of

a general dealer or portal that holds an interest in the issuer. The issuer may not compensate a general dealer or a portal by providing a financial interest in the issuer as compensation for services provided to or on behalf of the issuer. A general dealer or portal may not be affiliated with or under common control with an issuer whose securities appear on its Internet website. Nothwithstanding the foregoing, a Registered Small Business Development Entity, as defined in §115.20 of this title (relating to Texas Crowdfunding Portal Registration and Activities of Small Business Development Entities), may have a financial interest in an issuer listed on its Crowdfunding Web Portal, as defined in §115.20.

(m) (No change.)

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

Filed with the Office of the Secretary of State on February 4, 2016.

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John Morgan
Securities Commissioner
State Securities Board
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 305-8301

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER CC. FINANCIAL LITERACY ADVISORY COMMITTEE

19 TAC §§1.9521 - 1.9527

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new §§1.9521 - 1.9527, concerning the creation of the Financial Literacy Advisory Committee. The new rules are in accordance with Senate Bill 215 passed by the 83rd Texas Legislature, Regular Session. Specifically, these new rules govern the purpose, membership, meeting requirements, tasks, reporting requirements, and abolishment date of the Financial Literacy Advisory Committee.

Dr. Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs for the Coordinating Board, has determined that for each year of 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 these sections will be will be the efficient and transparent administration of the advisory committee. 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, Texas Higher Education Coordinating Board, 1200 E. Anderson Lane, Austin, Texas 78752, (512) 427-6365, *charles.puls@thecb.state.tx.us.* Comments will be accepted for 30 days following publication of the proposal in the *Texas Register.*

The new rules are proposed under Texas Education Code, Chapter 61, §61.026(c), and Government Code, Chapter 2110, which provide the Coordinating Board with the authority to create advisory committees.

The proposed rules affect Texas Education Code, Chapter 61, §61.0026, and Texas Government Code, Chapter 2110, §2110.0012.

§1.9521. Authority and Specific Purposes of the Financial Literacy Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Government Code, Chapter 2110, §2110.0012.

(b) Purposes. The Financial Literacy Advisory Committee is created to provide the Board with advice and recommendation(s) regarding ways to better advise students and parents on financial aid options and the impact of those options on students' finances before, during, and after their college careers.

§1.9522. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The Texas Higher Education Coordinating Board.

(2) Interested persons--Persons who attend committee meetings as representatives of stakeholder entities and any other persons who have made their interest in the work of the committee known to its presiding officer. Such interested persons may participate in committee discussions, as invited by the presiding officer to do so, but do not have the authority to cast votes.

§1.9523. Committee Membership and Officers.

(a) Membership on the committee shall include leaders from:

(1) Student financial aid;

(2) Higher education;

(3) K-12 education;

(4) Community-based organizations;

(5) Business.

(b) Interested persons, such as institutional representatives, and legislative and governmental relations staff shall be regularly advised of committee meetings.

(c) The number of committee members shall not exceed 24.

(d) Members of the committee shall select the presiding officer, who will be responsible for conducting meetings. A co-chair shall also be elected by the committee to serve in the presiding officer's stead as needed.

(e) Members shall serve staggered 2-year terms and may serve multiple terms.

§1.9524. Duration.

The committee shall be abolished no later than January 1, 2020 in accordance with Texas Government Code, Chapter 2110. It may be reestablished by the Board.

§1.9525. Meetings.

The committee shall meet on a monthly basis, as required by workload and tasks. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall be open to the public and broadcast via the web, unless prevented by technical difficulties. Minutes shall be available to the public after they have been prepared by the Board staff and reviewed by members of the committee.

§1.9526. Tasks Assigned the Committee.

Tasks assigned the committee include:

(1) making recommendations for statewide strategies to better advise students and parents on financial aid options, choice of major and future career, as well as the impact of those options on students' finances before, during, and after their college careers; and

(2) soliciting input from stakeholders across the state.

§1.9527. Report to the Board; Evaluation of Committee Costs and Effectiveness.

The committee shall report any recommendations to the Board on no less than an annual basis. The committee shall also report committee activities to the Board to allow the Board to properly evaluate the committee's work, usefulness, and the costs related to the committee's existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.

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

Filed with the Office of the Secretary of State on February 5, 2016.

TRD-201600573
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 427-6114

TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 51. EXECUTIVE

SUBCHAPTER B. AUTHORITY TO CONTRACT

31 TAC §51.60, §51.61

The Texas Parks and Wildlife Department (the department) proposes an amendment to §51.60, concerning Authority to Contract, and new §51.61, concerning Enhanced Contract Monitoring.

The proposed amendment and new rule implement the requirements of Senate Bill (S.B.) 20 as enacted by the 84th Texas Legislature (2015). Senate Bill 20 amended Government Code, Chapter 2261, by adding new §2261.253(c), which states "each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the governing board...." Government Code, §2261.253(c) further requires that the agency's governing body be immediately notified of any serious issue or risk that is identified with respect to a contract monitored under that section.

S.B. 20 also added Government Code, §2261.254, which requires a state agency's governing board to approve contracts with a value in excess of $1 million, and requires the presiding officer of the state agency to sign such contract. However, the approval and signature of such contracts may be delegated to the state agency's executive director. Department regulations (31 TAC §51.60) currently delegate authority to enter contracts to the department's executive director.

The proposed amendment to §51.60 would amend the current delegation of contracting authority to ensure compliance with S.B. 20 and to ensure proper review and approval of agency contracts. Proposed new subsection (a) would clarify that the delegation of authority includes, but is not limited to, contracts for the purchase of goods or services with a value exceeding $1 million. The Commission is a part-time body that generally holds five meetings each year. Given the number of contracts entered by the department and the part-time nature of the Commission, delegating contracting authority to the executive director will help ensure that contracts are processed more efficiently.

The proposed amendment to §51.60 also would add new subsection (b) to require the executive director to implement appropriate policies and procedures regarding the solicitation and signature of agency contracts. Proposed new subsection (b)(1) would require the implementation of policies and procedures to ensure that contracts are awarded in a manner that is fair and equitable and in accordance with applicable law. Proposed new subsection (b)(2) would ensure proper review and approval of agency contracts, including review by department legal staff. The department currently has internal policies, procedures and processes for soliciting, awarding, reviewing and approving agency contracts. The proposed amendment would codify a requirement to maintain such policies and procedures.

The proposed amendment to §51.60 also would add new subsection (c) to clearly authorize the executive director to delegate authority to sign department contracts with a value of less than $1 million to appropriate department staff, unless otherwise prohibited by statute or regulation. The delegation of contract signature authority would be subject to the requirements of subsection (b) of the section. In other words, a contract for which signature has been delegated would still be required to go through the appropriate review and approval process.

Proposed new §51.61 would set forth the criteria to be used by the department in determining whether a contract should be subject to enhanced contract monitoring. Proposed new subsection (a) would require that the department determine if enhanced contract monitoring is needed based on the criteria set out in subsection (b) of the section.

Proposed new §51.61(b) lists and describes the criteria to be considered by the department, to the extent applicable, in determining if enhanced contract monitoring is necessary. The criteria to be considered are: Total Contract Price; Total Contract Duration; Funding Source; User Impacts; Criticality of Deliverable Timing; Impact of Contract Failure; Locations Impacted; Availability of Resources for Contract Management; Complexity of Project; Health and Safety Risk; Business Process Impact; Payment Methodology Risks; and End Users' Training Needs. In addition, for technology contracts, the department will consider

Software Technology Customization; Impact on Existing Technology; and, Interface Connectivity. The department intends to rate proposed contracts using the criteria listed in proposed new subsection (b). Those contracts with a higher rating will receive enhanced monitoring and oversight by the department.

Proposed new §51.61(c) provides that the department may determine, after considering the factors listed in subsection (b), that certain types or classes of contracts are low-risk and have a low likelihood of serious issues. As a result, there would be no requirement to individually evaluate whether such contracts require enhanced contract monitoring. For example, certain very low-dollar, short-term contracts may be categorically excluded from the assessment required by proposed new subsection (b).

Proposed new §51.61(d) would require the department's director of contracting and procurement to notify the executive director regarding any serious risk or issue identified in connection with a contract subject to enhanced contract monitoring. The executive director will then be required to notify the Parks and Wildlife Commission of any such serious risk or issue identified.

Dawn Heikkila, Deputy Executive Director for Policy and Administration, has determined that for each of the first five years that the rules as proposed are in effect, there will be no fiscal implications to state and local governments as a result of enforcing or administering the rules as proposed, as the rules are for the purpose of implementing S.B. 20 as enacted by the Texas Legislature and impose no obligations other than those imposed by S.B. 20 or currently being handled by the department. To the extent S.B. 20 or the regulations impose additional duties, those duties will be handled with current department resources.

Ms. Heikkila also has determined that for each of the first five years the amended and new rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rules as proposed will be ensuring that department contracts are appropriately awarded, reviewed, and monitored.

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

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small or micro-businesses. These guidelines state that "[g]enerally, there is no need to examine the indirect effects of a proposed rule on entities outside of an agency's regulatory jurisdiction." The guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. The guidelines also list examples of the types of costs that may result in a "direct economic impact." Such costs may include costs associated with additional recordkeeping or reporting requirements; new taxes or fees; lost sales or profits; changes in market competition; or the need to purchase or modify equipment or services. The department has determined that the proposed rules will have no adverse economic impact on any small or micro-business.

The department has not drafted a local employment impact statement under the Administrative Procedure Act, Government Code, §2001.022, as the agency has determined that the rules as proposed will not result in direct impacts to local economies.

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

Comments on the proposed rules may be submitted to Dawn Heikkila, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4604 (e-mail: dawn.heikkila@tpwd.texas.gov); or via the department's website at www.tpwd.texas.gov.

The amendment and new rule are proposed under the authority of Government Code, §2261.253, which requires state agencies to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing board and requires that the agency's governing body be immediately notified of any serious issue or risk that is identified with respect to a contract monitored under that section; §2261.254, which requires a state agency's governing board to approve and the presiding officer of the governing body to sign contracts with a value in excess of $1 million, but authorizes the delegation of approval and signature authority for such contracts to the state agency's executive director; and Parks and Wildlife Code, §11.0171, which requires the commission to adopt by rule policies and procedures consistent with state procurement practices for soliciting and awarding contracts under that section.

The proposed amendment and new rule affects Government Code, Chapter 2261, Subchapter F, and Parks and Wildlife Code, Chapter 11, Subchapter A.

§51.60. Authority to Contract.

(a) The executive director or the executive director's designee may execute [~~negotiate and enter into~~] an agreement on behalf of the department, including but not limited to a contract for the purchase of goods or services that has a value exceeding $1 million, provided [~~if~~] the agreement is in the best interests of the department.

(b) Subject to the provisions of subsection (a) of this section, the executive director shall develop and implement internal policies and procedures to ensure that:

(1) contracts are awarded in a manner that is fair and equitable and in compliance with applicable statutes and regulations; and

(2) contracts and contract templates are reviewed and approved by appropriate agency staff, including, but not limited to, the general counsel or designated attorney prior to final approval and signature.

(c) Unless otherwise prohibited by statute or department regulation, the executive director may delegate signature authority for contracts with a total dollar value of less than $1 million, subject to the policies and procedures implemented pursuant to subsection (b) of this section.

§51.61. Enhanced Contract Monitoring.

(a) Except as otherwise provided in this section, before the department enters into a contract, the department will determine if enhanced monitoring of the contract and the contractor's performance is required.

(b) In determining if a contract requires enhanced contract monitoring, the department will consider the following factors, to the extent applicable:

(1) Total Contract Price. The department will consider the estimated dollar amount of the contract. Contracts with a higher dollar amount are more likely to require enhanced contract monitoring.

(2) Total Contract Duration. The department will consider anticipated overall contract period including renewal options. Longer term contracts are more likely to require enhanced contract monitoring.

(3) Funding Source. The department will consider the complexity of and restrictions associated with funding sources for the contract. Contracts funded from multiple types or sources of funding and contracts funded with restricted or time-limited funds are more likely to require enhanced contract monitoring.

(4) User Impacts. The department will consider the extent and number of persons impacted by this contract. Contracts with wider impacts are more likely to require enhanced contract monitoring.

(5) Criticality of Deliverable Timing. The department will consider the impact to the agency if contract deliverables are delayed. Contracts for which timely completion is critical are more likely to require enhanced contract monitoring.

(6) Impact of Contract Failure. The department will consider the impact to the department and the state if the contractor fails to deliver as required in the contract. Contracts for which failure would have statewide impacts, would result in violation of state or federal mandates, or would result in the loss of substantial funds are more likely to require enhanced contract monitoring.

(7) Locations Impacted. The department will consider the number of locations impacted by the contract. Contracts that will be implemented in multiple locations around the state are more likely to require enhanced contract monitoring.

(8) Availability of Resources for Contract Management. The department will consider the extent of resources readily available to manage the contract. Contracts for which resources are limited or for which consultants or temporary staff are required to manage the contract are more likely to require enhanced contract monitoring.

(9) Complexity of Project. The department will consider the complexity of requirements and resources to be managed. Contracts with more complex requirements involving external experts or evaluators are more likely to require enhanced contract monitoring.

(10) Health and Safety Risk. The department will consider how the contract would impact the health and safety of department employees and the general public. Contracts that are required to reduce or eliminate health and safety risks are more likely to require enhanced contract monitoring.

(11) Business Process Impact. The department will consider the level of impact to the department's business processes. Contracts that will have department-wide business impacts are more likely to require enhanced contract monitoring.

(12) Payment Methodology Risks. The department will consider the complexity of the methodology for calculating and making payments under the contract. Contracts with more complex payment methodology are more likely to require enhanced contract monitoring.

(13) End Users' Training Needs. The department will consider the extent of training required for end-users as a result of the contract. Contracts requiring extensive training by a vendor or external trainers are more likely to require enhanced contract monitoring.

(14) Software Technology Customization. With regard to a technology contract, the department will consider the level of software customization required. Technology contracts that involve a fully customized software solution are more likely to require enhanced contract monitoring.

(15) Impact on Existing Technology. With regard to a technology contract, the department will consider whether the technology application which is the subject of the contract is an enhancement, replacement or new technology and the impact on existing technology applications or infrastructure. Contracts for a new technology service or product that will impact existing technology applications or infrastructure are more likely to require enhanced contract monitoring.

(16) Interface Connectivity. With regard to technology contracts, the department will consider the number of existing technology applications with which any new technology will need to interface. Technology contracts that will interface with multiple department systems are more likely to require enhanced contract monitoring.

(c) The department may determine, after considering the factors listed in subsection (b) of this section, that certain types or classes of contracts are low risk and have a low likelihood of serious issues, and are not required to be individually considered for enhanced contract monitoring.

(d) The department's director of contracting and procurement will notify the executive director who will notify the Parks and Wildlife Commission regarding any serious risk or issue identified in connection with a contract subject to enhanced contract monitoring.

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

Filed with the Office of the Secretary of State on February 5, 2016.

TRD-201600579
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 389-4727

CHAPTER 57. FISHERIES

SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

The Texas Parks and Wildlife Department proposes amendments to §§57.972, 57.973, and 57.981, concerning the Statewide Recreational and Commercial Fishing Proclamations.

The proposed amendment to §57.972, concerning General Rules, would implement the provisions of House Bill (H.B.) 1579, enacted by the 84th Texas Legislature (2015), which amended Parks and Wildlife Code, §66.216, to provide that no person may possess a finfish of any species taken from coastal water, except broadbill swordfish, shark, or king mackerel, that has the head removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer; and that no person may possess a finfish of any species taken from coastal water, except broadbill swordfish or king mackerel, that has the tail removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

The proposed amendment to §57.973, concerning Devices, Means, and Methods, would clarify regulations governing gear restrictions on pole-and-line. The department has received several comments to the effect that the current wording of

paragraph (13)(A) is confusing and does not make it clear that "snagging" and "jerking" are unlawful acts included in the provision. The proposed amendment would make that clear.

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

The proposed amendment to §57.981 would alter harvest regulations for smallmouth bass on Lake Meredith in Hutchinson, Moore, and Potter counties, replacing the current 12 - 15 inch slot length limit and three-fish daily bag to the statewide standard (14-inch minimum length limit and a daily bag limit of five fish). Lake Meredith contained a smallmouth bass population until approximately 2011, when golden alga blooms extirpated the population in the reservoir. Drought has also had an impact as the reservoir was below 1% capacity from 2011 to 2014. Restocking of smallmouth bass is being evaluated, and the 14-inch limit would be an appropriate regulation for managing a newly stocked population.

The proposed amendment to §57.981 also would eliminate the current statewide standard regulation for saugeye and merge saugeye with the current statewide standard regulation for walleye. The current harvest regulations for saugeye (18-inch minimum and three-fish daily bag limit) would be replaced with no minimum length limit and a five-fish daily bag limit of which no more than two fish less than 16 inches could be lawfully retained. The saugeye is a hybrid between walleye and sauger, stocked to prey on stunted crappie populations and provide another fishing opportunity for anglers. Stockings were not successful in achieving those goals, and the saugeye stocking program has been discontinued. Existing saugeye populations will likely be gone within the next 5-10 years. A separate regulation is not needed since saugeye will no longer be stocked.

The proposed amendment to §57.981 also would alter harvest regulations for largemouth bass on Lake Naconiche in Nacogdoches County. Current harvest regulations consist of an 18-inch minimum length limit and a five-fish daily bag limit. The proposed amendment would impose a 16-inch maximum length limit and five-fish daily bag, with only one fish 24 inches or greater lawful for live retention for immediate weighing using personal scales. Bass weighing 13 pounds or more may be donated to the ShareLunker Program; otherwise, fish must be immediately released. Lake Naconiche was opened in 2012 with an 18-inch minimum length limit. The bass population is still developing and has trophy potential. Establishing a maximum length limit of 16 inches could increase numbers of trophy-sized bass in the population by providing protection to large bass currently vulnerable to harvest (larger than 18 inches). A maximum length limit that allows retention of only ShareLunker bass (13 pounds or larger) could increase contributions to the ShareLunker program. Allowing harvest of bass less than 16 inches could decrease intraspecific competition and increase growth rates.

The proposed amendment to §57.981 also would alter harvest regulations for largemouth bass in Chambers, Galveston, Jefferson, Newton, and Orange counties. The current harvest regulations in these counties consist of a 14-inch minimum length limit and a five-fish daily bag limit. The proposed amendment would impose a 12-inch minimum length limit (the five-fish daily bag would be retained). Additionally, regulations would be changed on the Sabine River from the Toledo Bend dam to a line across Sabine Pass between Texas Point and Louisiana Point and in Chambers, Galveston, Jefferson, and Orange counties, including any waters that form boundaries with adjacent counties. There has been increased local interest in bass fishing and tournament angling in this area of Southeast Texas. Numerous professional and high school/college bass tournaments have occurred. Anglers have noted catching numerous bass over 12 inches but less than 14 inches. The department has agreed to investigate bass populations in that area and has determined that populations are abundant but slow-growing, with few fish exceeding 14 inches. These population characteristics mirror those in coastal bass populations along the Gulf. The proposed amendment would have minimal impact to the population but would allow anglers the option of weighing in 12- and 13-inch bass in catch-and-release tournaments.

The proposed amendment to §57.981 also would affect harvest regulations for channel and blue catfish on Lake Tawakoni in Hunt, Raines, and Van Zandt counties. The current harvest regulations consist of a 14-inch minimum length limit and a 25-fish daily bag limit. The proposed amendment would eliminate the minimum length limit and retain the 25-fish bag limit, but anglers would be allowed to retain only seven fish 20 inches or greater in length, and of these seven fish, only two could be 30 inches or greater. The blue catfish fishery in Tawakoni was the result of a stocking in 1989 of 366,675 blue catfish fingerlings. The harvest of large fish concerned some anglers and those anglers have expressed a desire for reduced harvest of catfish larger than 30 inches. Staff question whether the trophy fishery can be sustained at its current level into the future. Special sampling was started in 2013 to assess the blue catfish fishery. An angler survey was conducted and most anglers were satisfied with current limits but respondents did support reducing harvest of large blue catfish. Population modeling was done to assess potential impacts on 20- to 30-inch fish under various regulation scenarios. The proposed regulation was selected to best address concerns about over-harvest of large blue catfish, redirect some of the harvest, and have the potential to increase the catch of blue catfish greater than 30 inches. Blue catfish are the focus of the proposed regulation; channel catfish will be minimally impacted.

The proposed amendment to §57.981 also would correct the maximum length limit stated for black drum. Last year, the department eliminated an awkward tabular format for establishing bag, possession, and length limits. In the process, the 30-inch maximum length limit for black drum was inadvertently eliminated. The proposed amendment would correct that oversight.

The proposed amendment to §57.981 also would increase the recreational minimum length limit for amberjack to reflect recent federal actions regarding that species. The proposed amendment increases the recreational minimum size limit for amberjack from 34 inches to 38 inches (total length). The National Marine Fisheries Service (NMFS) recently issued regulations to implement management measures in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, one of which was to increase the recreational minimum size limit for amberjack. The change is intended to provide an opportunity for a greater number of sexually mature greater amberjack to spawn, which could assist in efforts to end overfishing and rebuild stock. The department has determined that the federal action is consistent with sound fisheries management principles and that making the state regulation identical to the federal regulation will help achieve management goals, be beneficial to the resource, and prevent angler confusion.

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

or local governments as a result of administering or enforcing the rules.

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

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

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

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

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

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

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

Comments on the proposal may be submitted to Ken Kurzawski (Inland Fisheries) at (512) 389-4591, e-mail: ken.kurzawski@tpwd.texas.gov; Jeremy Leitz (Coastal Fisheries) at (512) 389-4333, e-mail: jeremy.leitz@tpwd.texas.gov; or Brandi Reeder (Law Enforcement) at (512) 389-4853, e-mail brandi.reeder@tpwd.texas.gov. Comments also may be submitted via the department's website at http://www.tpwd.texas.gov/business/feedback/public_comment/.

DIVISION 1. GENERAL PROVISIONS

31 TAC §57.972, §57.973

The amendments are proposed under the authority of Parks and Wildlife Code, §47.004 and §47.005, which authorize the commission to adopt rules governing the issuance and use of resident and nonresident fishing guide licenses; Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess aquatic animal life in this state; the means, methods, and places in which it is lawful to take or possess aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the aquatic animal life authorized to be taken or possessed; and the region, county, area, body of water, or portion of a county where aquatic animal life may be taken or possessed; and §67.004, which requires the commission to establish any limits on the taking, possession, propagation, transportation, importation, exportation, sale, or offering for sale of nongame fish or wildlife that the department considers necessary to manage the species.

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

§57.972. General Rules.

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

(g) It is unlawful:

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

(6) for any person to:

(A) possess a finfish of any species, except broadbill swordfish, shark or king mackerel, taken from public water (salt water or fresh water) that has the head [~~or tail~~] removed unless the fish has been:

(i) finally processed and delivered to a final destination or to a certified wholesale or retail dealer; or

(ii) finally landed [~~until such person finally lands the catch~~] on the mainland, a peninsula, or barrier island not including jetties or piers and is not transported afterwards [~~does not transport the catch~~] by boat; or

(B) possess a finfish of any species taken from coastal water, except broadbill swordfish or king mackerel, that has the tail removed unless the fish has been:

(i) finally processed and delivered to a final destination or to a certified wholesale or retail dealer; or

(ii) has been finally landed on the mainland, a peninsula, or barrier island not including jetties or piers and is not transported afterwards by boat.

(7) - (13) (No change.)

(h) - (i) (No change.)

§57.973. Devices, Means, and Methods.

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

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

(1) - (12) (No change.)

(13) Pole and line.

(A) Game and non-game fish may be taken by pole and line. It is unlawful to use a pole and line to take or attempt to take fish by foul-hooking, snagging, or jerking [~~with one or more hooks attached to a line or artificial lure used in a manner to foul-hook a fish (snagging or jerking)~~]. A fish is foul-hooked when caught by a hook in an area other than the fish's mouth.

(B) - (C) (No change.)

(14) - (23) (No change.)

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

Filed with the Office of the Secretary of State on February 5, 2016.

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Ann Bright
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 389-4775

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DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

31 TAC §57.981

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

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

§57.981. Bag, Possession, and Length Limits.

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

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

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

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

(A) Amberjack, greater.

(i) Daily bag limit: 1.

(ii) Minimum length limit: 38 [~~34~~] inches.

(iii) Maximum length limit: No limit.

(B) - (E) (No change.)

(F) Drum, black.

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

(iii) Maximum length limit: 30 inches [~~No maximum length limit~~].

(iv) (No change.)

(G) - (N) (No change.)

[~~(O) Saugeye.~~]

~~*[(i)* Daily bag limit: 3.]~~

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

~~*[(iii)* No maximum length limit.]~~

(O) [~~(P)~~] Seatrout, spotted.

(i) Daily bag limit:

(I) for all waters south of F.M. 457 in Matagorda County: 5;

(II) for all waters north of F.M. 457 in Matagorda County: 10.

(ii) Minimum length limit: 15 inches.

(iii) Maximum length limit: 25 inches.

(iv) Only one spotted seatrout greater than 25 inches may be retained per day. A spotted seatrout retained under this subclause counts as part of the daily bag and possession limit.

(P) [~~(Q)~~] Shark: all species (including hybrids and subspecies).

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

(I) Daily bag limit: 1.

(II) Minimum length limit: 64 inches.

(III) No maximum length limit.

(ii) Atlantic sharpnose, blacktip, and bonnethead:

(I) Daily bag limit: 1.

(II) Minimum length limit: 24 inches.

(III) No maximum length limit.

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

(-a-) Atlantic angel;
(-b-) Basking;
(-c-) Bigeye sand tiger;
(-d-) Bigeye sixgill;
(-e-) Bigeye thresher;
(-f-) Bignose;
(-g-) Caribbean reef;
(-h-) Caribbean sharpnose;
(-i-) Dusky;
(-j-) Galapagos;
(-k-) Longfin mako;
(-l-) Narrowtooth;
(-m-) Night;
(-n-) Sandbar;
(-o-) Sand tiger;
(-p-) Sevengill;
(-q-) Silky;
(-r-) Sixgill;
(-s-) Smalltail;
(-t-) Whale; and
(-u-) White.

(Q) [~~(R)~~] Sheepshead.

(i) Daily bag limit: 5.

(ii) Minimum length limit: 15 inches.

(iii) No maximum length limit.

(R) [~~(S)~~] Snapper.

(i) Lane.

(I) Daily bag limit: None.

(II) Minimum length limit: 8 inches.

(III) No maximum length limit.

(ii) Red.

(I) Daily bag limit: 4.

(II) Minimum length limit: 15 inches.

(III) No maximum length limit.

(IV) Red snapper may be taken using pole and line, but it is unlawful to use any kind of hook other than a circle hook baited with natural bait.

(iii) Vermilion.

(I) Daily bag limit: None.

(II) Minimum length limit: 10 inches.

(III) No maximum length limit.

(S) [~~(T)~~] Snook.

(i) Daily bag limit: 1.

(ii) Minimum length limit: 24 inches.

(iii) Maximum length limit: 28 inches.

(T) [~~(U)~~] Tarpon.

(i) Daily bag limit: 1.

(ii) Minimum length limit: 85 inches.

(iii) No maximum length limit.

(U) [~~(V)~~] Triggerfish, gray.

(i) Daily bag limit: 20.

(ii) Minimum length limit: 16 inches.

(iii) No maximum length limit.

(V) [~~(W)~~] Tripletail.

(i) Daily bag limit: 3.

(ii) Minimum length limit: 17 inches.

(iii) No maximum length limit.

(W) [~~(X)~~] Trout (rainbow and brown trout, including their hybrids and subspecies).

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

(ii) No minimum length limit.

(iii) No maximum length limit.

(X) [~~(Y)~~] Walleye and Saugeye.

(i) Daily bag limit: 5.

(ii) No minimum length limit.

(iii) No maximum length limit.

(iv) Two walleye or saugeye of less than 16 inches may be retained per day.

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

(1) Freshwater species.

(A) (No change.)

(B) Bass: largemouth and spotted.

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

(iii) [~~Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge and~~] Toledo Bend Reservoir (Newton, Sabine, and Shelby counties).

(I) - (II) (No change.)

(iv) Sabine River (Newton and Orange counties) from Toledo Bend dam to a line across Sabine Pass between Texas Point and Louisiana Point.

(I) Daily bag limit: 8 (in any combination with spotted bass).

(II) Minimum length limit: 12 inches (largemouth bass); no limit for spotted bass. Possession limit is 10.

(C) Bass: largemouth.

(i) Chambers, Galveston, Jefferson, and Orange counties including any public waters that form boundaries with adjacent counties.

(I) Daily bag limit: 5.

(II) Minimum length limit: 12 inches.

(ii) [~~(i)~~] Conroe (Montgomery and Walker counties), Granbury (Hood County), Possum Kingdom (Palo Pinto, Stephens, and Young counties), and Ratcliff (Houston County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 16 inches.

(iii) [~~(ii)~~] Lakes Kurth (Angelina County), [~~and~~] Nacogdoches (Nacogdoches County), and Naconiche (Nacogdoches County).

(I) Daily bag limit: 5.

(II) Minimum length limit: It is unlawful to retain largemouth bass of 16 inches or greater in length. Largemouth bass 24 inches or greater in length may be retained in a live well or other aerated holding device for purposes of weighing but may not be removed from the immediate vicinity of the lake. After weighing the bass must be released immediately back into the lake unless the department has instructed that the bass be kept for donation to the ShareLunker Program.

(iv) [~~(iii)~~] Lakes Bellwood (Smith County), Bright (Williamson County), Brushy Creek (Williamson County), Bryan (Brazos County), Casa Blanca (Webb County), Cleburne State Park (Johnson County), Cooper (Delta and Hopkins counties), Fairfield (Freestone County), Gilmer (Upshur County), Marine Creek Reservoir (Tarrant County), Meridian State Park (Bosque County), [~~Naconiche (Nacogdoches County),~~] Old Mount Pleasant City (Titus County), Pflugerville (Travis County), Rusk State Park (Cherokee County), and Welsh (Titus County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 18 inches.

(v) [~~(iv)~~] Buck Lake (Kimble County), Lake Kyle (Hays County), and Nelson Park Lake (Taylor County).

(I) Daily bag limit: 0.

(II) Minimum length limit: No limit.

(III) Catch and release only.

(vi) [~~(v)~~] Lake Jacksonville (Cherokee County) and O.H. Ivie Reservoir (Coleman, Concho, and Runnels counties).

(I) Daily bag limit: 5.

(II) Minimum length limit: No limit.

(III) It is unlawful to retain more than two bass of less than 18 inches in length.

(vii) [~~(vi)~~] Purtis Creek State Park Lake (Henderson and Van Zandt counties) and Raven (Walker County).

(I) Daily bag limit: 0.

(II) Minimum length limit: No limit.

(III) Catch and release only, except that any bass 24 inches or greater in length may be retained in a live well or other aerated holding device for purposes of weighing but may not be removed from the immediate vicinity of the lake. After weighing the bass must be released immediately back into the lake unless the department has instructed that the bass be kept for donation to the ShareLunker Program.

(viii) [~~(vii)~~] Lakes Bridgeport (Jack and Wise counties), Burke-Crenshaw (Harris County), Davy Crockett (Fannin County), Georgetown (Williamson County), Grapevine (Denton and Tarrant counties), Madisonville (Madison County), Nasworthy (Tom Green), San Augustine City (San Augustine County), and Sweetwater (Nolan County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 14 - 18 inch slot limit.

(III) It is unlawful to retain largemouth bass between 14 and 18 inches in length.

(ix) [~~(viii)~~] Lakes Athens (Henderson County), Bastrop (Bastrop County), Buescher State Park (Bastrop County), Houston County (Houston County), Joe Pool (Dallas, Ellis, and Tarrant counties), Lady Bird (Travis County), Mill Creek (Van Zandt County), Murvaul (Panola County), Pinkston (Shelby County), Timpson (Shelby County), Walter E. Long (Travis County), and Wheeler Branch (Somervell County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 14 - 21 inch slot limit.

(III) It is unlawful to retain largemouth bass between 14 and 21 inches in length. No more than 1 bass 21 inches or greater in length may be retained each day.

(x) [~~(ix)~~] Lakes Fayette County (Fayette County), Gibbons Creek Reservoir (Grimes County), and Monticello (Titus County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 14 - 24 inch slot limit.

(III) It is unlawful to retain largemouth bass between 14 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day.

(xi) [~~(x)~~] Lake Fork (Wood Rains and Hopkins counties).

(I) Daily bag limit: 5.

(II) Minimum length limit: 16 - 24 inch slot limit.

(III) It is unlawful to retain largemouth bass between 16 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day.

(D) Bass: smallmouth.

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

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

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

~~[(ii) Lake Meredith (Hutchinson, Moore, and Potter counties).]~~

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

~~[(II) Minimum length limit: 12 - 15 inch slot limit]~~

~~[(III) It is unlawful to retain smallmouth bass between 12 and 15 inches in length.]~~

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

(I) Catfish: channel and blue catfish, their hybrids and subspecies.

(i) - (ix) (No change.)

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

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

(II) Minimum length limit: No limit.

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

(J) - (Q) (No change.)

(2) (No change.)

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

Filed with the Office of the Secretary of State on February 5, 2016.

TRD-201600578
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 389-4775

♦ ♦ ♦

CHAPTER 65. WILDLIFE

SUBCHAPTER A. STATEWIDE HUNTING PROCLAMATION

The Texas Parks and Wildlife Department (the department, or TPWD) proposes the repeal of §65.27 and amendments to

§§65.3, 65.7, 65.9, 65.10, 65.24, 65.25, and 65.42, concerning the Statewide Hunting Proclamation.

The proposed repeal of §65.27, concerning Antlerless and Spike-buck Deer Control Permits (control permits), is necessary because the department is eliminating that permit program. Participation has diminished to the point that fewer than five permits per year are issued, which does not justify the administrative costs to the department, especially considering that the department's Managed Lands Deer Permit (MLDP) program (and its successor program, scheduled to take effect September 1, 2017) allows landowners and land managers to achieve the same goals without having to purchase a permit. As a result of the proposed elimination of the program, the proposed amendments to §65.7, concerning Harvest Log; §65.10, concerning Possession of Wildlife Resources; §65.24, concerning Permits; §65.25, concerning Wildlife Management Plan (WMP); and §65.42, concerning Deer are necessary to remove references to the control permit.

The proposed amendment to §65.3, concerning Definitions, would add a new definition for "unbranched antlered deer," defined as "a buck deer having at least one unbranched antler." The new definition is necessary because the proposed amendment to §65.42, concerning Deer, would, among other things, eliminate the current late antlerless and spike buck season and replace it with a special late season during which harvest would be restricted to antlerless and unbranched antlered deer.

The proposed amendment to §65.9, concerning Open Seasons: General Rules, would add language to subsection (b) to clarify that the provision applies only to white-tailed deer. The provisions of §65.42(c) specify the permit requirements for the harvest of antlerless mule deer during archery-only open seasons and thus there is an unintentional conflict with the current provisions of §65.9(b). The proposed amendment would eliminate that conflict.

The proposed amendment to §65.42, concerning Deer, consists of several actions.

As mentioned previously in this preamble, the department proposes to eliminate the current Late Antlerless and Spike Buck Season and replace it with a special late season during which harvest is restricted to antlerless and unbranched antlered deer. In another rulemaking, the department adopted new §65.29 (41 TexReg 806) to create a Managed Lands Deer Program (MLDP) beginning September 1, 2017. In order to provide greater management flexibility to program participants, new §65.29 in certain situations allows for the harvest of unbranched antlered deer. The department considers that in those counties where the "antler restriction rule" (defining a legal buck as a buck with at least one unbranched antler or an inside spread of 13 inches or greater and limiting the harvest to no more than one buck with an inside spread of 13 inches or greater) is in place, the new MLDP rule could cause confusion with respect to which buck deer are lawful to take. Therefore, the proposed amendment would create a single standard (the unbranched antlered deer) to facilitate compliance and enforcement.

The proposed amendment to §65.42 would also expand the number of "doe days" (time periods in when antlerless deer may be taken without a permit in parts of the state where antlerless harvest regulations are conservative) in 23 counties. The current deer harvest regulations in Bell (east of IH35), Burleson, Ellis, Falls, Freestone, Kaufman, Limestone, Milam, Navarro, and Williamson (east of IH35) counties have allowed the harvest of antlerless deer only by permit. Deer population trends in this area have experienced a 23% population increase during the past six years. The doe/buck ratio of 3.5 is considered relatively high and likely extends both the breeding and fawning seasons, thus resulting in poor recruitment (33-42%). The implementation of antler-restriction regulations in these counties has helped improve the adult sex ratio, but current antlerless deer harvest regulations are a barrier to successful management of the increasing deer population. The fifteen-year average hunter success in the Post Oak region is 45.2% and trends suggest an increasing hunter success, but antlerless harvest comprises only 34.5% of total harvest (15-year avg.). Increased doe harvest during the general season is needed to reduce the impact of the deer herd upon the habitat, improve the sex ratio, shorten the breeding season, and improve fawning success. Therefore, the department is proposing four "doe days" in these counties, during which hunters may harvest antlerless deer without a permit. The proposed amendment would have the additional benefit of increasing hunting opportunity.

The proposed amendment would also expand "doe days" in Anderson, Brazos, Camp, Gregg, Grimes, Henderson, Lamar, Leon, Madison, Morris, Red River, Robertson, and Upshur counties, from the current four days to 16 days. These counties span the eastern edge of the Post Oak Savannah and the western edge of the Pineywoods ecoregions. Deer populations in this group of counties appear to be on an increasing trend (based on survey results), and data indicate that populations are currently at or slightly above desired densities. At current population and harvest levels, habitat quality and quantity will be degraded, affecting all species on the landscape. The doe/buck ratio is skewed towards does (6.3:1), and the reduced number of bucks creates increased hunting pressure on the buck segment of the deer herd. Buck harvest in these counties appears to have increased slightly, while antlerless deer harvest has remained stable based on age/weight/antler data collection efforts. All four counties are experiencing suboptimal antlerless harvest, which is indicated by an increasing trend in the age structure of the doe population. Antlerless harvest remains well below 50% of the total harvest, which is undesirable. Overall, the deer herd in these counties appears to be above carrying capacity and not responding satisfactorily to the current number of "doe days." The proposed expansion from four "doe days" to 16 "doe days" is expected to provide additional hunting opportunity while reducing the number of deer to benefit the deer population and the native habitat. The additional doe harvest may also alleviate some of the harvest pressure on the buck segment of the herd and result in a more balanced sex ratio, ultimately increasing the number of bucks in the population.

The department has received requests to open a white-tailed deer season in several counties in the western panhandle. This area of the state encompasses the western edge of the white-tailed deer range in Texas. The department has confirmed that white-tailed deer populations have expanded westward towards the New Mexico border and continued westward expansion is expected. Therefore, the proposed amendment to §65.42 would also implement both general and special archery-only seasons for white-tailed deer in Andrews, Bailey, Castro, Cochran, Gaines, Hale, Hockley, Lamb, Lubbock, Lynn, Parmer, Terry and Yoakum counties, with a bag limit of three deer (no more than one buck and no more than two antlerless), which is identical to adjoining/nearby counties that currently have a season. The proposed amendment would also implement both a general and special archery-only season for

white-tailed deer in Winkler County, with a bag limit of three deer (no more than one buck and no more than two antlerless, with the take of antlerless deer restricted to MLD Permit only). The proposed new season is identical to adjoining/nearby counties that currently have a season. The proposed new seasons, if adopted, are not expected to result in negative population impacts but will provide additional hunting opportunity where white-tailed deer populations are expanding.

The proposed amendment to §65.42 also would implement a muzzleloader-only late season in Anderson, Bell (East of IH 35), Brazos, Burleson, Comal (East of IH 35), Delta, Ellis, Fannin, Falls, Franklin, Freestone, Grimes, Hays (East of IH 35), Henderson, Hopkins, Hunt, Kaufman, Lamar, Leon, Limestone, Madison, Milam, Navarro, Rains, Red River, Robertson, Smith, Titus, Travis (East of IH 35), Van Zandt, Williamson (East of IH 35), and Wood counties. The department has determined that additional conservative harvest in these counties will provide increased hunting opportunity while potentially helping achieve antlerless deer harvest goals, which is necessary to stabilize deer populations and reduce adverse habitat impacts.

The department has received several requests from the U.S. Forest Service (USFS) to allow youth on USFS lands to harvest antlerless deer without a permit during youth-only seasons. The department does not believe the resulting harvest would exert any negative impacts on deer populations in any county where USFS lands are located and would have the benefit of providing additional youth hunting opportunity. Therefore, the proposed amendment to §65.42 would authorize the take of antlerless deer by youth without a permit during youth-only seasons. Additionally, the proposed amendment would clarify that the harvest of antlerless deer during youth seasons is restricted to persons 16 years of age and younger, except on properties where Level 2 or Level 3 MLDPs have been issued. Under the provisions of §65.26 of this subchapter, concerning Managed Lands Deer Permits, Harvest of deer on Level 2 and Level 3 MLDP properties is authorized during the period of validity of the permits, not by the season and bag limit established for counties in §65.42; however, harvest on Level 1 MLDP properties is lawful during any open season. The department seeks to clarify that Level 1 MLDPs cannot be used by adults to harvest deer during the youth-only season.

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

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

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

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

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

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

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

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

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

DIVISION 1. GENERAL PROVISIONS

31 TAC §§65.3, 65.7, 65.9, 65.10, 65.24, 65.25

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

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

§65.3. Definitions.

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

(1) Alligator gig--A pole or staff equipped with at least one of the following:

(A) immovable prongs;

(B) two or more spring-loaded grasping arms; or

(C) a detachable head.

(2) Alligator hide tag (hide tag)--A department-issued tag required by federal law pursuant to the Convention on International Trade in Endangered Species (CITES) to be affixed to all alligators taken in the state. All alligator hide tags issued by the department are CITES tags.

(3) Annual bag limit--The quantity of a species of a wildlife resource that may be taken from September 1 of one year to August 31 of the following year.

(4) Antlerless deer--A deer having no hardened antler protruding through the skin.

(5) Antler point--A projection that extends at least one inch from the edge of a main beam or another tine. The tip of a main beam is also a point.

(6) Bait--Something used to lure any wildlife resource.

(7) Baited area--Any area where minerals, vegetative material or any other food substances are placed so as to lure a wildlife resource to, on, or over that area.

(8) Bearded hen--A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

(9) Buck deer--A deer having a hardened antler protruding through the skin.

(10) Daily bag limit--The quantity of a species of a wildlife resource that may be lawfully taken in one day.

(11) Day--A 24-hour period of time that begins at midnight and ends at midnight.

(12) Deer population data--Results derived from deer population surveys and/or from systematic data analysis of density or herd health indicators, such as browse surveys or other scientifically acceptable data, that function as direct or indirect indicators of population density.

(13) Final processing--The cleaning of a dead wildlife resource for cooking or storage purposes. For a deer or antelope carcass, the term includes the processing of the animal more than by quartering.

(14) Fully automatic firearm--Any firearm that is capable of firing more than one cartridge in succession by a single function of the trigger.

(15) Gig--Any hand-held shaft with single or multiple points.

(16) Landowner--Any person who has an ownership interest in a tract of land, and includes a person authorized by the landowner to act on behalf of the landowner as the landowner's agent.

(17) Lawful archery equipment--Longbow, recurved bow, and compound bow.

(18) License year--The period of time for which an annual hunting license is valid.

(19) Muzzleloader--Any firearm that is loaded only through the muzzle.

(20) Permanent residence--One's domicile. This does not include a temporary abode or dwelling such as a hunting/fishing club, or any club house, cabin, tent, or trailer house used as a hunting/fishing club, or any hotel, motel, or rooming house used during a hunting, fishing, pleasure, or business trip.

(21) Possession limit--The maximum number of a wildlife resource that may be lawfully possessed at one time.

(22) Silencer or sound-suppressing device--Any device that reduces the normal noise level created when the firearm is discharged or fired.

(23) Spike-buck deer--A buck deer with no antler having more than one point.

(24) Unbranched antler--An antler having no more than one antler point.

(25) Unbranched antlered deer--A buck deer having at least one unbranched antler.

(26) [~~(25)~~] Upper-limb disability--A permanent loss of the use of fingers, hand or arm in a manner that renders a person incapable of using a longbow, compound bow or recurved bow.

(27) [~~(26)~~] Wildlife resources--Alligators, all game animals, and all game birds.

(28) [~~(27)~~] Wounded deer--A deer leaving a blood trail.

§65.7. Harvest Log.

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

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

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

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

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

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

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

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

[~~(F) under the provisions of §65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits).~~]

(b) (No change.)

§65.9. Open Seasons: General Rules.

(a) Except as provided under Parks and Wildlife Code, §62.003, no person may hunt a wild animal or bird when the person is on a public road or right-of-way.

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

(c) The hunting of roosting turkey is unlawful.

§65.10. Possession of Wildlife Resources.

(a) For all wildlife resources taken for personal consumption and for which there is a possession limit, the possession limit shall not apply after the wildlife resource has reached the possessor's permanent residence and is finally processed.

(b) Under authority of Parks and Wildlife Code, §42.0177, the tagging requirements of Parks and Wildlife Code, §42.018, are modified as follows.

(1) At a final destination other than a cold storage or processing facility required to maintain a cold storage record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements for a carcass cease when the forequarters, hindquarters, and back straps have been completely severed from the carcass.

(2) At a cold storage or processing facility required to maintain a cold storage record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements for a carcass cease when:

(A) the forequarters, hindquarters, and back straps have been completely severed from the carcass; and

(B) the information required under Parks and Wildlife Code, §62.029, has been entered into the cold storage record book that the cold storage or processing facility is required to maintain.

(3) The provisions of this subsection do not modify or eliminate any requirement of this subchapter or the Parks and Wildlife Code applicable to a carcass before it is at a final destination.

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

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

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

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

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

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

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

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

[~~(8) under the provisions of §65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits).~~]

(d) A person who kills a bird or animal under circumstances that require the bird or animal to be tagged with a tag from the person's hunting license shall immediately attach a properly executed tag to the bird or animal.

(e) Proof of sex for deer and antelope must remain with the carcass until tagging requirements cease.

(1) Proof of sex for deer consists of:

(A) buck: the head, with antlers still attached; and

(B) antlerless: the head.

(2) Proof of sex for antelope consists of the unskinned head.

(f) In a county where the bag composition for turkey is restricted to gobblers and/or bearded hens, proof of sex must remain with a turkey until it reaches either the possessor's permanent residence or a cold storage/processing facility and is finally processed. Proof of sex for turkey is as follows:

(1) male turkey:

(A) one leg, including the spur, attached to the bird; or

(B) the bird, accompanied by a patch of skin with breast feathers and beard attached.

(2) female turkey taken during the fall season: the bird, accompanied by a patch of skin with breast feathers and beard attached.

(g) Proof of sex for pheasant consists of: one leg, including the spur, attached to the bird or the entire plumage attached to the bird.

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

(1) the provisions of §65.26 of this title;

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

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

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

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

[~~(6) under the provisions of §65.27 of this title.~~]

(i) In lieu of proof of sex, the person who killed the wildlife resource may:

(1) obtain a receipt from a taxidermist or a signed statement from the landowner, containing the following information:

(A) the name of person who killed the wildlife resource;

(B) the date the wildlife resource was killed;

(C) one of the following, as applicable:

(i) whether the deer was antlered or antlerless;

(ii) the sex of the antelope;

(iii) the sex of the turkey and whether a beard was attached; or

(iv) the sex of the pheasant; or

(2) if the deer is to be tested by the department for chronic wasting disease, obtain a department-issued receipt (PWD 905).

(j) A person may give, leave, receive, or possess any species of legally taken wildlife resource, or a part of the resource, that is required to have a tag or permit attached or is protected by a bag or possession limit, if the wildlife resource is accompanied by a wildlife resource document from the person who killed or caught the wildlife resource. A wildlife resource may be possessed without a WRD by the person who took the wildlife resource, provided the person is in compliance with all other applicable provisions of this subchapter and the Parks and Wildlife Code.

(1) For deer and antelope, a properly executed wildlife resource document shall accompany the carcass or part of a carcass until tagging requirements cease.

(2) For turkey, a properly executed wildlife resource document shall accompany the wildlife resource until it reaches the possessor's permanent residence or a cold storage/processing facility and is finally processed.

(3) For all other wildlife resources, a properly executed wildlife resource document shall accompany the wildlife resource until it reaches the possessor's permanent residence and is finally processed.

(4) The wildlife resource document must contain the following information:

(A) the name, signature, address, and hunting license number, as required, of the person who killed or caught the wildlife resource;

(B) the name of the person receiving the wildlife resource;

(C) a description of the wildlife resource (number and type of species or parts);

(D) the date the wildlife resource was killed or caught; and

(E) the location where the wildlife resource was killed or caught (name of ranch; area; county).

(5) A taxidermist who accepts a deer or turkey shall retain the wildlife resource document or tag accompanying each deer or turkey for a period of two years following the return of the resource to the owner or the sale of the resource under the provisions of Parks and Wildlife Code, §62.023.

(k) It is a defense to prosecution if the person receiving the wildlife resource does not exceed any possession limit or possesses a wildlife resource or a part of a wildlife resource that is required to be tagged if the wildlife resource or part of the wildlife resource is tagged

(l) The identification requirements for desert bighorn sheep skulls are as follows.

(1) No person may possess the skull of a desert bighorn ram in this state unless:

(A) one horn has been marked with a department identification plug by a department representative; or

(B) the person also possesses evidence of lawful take in the state or country where the ram was killed.

(2) A person may possess the skull and horns of a desert bighorn ram found dead in the wild, provided:

(A) the person did not cause or participate in the death of the ram; and

(B) the person notifies a department biologist or game warden within 48 hours of discovering the dead ram and arranges for marking with a department identification plug by a department representative.

(3) Individual horns may be possessed without any identification or documentation.

(4) This subsection does not apply to skulls possessed prior to July 11, 2004.

§65.24. Permits.

(a) Permits shall be issued only to the landowner.

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

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

(1) use a permit more than once;

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

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

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

(d) No state-issued permit is required to hunt antlerless white-tailed deer on a National Wildlife Refuge.

(e) An applicant for a permit issued under §65.26 of this title[~~, §65.27 of this title (relating to Antlerless and Spike Buck Control Permits (control permits)),~~] or §65.34 of this title may request a review of a decision by the department to deny issuance of those permits.

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

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

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

(A) the Director of the Wildlife Division;

(B) the Regional Director with jurisdiction;

(C) the Big Game Program Director; and

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

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

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

§65.25. Wildlife Management Plan (WMP).

(a) Deer.

(1) An approved WMP, specifying a harvest quota for antlerless deer or both buck and antlerless deer, is required for the issuance of Managed Lands Deer Permits [~~and Antlerless/Spike-Buck Deer Control Permits~~].

(2) MLD permit issuance shall be determined by the WMP as follows.

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

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

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

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

(iii) at least two recommended habitat management practices.

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

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

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

(iii) at least four recommended habitat management practices.

(3) A WMP is not valid unless it is:

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

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

(b) Javelina.

(1) An approved WMP, specifying an annual harvest quota for javelina, is required for the issuance of an annual harvest quota for javelina on a property. The WMP shall include:

(A) javelina population data for both the current year and the immediately preceding year;

(B) javelina harvest data from the immediately preceding year; and

(C) at least two recommended habitat management practices. Recommended habitat management practices already being performed under an existing department-approved WMP may be used to satisfy the requirements of this subparagraph on a one-for-one basis.

(2) A WMP is not valid unless it is:

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

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

(3) The landowner agrees, by signing the WMP, to perform data collection for the purposes of meeting the requirements of paragraph (1) of this subsection.

(4) The department may refuse to approve a WMP if the landowner has not complied with the provisions of this subsection.

(5) No person may possess a javelina harvested under a quota issued under this section anywhere other than the property on which the javelina was harvested unless that person also possesses a completed, department-supplied affidavit signed by the landowner of the property where the person harvested the javelina.

(6) Each javelina harvested on a property for which the department has issued a quota under this subsection shall be recorded in a harvest log. The harvest log shall contain the name of each person who killed a javelina, the date, and the number of javelina the person killed. The harvest log shall be maintained on the property, shall be kept current, and shall be made available for inspection at the request of a department employee acting within the scope of official duties.

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

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Ann Bright
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 389-4775

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31 TAC §65.27

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

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

§65.27. Antlerless and Spike-buck Deer Control Permits (control permits).

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

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DIVISION 2. OPEN SEASONS AND BAG LIMITS

31 TAC §65.42

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

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

§65.42. Deer.

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

(1) §65.26 of this title (relating to Managed Lands Deer Permits (MLDP)--White-tailed Deer);

(2) §65.34 of this title (relating to Managed Lands Deer Permits (MLDP)--Mule Deer);

[~~(3) §65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits);~~]

(3) [~~(4)~~] §65.28 of this title (relating to Landowner Assisted Management Permits (LAMPS));

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

(5) [~~(6)~~] special permits under the provisions of Subchapter H of this chapter (relating to Public Lands Proclamation); or

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

(b) White-tailed deer. The open seasons, annual bag limits, and special provisions for white-tailed deer shall be as follows. If Managed Lands Deer Permits (MLDPs) have been issued for a tract of land in any county, they must be attached to all deer harvested on the tract of land, regardless of season. An MLDP buck permit may not be used to harvest or tag an antlerless deer. An MLDP antlerless permit may not be used to tag a buck deer. The counties and parts of counties listed in paragraphs (1) and (2) of this subsection section are in the South Zone. All other counties and parts of counties listed in this subsection are in the North Zone.

(1) In Aransas, Bee, Brooks, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney (south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (that southeastern portion located both south of U.S. Highway 90 and east of Spur 239), Webb, Willacy, Zapata, and Zavala counties, there is a general open season.

(A) Open season: from the first Saturday in November through the third Sunday in January.

(B) Bag limit: five deer, no more than three bucks.

(C) Special late general season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and unbranched antlered [~~spike-buck~~] deer only. Open season: 14 consecutive days starting the first Monday following the third Sunday in January.

(D) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

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

(A) Open season: from the first Saturday in November through the third Sunday in January.

(B) Bag limit: five deer, no more than two bucks.

(C) Special late general season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and unbranched antlered [~~spike-buck~~] deer only. Open season: 14 consecutive days starting the first Monday following the third Sunday in January.

(D) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(3) In Bandera, Baylor, Bexar, Blanco, Burnet, Callahan, Coke, Coleman, Comal (west of Interstate 35), Concho, Crockett, Edwards, Gillespie, Glasscock, Haskell, Hays (west of Interstate 35), Howard, Irion, Jones, Kendall, Kerr, Kimble, Kinney (north of U.S. Highway 90), Knox, Llano, Mason, McCulloch, Medina (north of U.S. Highway 90), Menard, Mitchell, Nolan, Pecos, Real, Reagan, Runnels, San Saba, Schleicher, Shackelford, Sterling, Sutton, Taylor, Terrell, Throckmorton, Tom Green, Travis (west of Interstate 35), Upton, Uvalde (north of U.S. Highway 90), Val Verde (north of U.S. Highway 90; and that portion located both south of U.S. 90 and west of Spur 239), and Wilbarger counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: five deer, no more than two bucks.

(C) Special late general season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and unbranched antlered [~~spike-buck~~] deer only. Open season: 14 consecutive days starting the first Monday following the first Sunday in January.

(D) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(4) In Archer, Bell (west of IH 35), Bosque, Brown, Clay, Coryell, Hamilton, Hill, Jack, Lampasas, McLennan, Mills, Palo Pinto, Somervell, Stephens, Wichita, Williamson (west of IH 35) and Young counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: five deer, no more than two bucks.

(C) Special late general season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and unbranched antlered [~~spike-buck~~] deer only. Open season: 14 consecutive days starting the first Monday following the first Sunday in January.

(D) Special provisions.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer. No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(5) In Armstrong, Borden, Briscoe, Carson, Childress, Collingsworth, Cottle, Crosby, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hemphill, Hutchinson, Kent, King, Lipscomb, Motley, Ochiltree, Roberts, Scurry, Stonewall, and Wheeler counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: five deer, no more than one buck.

(C) Special late general season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and unbranched antlered [~~spike-buck~~] deer only. Open season: 14 consecutive days starting the first Monday following the first Sunday in January.

(D) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(6) In Brewster, Culberson, Jeff Davis, Presidio, and Reeves counties, there is a general open season.

(A) Open season: from first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks.

(C) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(7) In Comanche, Cooke, Denton, Eastland, Erath, Hood, Johnson, Montague, Parker, Tarrant, and Wise counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks and no more than two antlerless.

(C) Special late general season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and unbranched antlered [~~spike-buck~~] deer only. Open season: 14 consecutive days starting the first Monday following the first Sunday in January.

(D) Special provisions.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer.

(I) On USFS, Corps of Engineers, and river authority lands in the counties listed in this paragraph, the take of antlerless deer shall be by permit only, except on USFS lands in Montague and Wise counties, where antlerless deer may be taken without permits from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(II) On all tracts of land other than those listed in subclause (I) of this clause, no permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

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

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: Four deer, no more than two bucks and no more than two antlerless.

(C) Special provisions.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer. If permits have been issued for the harvest of antlerless deer, they must be attached to all antlerless deer harvested on the tract of land.

(I) On USFS, Corps of Engineers, and river authority lands in the counties listed in this paragraph, the take of antlerless deer shall be by permit only.

(II) On all other tracts of land in the counties listed in this paragraph, antlerless deer may be taken without permits from opening day through the Sunday immediately following Thanksgiving Day. From the Monday immediately following Thanksgiving Day until the end of the season, antlerless deer may be taken by antlerless MLD permit or LAMPS permit only.

(III) On tracts of land for which LAMPS permits have been issued, no LAMPS permit is required for the harvest of antlerless deer during the archery-only or muzzleloader-only open season.

(9) In Anderson, Bowie, Brazos, Camp, Cass, Gregg, Grimes, Harrison, Henderson, Lamar, Leon, Madison, Marion, Morris, Nacogdoches, Panola, Red River, Robertson, Rusk, Sabine, San Augustine, [~~and~~] Shelby, and Upshur counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks and no more two antlerless.

(C) Special provisions.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer. If permits have been issued for the harvest of antlerless deer, they must be attached to all antlerless deer harvested on the tract of land.

(I) On USFS, Corps of Engineers, and river authority lands in the counties listed in this paragraph, the take of antlerless deer shall be by permit only.

(II) On all other tracts of land in the counties listed in this paragraph, antlerless deer may be taken without permits

during the first 16 days of the season. After the first 16 days of the season, antlerless deer may be taken by antlerless MLD permit or LAMPS permit only.

(III) On tracts of land for which LAMPS permits have been issued, no LAMPS permit is required for the harvest of antlerless deer during the archery-only or muzzleloader-only open season.

(10) In Bell (East of IH 35), Burleson, [~~Anderson, Brazos, Camp,~~] Delta, Ellis, Falls, Fannin, Franklin, Freestone, [~~Gregg, Grimes, Henderson,~~] Hopkins, Hunt, Kauffman, Limestone, Milam, Navarro [~~Lamar, Leon, Madison, Morris,~~] Rains, [~~Red River, Robertson,~~] Smith, Titus, [~~Upshur,~~] Van Zandt, Williamson (East of IH 35), and Wood counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two antlerless and no more than two bucks.

(C) Special provisions.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer. If permits have been issued for the harvest of antlerless deer, they must be attached to all antlerless deer harvested on the tract of land.

(I) On USFS, Corps of Engineers, and river authority lands in the counties listed in this paragraph, the take of antlerless deer shall be by permit only, except in Fannin County.

(II) On all other tracts of land in the counties listed in this paragraph, antlerless deer may be taken without permits from Thanksgiving Day through the Sunday immediately following Thanksgiving Day. At all other times, antlerless deer may be taken by antlerless MLD permit or LAMPS permit only.

(III) On tracts of land for which LAMPS permits have been issued, no LAMPS permit is required for the harvest of antlerless deer during the archery-only or muzzleloader-only open season.

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

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two antlerless and no more than two bucks.

(C) Special provisions. Lawful means are restricted to lawful archery equipment and crossbows only, including MLDP properties.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer. No permit is required to hunt antlerless deer unless MLD antlerless permits have been issued for the tract of land.

(12) In Austin, Bastrop, [~~Bell (east of IH 35), Burleson,~~] Caldwell, Colorado, Comal (east of IH 35), DeWitt, [~~Ellis, Falls,~~] Fayette, [~~Freestone,~~] Goliad (north of U.S. Highway 59), Gonzales, Guadalupe, Hays (east of IH 35), Jackson (north of U.S. Highway 59), Karnes, [~~Kaufman,~~] Lavaca, Lee, [~~Limestone, Milam, Navarro,~~] Travis (east of IH 35), Victoria (north of U.S. Highway 59), Waller, Washington, Wharton (north of U.S. Highway 59), [~~Williamson (east of IH 35)~~] and Wilson counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two antlerless and no more than two bucks.

(C) Special provisions.

(i) Buck deer. The provisions of this clause do not apply on properties for which Level 2 or Level 3 MLDPs have been issued. In the counties listed in this paragraph, a legal buck is a buck deer having:

(I) at least one unbranched antler; or

(II) an inside spread of 13 inches or greater. The inside spread requirement does not apply to any buck that has an unbranched antler. Not more than one buck with an inside spread of 13 inches or greater may be taken.

(ii) Antlerless deer.

(I) Antlerless deer may be taken by MLD antlerless or LAMPS permits only.

(II) On tracts of land for which LAMPS permits have been issued, no LAMPS permit is required for the harvest of antlerless deer during the archery-only or muzzleloader-only open season.

(13) In Andrews, Bailey Castro, Cochran, Dallam, Dawson, Deaf Smith, Gaines, Hale, Hansford, Hartley, Hockley, Lamb, Lubbock, Lynn, Martin, Moore, Oldham, Parmer, Potter, Randall, Sherman, [~~and~~] Swisher, Terry, and Yoakum counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: three deer, no more than one buck and no more than two antlerless.

(C) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

(14) In Crane, Ector, Loving, Midland, [~~and~~] Ward, and Winkler counties, there is a general open season.

(A) Open season: from the first Saturday in November through the first Sunday in January.

(B) Bag limit: three deer, no more than one buck and no more than two antlerless.

(C) No permit is required to hunt antlerless deer unless MLDP antlerless permits have been issued for the tract of land.

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

(16) Archery-only open seasons. In all counties where there is a general open season for white-tailed deer, there is an archery-only open season during which either sex of white-tailed deer may be taken as provided for in §65.11(2) and (3) of this title (relating to Means and Methods).

(A) Open season: from the Saturday closest to September 30 for 35 consecutive days.

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

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

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

(A) Open Season: 14 consecutive days starting the first Monday following the first Sunday in January.

(B) Bag limit: as specified in this section for the general season in the county in which take occurs.

(C) Special provisions:

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

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

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

(II) in the counties that are also listed in paragraph (12) of this section.

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

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

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

(C) Bag limits, provisions for the take of antlerless deer, and special requirements in the individual counties listed in paragraphs (1) - (14) of this subsection shall be as specified for the first two days of the general open season in those counties, except as provided in subparagraph (D) of this paragraph.

(D) Provisions for the take of antlerless deer in the individual counties listed in paragraph (10) of this subsection shall be as specified in those counties for the period of time from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(E) Other than properties where Level 2 or Level 3 MLDPs have been issued, only licensed [~~Licensed~~] hunters 16 years of age or younger may hunt deer [~~by any lawful means~~] during the seasons established by subparagraphs (A) and (B) of this paragraph, and any lawful means may be used.

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

(G) Antlerless deer may be taken without an antlerless deer permit on USFS lands.

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

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

(A) Open season: Saturday before Thanksgiving for 16 consecutive days.

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

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(2) In Brewster, Crane, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler counties, there is a general open season.

(A) Open season: the Friday immediately following Thanksgiving for 17 consecutive days.

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

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(3) In Andrews, Bailey, Castro, Cochran, Dawson, Gaines, Hale, Hockley, Lamb, Lubbock, Martin, Parmer, Terry, and Yoakum counties, there is a general open season.

(A) Open season: Saturday before Thanksgiving for nine consecutive days.

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

(C) Antlerless deer may be taken by permit only.

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

(5) Archery-only open seasons and bag and possession limits shall be as follows. During an archery-only open season, deer may be taken only as provided for in §65.11(2) and (3) of this title (relating to Lawful Means).

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crane, Crockett, Crosby, Culberson,

Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Foard, Garza, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hudspeth, Hutchinson, Jeff Davis, Kent, King, Knox, Lipscomb, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Scurry, Sherman, Stonewall, Swisher, Upton, Val Verde, Ward, Wheeler, and Winkler counties, there is an open season.

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

(ii) Bag limit: one buck deer.

(B) In Brewster, Pecos, and Terrell counties, there is an open season.

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

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

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

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

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SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

31 TAC §§65.315, 65.318 - 65.321

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

The United States Fish and Wildlife Service (Service) issues annual frameworks for the hunting of migratory game birds in the United States. Regulations adopted by individual states may be more restrictive than the federal frameworks, but may not be less restrictive. Responsibility for establishing seasons, bag limits, means, methods, and devices for harvesting migratory game birds within Service frameworks is delegated to the Texas Parks and Wildlife Commission (Commission) under Parks and Wildlife Code, Chapter 64, Subchapter C. Parks and Wildlife Code, §64.022, authorizes the Commission to delegate rulemaking authority to the Executive Director. Department regulations (31 TAC §65.313(f)) authorize the Executive Director, after notification of the Chairman of the Commission, to engage in rulemaking.

Until this year, the Service issued annual regulatory frameworks for migratory game birds at different times of the year (the preliminary early-season (dove, teal, snipe, woodcock, rails, gallinules) frameworks in late June and the preliminary late-season (ducks, geese, cranes) frameworks in early August). Because no regular Commission meetings occur between May and August, the early-season regulations were normally adopted by the Executive Director in early July. Beginning this year, however, the Service will issue all final migratory game bird frameworks in November, which means that the Commission can adopt migratory game bird regulations as part of the regular statewide hunting proclamation process and hunters of migratory game birds will know season dates, bag limits, and other regulations much earlier than in previous years.

The proposed amendment to §65.315, concerning Open Seasons and Bag and Possession Limits--Early Season, would adjust the season dates for early-season migratory game birds to allow for calendar shift (i.e., to ensure that seasons open on the desired day of the week, since dates from a previous year do not fall on the same days in following years). With regard to dove, the proposed amendment would differ from last year in that this year the Service is allowing Texas 90 days of dove hunting opportunity within the current frameworks for all three dove zones, an increase of 20 days per zone. The proposed amendment would add 19 days of additional hunting opportunity to the end of the first segment and one day to the end of the second segment in the North Zone; 12 days to the end of the first segment and eight days to the end of the second segment in the Central Dove Zone, and 18 days to the end of the first segment and two days to the end of the second segment in the South Dove Zone. The department believes the proposed amendment appropriately distributes the additional days of hunting opportunity in each zone to coincide with hunter preference.

The proposed amendment to §65.315 also would implement a 16-day statewide teal season to run from September 10 - 25, 2016. By federal rule, the number of days in the September teal season count against the 107 days of total hunting opportunity allowed for ducks, coots, and mergansers. In addition, the proposed amendment would implement a 16-day early Canada goose season in the Eastern Zone to run from September 10 - 25, 2016.

The proposed amendment to §65.318, concerning Open Seasons and Bag and Possession Limits - Late Season, would alter season dates in both duck zones compared to last year and adjust the season dates to account for calendar shift while retaining the bag and possession limits from last year. The North Zone last year had a 12-day split starting the Monday after Thanksgiving. For the 2016-2017 season, the proposed amendment would implement a five-day split starting the Saturday after Thanksgiving. Staff intends the altered season structure to provide additional December and January weekend opportunity, allowing hunting every weekend during peak migration of December and January, which harvest data shows to be the two best months of the season for overall duck harvest in the North Zone.

In the South Duck Zone, the department proposes a season to run to the end of the federal framework, unlike last year. Last year, the department determined that running the season to the end of the framework (January 31) was undesirable because it would have resulted in a very late closure and it was more advantageous to offer more time in November, which is the best harvest month in the South Zone. This year, staff recommends returning to a season that runs to the end of framework because calendar shift offers a more reasonable closure date (January 29) that provides ample hunting opportunity both early and late in the season.

With respect to geese, the season structure (adjusted for calendar shift) and bag and possession limits from last year are retained, except that the opening date in the West Zone is delayed by one week. Department data indicate that due to continuing delayed migrations in the fall and the persistence of very large numbers of geese in west Texas in early February, opening the season one week later will result in additional hunting opportunity.

The proposed amendment to §65.319, concerning Extended Falconry Season--Early Season Species, would adjust season dates to reflect calendar shift; however the season length for doves will be reduced by 17 days because the federal frameworks allow 107 days of total opportunity for doves and the proposed amendment to §65.315 would allow 90 full days of gun-hunting opportunity for doves.

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

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

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

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

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

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

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

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

The department has not filed a local impact statement with the Texas Workforce Commission as required by Government Code, §2001.022, as the department has determined that the rules as proposed will not impact local economies.

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

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

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

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

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

(a) Rails.

(1) Dates: September 10 - 25, 2016 and November 5 - December 28, 2016 [~~September 12 - 27, 2015 and October 31 - December 23, 2015~~].

(2) Daily bag and possession limits:

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

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

(b) Dove seasons.

(1) North Zone.

(A) Dates: September 1 - November 13, 2016 and December 17, 2016 - January 1, 2017 [~~September 1 - October 25, 2015 and December 18, 2015 - January 1, 2016~~].

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

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

(2) Central Zone.

(A) Dates: September 1- November 6, 2016 and December 17, 2016 - January 8, 2017 [~~September 1 - October 25, 2015 and December 18, 2015 - January 1, 2016~~].

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

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

(3) South Zone.

(A) Dates: Except in the special white-winged dove area as defined in §65.314 of this title (relating to Zones and Boundaries for Early Season Species), September 23 - November 13, 2016 and December 17, 2016 - January 23, 2017 [~~September 18 - October 21, 2015 and December 18, 2015 - January 22, 2016~~].

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

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

(4) Special white-winged dove area.

(A) Dates: September 3, 4, 10, and 11, 2016 [~~September 5, 6, 12, and 13, 2015~~].

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

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

(B) Dates: September 23 - November 13, 2016 and December 17, 2016 - January 19, 2017 [~~September 18 - October 21, 2015 and December 18, 2015 - January 18, 2016~~].

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

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

(c) Gallinules.

(1) Dates: September 10 - 25, 2016 and November 5 - December 28, 2016 [~~September 12 - 27, 2015 and October 31 - December 23, 2015~~].

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

(d) September teal-only season.

(1) Dates: September 10 - 25, 2016 [~~September 12 - 27, 2015~~].

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

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

(f) Shorebirds. No open season.

(g) Woodcock: December 18, 2016 - January 31, 2017 [~~December 18, 2015 - January 31, 2016~~]. The daily bag limit is three. The possession limit is nine.

(h) Wilson's snipe (Common snipe): October 29, 2015 - February 12, 2017 [~~October 31, 2015 - February 14, 2016~~]. The daily bag limit is eight. The possession limit is 24.

(i) Canada geese: September 10 - 25, 2016 [~~September 12 - 27, 2015~~] in the Eastern Goose Zone as defined in §65.317(b) of this title (relating to Zones and Boundaries for Late Season Species). The daily bag limit is five. The possession limit is 15.

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

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

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

(A) High Plains Mallard Management Unit:

(i) all species other than "dusky ducks": October 29 - 30, 2016 and November 4, 2016 - January 29, 2017 [~~October 31 - November 1, 2015 and November 6, 2015 - January 31, 2016.~~]

(ii) "dusky ducks": November 7, 2016 - January 29, 2017 [~~November 9, 2015 - January 31, 2016~~].

(B) North Zone:

(i) all species other than "dusky ducks": November 12 - 27, 2016 and December 3, 2016 - January 29, 2017 [~~November 7 - 29, 2015 and December 12, 2015 - January 31, 2016~~].

(ii) "dusky ducks": November 17 - 27, 2016 and December 3, 2016 - January 29, 2017 [~~November 12 - 29, 2015 and December 12, 2015 - January 31, 2016~~].

(C) South Zone:

(i) all species other than "dusky ducks": November 5 - 27, 2016 and December 10, 2016 - January 29, 2017 [~~October 31 - November 29, 2015 and December 12, 2015 - January 24, 2016~~].

(ii) "dusky ducks": November 10 - 27, 2016 and December 10, 2016 - January 29, 2017 [~~November 5 - 29, 2015 and December 12, 2015 - January 24, 2016~~].

(2) Geese.

(A) Western Zone.

(i) Light geese: November 5, 2016 - February 5, 2017 [~~October 31, 2015 - January 31, 2016~~]. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese: November 5, 2016 - February 5, 2017 [~~October 31, 2015 - January 31, 2016~~]. The daily bag limit for dark geese is five, to include no more than two white-fronted geese.

(B) Eastern Zone.

(i) Light geese: November 5, 2016 - January 29, 2017 [~~November 7, 2015 - January 31, 2016~~]. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese:

(I) Season: November 5, 2016 - January 29, 2017 [~~November 7, 2015 - January 31, 2016~~];

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

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

(A) Zone A: October 29, 2016 - January 29, 2017 [~~October 31, 2015 - January 31, 2016~~]. The daily bag limit is three. The possession limit is nine.

(B) Zone B: November 18, 2016 - January 29, 2017 [~~November 20, 2015 - January 31, 2016~~]. The daily bag limit is three. The possession limit is nine.

(C) Zone C: December 17, 2016 - January 22, 2017 [~~December 19, 2015 - January 24, 2016~~]. The daily bag limit is two. The possession limit is six.

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

(A) High Plains Mallard Management Unit: October 22 - 23, 2016 [~~October 24 - 25, 2015~~];

(B) North Zone: November 5 - 6, 2016 [~~October 31 - November 1, 2015~~]; and

(C) South Zone: October 29 - 30, 2016 [~~October 24 - 25, 2015~~].

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

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

(1) mourning doves, white-winged doves and white-tipped doves: November 19 - December 5, 2016 [~~November 7 - December 13, 2015~~].

(2) rails and gallinules: January 30 - February 12, 2017 [~~February 1 - 14, 2016~~].

(3) woodcock: January 30 - February 12, 2017 [~~February 1 - 14, 2016~~].

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

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

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

(1) Ducks, coots, and mergansers:

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

(B) North Duck Zone: January 30 - February 12, 2017 [~~February 1 - 14, 2016~~];

(C) South Duck Zone: January 30 - February 12, 2017 [~~February 1 - 14, 2016~~].

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

§65.321. Special Management Provisions.

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

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

(4) Special Light Goose Conservation Period.

(A) From January 30 - March 19, 2017 [~~February 1 - March 20, 2016~~], the take of light geese is lawful in Eastern Zone as defined in §65.317 of this title (relating to Zones and Boundaries for Late Season Species).

(B) From February 6 - March 19, 2017 [~~February 1 - March 20, 2016~~], the take of light geese is lawful in the Western Zone as defined in §65.317 of this title.

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

Filed with the Office of the Secretary of State on February 8, 2016.

TRD-201600586
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 389-4775

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 5. TEXAS VETERANS LAND BOARD

CHAPTER 178. TEXAS STATE VETERANS CEMETERIES

40 TAC §178.6

The Texas Veterans Land Board (VLB) proposes an amendment to §178.6, relating to Texas State Veterans Cemeteries, in Title 40, Part 5 of the Texas Administrative Code. The proposed amendment will remove language related to fees for the interment of eligible relatives of veterans.

Section 164.005 of the Texas Natural Resources Code authorizes the VLB to operate or enter into agreements with third parties for the operation of veterans cemeteries. The Veterans Land Board works in conjunction with the United States Department of Veterans Affairs on the construction of the cemeteries. The proposed amendment to §178.6 will clarify the operation of the cemeteries, particularly the fees associated with the burials of eligible relatives of veterans.

The proposed amendment to §178.6 eliminates the fees for the interment of eligible relatives of veterans. The VLB shall approve

all fees, expenses, and charges for the interment, disinterment, and related services for the Texas State Veterans cemeteries as described in the proposed §178.6 relating to Fees.

Anne L. Idsal, Chief Clerk and Deputy Land Commissioner, has determined that during the first five-year period the proposed amended rule is in effect there will be no negative fiscal implications for state or local government or small businesses.

Ms. Idsal has also determined that, during the first five-year period the proposed amended rule is in effect, the public will benefit as the rule will allow eligible relatives of veterans to be buried at the Texas State Veterans cemeteries at no charge.

Comments may be submitted to Walter Talley, Office of General Counsel, General Land Office of the State of Texas, 1700 N. Congress Avenue, Austin Texas 78701 or by facsimile (512) 463.6311, by no later than 30 days after publication.

Amendments to §178.6 are proposed under Texas Natural Resources Code §164.004, which provides the VLB with the authority to adopt rules necessary and convenient to administer Chapter 164, §§164.001 - 164.019, Texas Natural Resources Code.

Texas Natural Resources Code Chapter 164, §§164.001 - 164.019 are affected by this proposed rule.

§178.6. Fees.

(a) The Board must approve all fees, expenses and charges for interment, disinterment, and elated services for the TSVC.

(b) [~~Fees charged for the interment of eligible relatives will be the equivalent of the USDVA reimbursement for the plot allowance for veterans as established in its laws and regulations as they may be amended from time to time.~~] A TSVC shall apply no charges for disinterment or related interment services for eligible relatives of veterans.

(c) Each TSVC shall seek reimbursement from the USDVA of the plot allowance for interment of veterans. A TSVC shall apply no additional charges for interment, disinterment, or related services for veterans.

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600477
Anne L. Idsal
Chief Clerk, Deputy Land Commissioner, General Land Office
Texas Veterans Land Board
Earliest possible date of adoption: March 20, 2016
For further information, please call: (512) 475-1859

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 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 354. MEDICAID HEALTH SERVICES

SUBCHAPTER F. PHARMACY SERVICES

DIVISION 5. AUDITS

1 TAC §354.1891

The Texas Health and Human Service Commission (HHSC) adopts amendments to §354.1891, concerning Vendor Drug Providers Subject to Audit, with changes to the proposed text as published in the November 6, 2015, issue of the *Texas Register* (40 TexReg 7754). The text of the rule will be republished.

BACKGROUND AND JUSTIFICATION

Amended §354.1891 implements Section 11 of Senate Bill (S.B.) 207, 84th Legislature, Regular Session, 2015. Section 11 of S.B. 207 adds language to the Texas Government Code to clarify that a pharmacy has a right to request an informal hearing before HHSC's Appeals Division to contest the findings of an audit conducted by HHSC's Office of Inspector General (OIG) or an entity that contracts with the federal government to audit Medicaid providers, if the findings of the audit do not include Medicaid fraud. Section 11 also clarifies that in an informal hearing, HHSC Appeals Division staff, assisted by HHSC Vendor Drug Program (VDP) staff, make the final decision on whether the findings of an audit are accurate. The amendments clarify that documentation, rather than data, is audited and may be reviewed in the informal hearing.

Adopted amendments also remove a reference to information provided by regional pharmacists and computerized program management reports. VDP no longer has regional pharmacist staff to run these reports. Formerly, VDP regional pharmacists conducted desk reviews, but desk reviews will no longer be conducted by VDP; thus, any references to VDP regional pharmacists in the rule are deleted.

COMMENTS

Although not requested by a commenter, HHSC revised the rule to make non-substantive changes that clarify subsection (e). Specifically, the rule now clarifies that the administrative law judge (ALJ) is part of HHSC's Appeals Division. Likewise, all references to HHSC's Appeals Division in subsection (e) are changed to "ALJ."

The 30-day comment period ended December 7, 2015. During this period, HHSC received multiple comments regarding the amended rule from the Texas Pharmacy Business Council and Pharmacy Alternatives. A summary of comments relating to the rule and HHSC's responses follows.

Comment: A commenter stated that HHSC should amend the rule to allow pharmacies at least 30 days, instead of the 15 days currently allowed by rule, to provide notice of the appeal to HHSC. The additional time is needed because it takes more than 15 days for the pharmacy to receive the appeal letter from the auditor and hire legal counsel to advise the pharmacy on the legal rights to appeal.

Response: HHSC disagrees and declines to revise the rule as the commenter suggests. Other Medicaid providers are currently given 15 days to respond to a notice, which makes the 15-day requirement in this rule consistent with other rules and requirements.

Comment: A commenter requested that the current language stating, "...and the audit findings do not indicate fraud..." be changed to "... and the audit findings do not include findings that the pharmacy engaged in fraud..." to match the language used in Section 11 of S.B. 207.

Response: HHSC agrees and revised the rule language to match the language used in Section 11 of S.B. 207.

Comment: A commenter requested that HHSC delete the requirement that only data or documentation provided to the auditors or the agency during the audit process will be considered, and stated that if extrapolation data can only be obtained for the first time after the auditors have completed the audit, then the pharmacy will not be able to use that data and refute it until the auditors are done, meaning the informal hearing panel won't consider the rebuttal of extrapolation.

Response: HHSC disagrees with the comment that extrapolation data can only be obtained for the first time after the auditors have completed the audit. Pharmacists receive the extrapolation methodology in the draft audit report and are allowed to refute the methodology before the final audit report is completed. Pharmacists are also allowed to refute the methodology during the appeal hearing. However, pharmacists are not allowed to bring additional data or documentation to the hearing that was not provided during the audit process. HHSC declines to revise the rule based on this comment.

Comment: A commenter stated that the rule should clarify that the extrapolation methodology should be provided at the time of the audit.

Response: HHSC disagrees and declines to revise the rule as the commenter suggests. The extrapolation methodology is currently provided during the audit process.

Comment: A commenter suggested clarifying in rule that the VDP staff who serve on the decision panel must have "expertise in the law governing participation."

Response: HHSC agrees and revised the rule to clarify that VDP staff who serve on the decision panel will have "expertise in the law governing participation." This aligns the language used in Section 11 of S.B. 207.

Comment: A commenter suggested including information in the rule on how the informal hearing panel will be structured, including the number of members on the panel, and how the hearing will be conducted. The commenter suggested including the written audit findings in the decision.

Response: HHSC disagrees with revising the rule to include the number of VDP staff that will attend each appeal. VDP will determine the number of VDP staff required depending on the complexity and issues related to the case. The rule already stipulates that the hearing will be conducted in an informal manner. Yet, HHSC is revising the rule to clarify the role of VDP staff. Specifically, the rule now clearly states that while VDP staff is available to the ALJ to answer questions, VDP staff will not vote or make the final decision. HHSC already includes the written audit findings in the decision and declines to add this statement to the rule.

Comment: A commenter stated that the pharmacy audit appeals process should be addressed clearly and that pharmacies should have the right to a clearly defined method of appeal "without being subject to subjective interpretation from the VDP."

Response: HHSC agrees that the pharmacy audit appeals process should be addressed clearly. However, it declines to revise the rule as the rule already leads to this outcome. HHSC explained the role of HHSC's Appeals Division and VDP staff. Furthermore, the rule stipulates that hearings under subsection (e) will be conducted in an informal manner. Lastly, the rule even goes into detail as to what data or documentation will be acceptable under HHSC's Appeal Division review.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.033 (providing the Executive Commissioner of HHSC with broad rulemaking authority) and §531.021 (providing HHSC with the authority to administer the federal medical assistance program in Texas and to propose and adopt rules governing the determination of Medicaid reimbursements); and Texas Human Resources Code §32.021 (providing HHSC with the authority to administer the federal medical assistance program in Texas).

§354.1891. Vendor Drug Providers Subject to Audit.

(a) All providers participating in the Vendor Drug Program (Program) are subject to periodic audits by the Texas Health and Human Services Commission (the Commission) or contractors for the Centers for Medicare & Medicaid Services.

(b) Audits determine provider compliance with all state and federal program policies, procedures, and limitations as well as compliance with the requirements outlined in the provider's contract. Data for transactions selected for audit are compared with data on the corresponding prescriptions. Erroneous payments and overpayments that occur because of noncompliance with Program requirements are considered exceptions subject to restitution to the Commission.

(c) If a provider disagrees with the initial findings of an audit, the provider may present additional documentation to the auditor for review within 15 calendar days of the provider's receipt of the draft audit report. No additional documentation is accepted after this time. The auditor considers the additional documentation before issuing the Final Audit Report.

(d) If the provider disagrees with the Final Audit Report and wants to appeal, and the findings of the audit do not include findings that the pharmacy engaged in Medicaid fraud, the Commission's Appeals Division, upon receipt of written request, provides an informal hearing. The Commission's Appeals Division must receive the written request for an informal hearing within 15 calendar days of the provider's receipt of the Final Audit Report.

(e) An administrative law judge (ALJ) from the Commission's Appeals Division conducts hearings requested under subsection (d) of this section in an informal manner. Unless specified by the ALJ and at the ALJ's sole discretion, neither the Texas Rules of Civil Procedure nor the Texas Rules of Evidence or any other procedural or evidentiary rules apply. The ALJ only considers data or documentation provided to the auditors on or before the time specified in subsection (c) of this section. The ALJ makes the final decision. Vendor Drug Program staff who have expertise in the law governing pharmacies' participation in Medicaid are available to the ALJ to answer questions.

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

Filed with the Office of the Secretary of State on February 5, 2016.

TRD-201600576
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: February 25, 2016
Proposal publication date: November 6, 2015
For further information, please call: (512) 424-6900

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CHAPTER 396. EMPLOYEE TRAINING AND EDUCATION

1 TAC §396.1, §396.2

The Texas Health and Human Service Commission (HHSC) adopts new Chapter 396, concerning Employee Training and Education. Within the new chapter, HHSC adopts §396.1, concerning Purpose and Applicability; and new §396.2, concerning Educational and Training Assistance. The new rules are adopted without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8423) and will not be republished.

BACKGROUND AND JUSTIFICATION

House Bill 3337, 84th Legislature, Regular Session, 2015, amended the State Employees Training Act, found in Chapter 656, Subchapter C, of the Texas Government Code. The amended law explains that, for a state agency administrator or employee to receive "reimbursement for a training or education program offered by an institution of higher education or private or independent institution of higher education, the agency may only pay the tuition expenses for a program course successfully completed by the administrator or employee at an accredited institution of higher education." In addition, the executive head of the state agency must authorize the tuition reimbursement

payment, each state agency must have a policy regarding tuition reimbursement, and each agency must post the policy on the agency's website.

COMMENTS

The 30-day comment period ended December 21, 2015. During this period, HHSC did not receive any comments regarding the new rules.

STATUTORY AUTHORITY

The new rules are adopted under Texas Government Code §531.055, which provides the Executive Commissioner of HHSC with rulemaking authority.

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

Filed with the Office of the Secretary of State on February 5, 2016.

TRD-201600575
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: February 25, 2016
Proposal publication date: November 27, 2015
For further information, please call: (512) 424-6900

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TITLE 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 113. REGISTRATION OF SECURITIES

7 TAC §113.1

The Texas State Securities Board adopts an amendment to §113.1, concerning qualification of securities, without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6805).

A reference was added to §114.4, relating to filings and fees for federal covered securities, to the section that discusses Regulation A offerings. Section 114.4(a) operates to require a notice filing, payment of the fee that would have been paid if the securities had been registered, and, if applicable, a consent to service for federal covered securities that are offered and sold pursuant to Tier 2 of Regulation A.

Readers of the rule will be apprised that some Regulation A offerings may involve federal covered securities, rather than registered securities in Texas, and directed to the provisions that relate to filings and fees for federal covered securities.

No comments were received regarding adoption of the amendment.

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

The adopted amendment affects Texas Civil Statutes, Article 581-7.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600552
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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CHAPTER 115. SECURITIES DEALERS AND AGENTS

7 TAC §§115.4, 115.8, 115.18

The Texas State Securities Board adopts amendments to §115.4, concerning evidences of registration, §115.8, concerning fee requirements, and §115.18, concerning special provisions relating to military applicants, without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6806).

Portions of subsection (e) of §115.4 were amended to move the substantive portions relating to registration renewals by military service members to §115.18.

The amendment to subsection (d) of §115.8 removed the reference to the $200 professional fee in Section 41 of the Texas Securities Act, which was repealed by the 84th Texas Legislature. Subsection (b)(3) of §115.8 was restructured so the fee reduction applies to the second set of Section 35.A fees (relating to registration as an investment adviser or investment adviser representative) resulting in a reduction in fees for a small business registered in multiple capacities.

Amendments to §115.18 incorporated statutory changes passed by the 84th Legislature contained in Senate Bill 1307 and Senate Bill 807 and moved other provisions related to renewals by military service members into §115.18 from §115.4.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581-28-1 and Chapter 55 of the Texas Occupations Code. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Chapter 55 of the Texas Occupations Code authorizes the agency to adopt rules for licensure or registration of a person who is a military spouse, military service member, or military veteran who meets certain criteria.

The adopted amendments affect Texas Civil Statutes, Articles 581-12, 581-13, 581-14, 581-15, and 581-18.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600553
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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CHAPTER 116. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

7 TAC §§116.4, 116.8, 116.18

The Texas State Securities Board adopts amendments to §116.4, concerning evidences of registration, §116.8, concerning fee requirements, and §116.18, concerning special provisions relating to military applicants, without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6809).

Portions of subsection (e) of §116.4 were amended to move the substantive portions relating to registration renewals by military service members to §116.18.

The amendment to subsection (d) of §116.8 removed the reference to the $200 professional fee in Section 41 of the Texas Securities Act, which was repealed by the 84th Texas Legislature. Subsection (b)(3) of §116.8 was restructured so the fee reduction applies to the second set of Section 35.A fees (relating to registration as an investment adviser or investment adviser representative) resulting in a reduction in fees for a small business registered in multiple capacities.

Amendments to §116.18 incorporated statutory changes passed by the 84th Legislature contained in Senate Bill 1307 and Senate Bill 807 and moved other provisions related to renewals by military service members into §116.18 from §116.4.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581-28-1 and Chapter 55 of the Texas Occupations Code. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Chapter 55 of the Texas Occupations Code authorizes the agency to adopt rules for licensure or registration of a person who is a military spouse, military service member, or military veteran who meets certain criteria.

The adopted amendments affect Texas Civil Statutes, Articles 581-12, 581-13, 581-14, 581-15, and 581-18.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600554
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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CHAPTER 133. FORMS

7 TAC §133.4

The Texas State Securities Board adopts the repeal of §133.4, which adopts by reference a form concerning request for special consideration of a registration application by a military spouse, military service member, or military veteran, without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6813).

The repeal allows a new form to be adopted.

An outdated form has been eliminated.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 581-28-1 and Chapter 55 of the Texas Occupations Code. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Chapter 55 of the Texas Occupations Code authorizes the agency to adopt rules for licensure or registration of a person who is a military spouse, military service member, or military veteran who meets certain criteria.

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

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600555
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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7 TAC §133.4

The Texas State Securities Board adopts new §133.4, which adopts by reference a form concerning request for consideration of a registration application by a military applicant, without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6813).

The form allows a military service member, military spouse, or military veteran (collectively, military applicants) licensed in another jurisdiction or with comparable military service, training, or education to request special consideration or credit for such licensure or experience as well as expedited review of an application for registration pursuant to §115.18 or §116.18, which are being concurrently amended. Also concurrent with this adoption is repeal of existing form §133.4.

A military applicant licensed in another jurisdiction or with comparable military service, training, or education can complete the form to request special consideration or credit for such licensure or experience as well as expedited review of an application for registration pursuant to §115.18 or §116.18.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 581-28-1 and Chapter 55 of the Texas Occupations Code. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Chapter 55 of the Texas Occupations Code authorizes the agency to adopt rules for licensure or registration of a person who is a military spouse, military service member, or military veteran who meets certain criteria.

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

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600556
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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7 TAC §133.19

The Texas State Securities Board adopts new §133.19, which adopts by reference a form concerning waiver or refund request by a military applicant, with changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6814). A slight change was made to the explanatory material that appears in italics on the first page below the form title to remove a phrase that mistakenly appeared twice.

The form allows a military service member, military spouse, or military veteran (collectively, military applicants) to request a waiver or refund of the initial registration application fee or the fee to take the Texas Securities Law Examination under the new procedures in §115.18 and §116.18, which are being concurrently amended.

A military applicant eligible for a waiver or refund of the initial application fee or the fee to take the Texas Securities Law Examination can complete the form to obtain the waiver or refund.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 581-28-1 and Chapter 55 of the Texas Occupations Code. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Chapter 55 of the Texas Occupations Code authorizes the agency to adopt rules for licensure or registration of a person who is a military spouse, military service member, or military veteran who meets certain criteria.

The new rule affects Texas Civil Statutes, Articles 581-12, 581-13, 581-15, and 581-18.

§133.19. Waiver or Refund Request by a Military Applicant.

The State Securities Board adopts by reference Form 133.19, Waiver or Refund Request by a Military Applicant. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167 and at www.ssb.state.tx.us.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600557
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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CHAPTER 139. EXEMPTIONS BY RULE OR ORDER

7 TAC §139.12

The Texas State Securities Board adopts an amendment to §139.12, concerning oil and gas auction exemption, without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6814).

The rule adds "associate auctioneer," a new type of registration under the Texas Occupations Code added by House Bill 2481, effective September 1, 2015. An "associate auctioneer" is an individual who, for compensation, is employed by and under the direct supervision of a licensed auctioneer to sell or offer to sell property at an auction. The rule also eliminates the reference to

an "auction company" licensed by the Texas Department of Licensing and Regulation since there is no such equivalent license in Chapter 1802 of the Texas Occupations Code.

Licensed persons who may act as an auctioneer for purposes of the exemption will be correctly identified.

No comments were received regarding adoption of the amended rule.

The amendment is adopted under Texas Civil Statutes, Articles 581-5.T and Article 581-28-1. Section 5.T provides that the Board may prescribe new exemptions by rule. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of the Texas Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes.

The adopted amendment affects Texas Civil Statutes, Articles 581-5, 581-7, and 581-12.

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

Filed with the Office of the Secretary of State on February 4, 2016.

TRD-201600558
John Morgan
Securities Commissioner
State Securities Board
Effective date: February 24, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 305-8301

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TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 3. OIL AND GAS DIVISION

16 TAC §3.16

The Railroad Commission of Texas (Commission) adopts amendments to §3.16, relating to Log and Completion or Plugging Report, without changes to the proposed text as published in the December 4, 2015, issue of the *Texas Register* (40 TexReg 8710). The amendments reflect changes in Texas statutes relating to confidentiality of well logs.

House Bill 878 (83rd Legislature, Regular Session, 2013) amended Texas Natural Resources Code §91.552 and §91.553 to streamline the procedures for requesting a period of confidentiality for a well log. The Commission has been complying with the HB 878 procedures for requesting confidentiality, and adopts amendments to §3.16(d) to conform the rule's requirements to the statutory requirements. Amendments are also adopted to subsections (a) and (c) to change the term "basic electric log" to "electric log," which is the term used in the applicable statutes.

The Commission received no comments on the proposed amendments.

The Commission adopts the amendments to §3.16 pursuant to Texas Natural Resources Code §§91.551 - 91.556 (electric logs); specifically §91.552, which requires the Commission to establish criteria for filing electric logs, and §91.553, which contains the requirements for requesting log confidentiality. The Commission also adopts the amendments pursuant to Texas Natural Resources Code §81.051 and §81.052, which provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under Commission jurisdiction; Texas Natural Resources Code §§85.201, 85.202, 86.041, and 86.042, which require the Commission to adopt and enforce rules and orders for the conservation and prevention of waste of oil and gas, and specifically for drilling of wells, preserving a record of the drilling of wells, and requiring records to be kept and reports to be made; and Texas Natural Resources Code §141.011 and §141.012, which authorize the Commission to regulate the exploration, development, and production of geothermal energy and associated resources and to make and enforce rules associated therewith.

Texas Natural Resources Code §§81.051, 81.052, 85.201, 85.202, 86.041, 86.042, 91.551 - 91.556, 141.011, and 141.012 are affected by the adopted amendments.

Statutory Authority: §§81.051, 81.052, 85.201, 85.202, 86.041, 86.042, 91.551 - 91.556, 141.011, and 141.012.

Cross-reference to statutes: Texas Natural Resources Code §§81.051, 81.052, 85.201, 85.202, 86.041, 86.042, 91.551 - 91.556, 141.011, and 141.012.

Issued in Austin, Texas, on February 3, 2016.

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

Filed with the Office of the Secretary of State on February 3, 2016.

TRD-201600543
Haley Cochran
Rules Attorney, Office of General Counsel
Railroad Commission of Texas
Effective date: February 23, 2016
Proposal publication date: December 4, 2015
For further information, please call: (512) 475-1295

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §1.9

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §1.9, concerning training for members of governing boards and board trustees, without changes to the proposed text as published in the December 4, 2015, issue of the *Texas Register* (40 TexReg 8714). Changes

to rule were made in accordance with Texas Education Code (TEC), §61.084, as amended by Senate Bill 24, 84th Texas Legislature, which requires the Coordinating Board to adopt rules necessary for the provision of a training program for members of institutional governing boards. As part of the training program, the Coordinating Board now must offer an intensive short orientation course developed under TEC, §61.0841. The orientation course must be offered as an online interactive course and also may be offered in the form of a written document or in a one-on-one or group setting. The orientation course is under development and will be available on or about January 11, 2016, as an online interactive course.

In accordance with TEC, §61.084 and §61.0841, the Coordinating Board's rules require a governing board member of an institution of higher education who holds an appointive position to attend, as part of the training program, the intensive short orientation course developed under TEC, §61.0841 and any available training course sponsored or coordinated by the office of the governor with a curriculum designed for training newly appointed state officers, board members, or high-level executive officials. The rules require the member to attend those courses the first time they are offered following the date the member takes the oath of office, regardless of whether that attendance is required under other law. The rules provide a governing board member with additional time to attend those courses if the member for good cause is unable to attend the courses the first time they are offered. The rules prohibit a member whose first year of service on the governing board begins on or after January 1, 2016, from voting on a budgetary or personnel matter related to system administration or institutions of higher education until the member completes the intensive short orientation course described by TEC, §61.0841. The rules specify that the Coordinating Board is responsible for documenting governing board members' completion of the requirements provided by TEC, §61.084.

There were no comments received regarding these amendments.

The amendments are adopted under Texas Education Code, §61.084, which provides the Coordinating Board with the authority to adopt rules to implement the provisions of Texas Education Code, §61.084 and §61.0841, concerning training for members of governing boards of institutions of higher education.

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600479
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: February 22, 2016
Proposal publication date: December 4, 2015
For further information, please call: (512) 427-6114

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SUBCHAPTER BB. ARCHITECTURE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§1.9501 - 1.9507

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§1.9501 - 1.9507, concerning the establishment of an advisory committee to develop an Architecture Field of Study, without changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7169). The new rules authorize the Board to create an advisory committee to develop an architecture field of study. The newly added rules will affect students when the architecture field of study is adopted by the Board.

There were no comments received regarding these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.823(a) and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees.

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600480
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: February 22, 2016
Proposal publication date: October 16, 2015
For further information, please call: (512) 427-6114

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CHAPTER 5. RULES APPLYING TO PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND/OR SELECTED PUBLIC COLLEGES OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §5.10

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §5.10, pertaining to tracking career information for graduates of Texas medical schools and persons completing medical residency programs in Texas, without changes to the proposed text as published in October 2, 2015, issue of the *Texas Register* (40 TexReg 6817). Specifically, new §5.10 establishes a system to acquire and maintain data regarding the initial residency program choices made by graduates of medical schools in this state and the initial practice choices made by persons completing medical residency programs in this state, as required by Texas Education Code, Chapter 61, Subchapter C, §61.0906.

The following comment was received from the Texas A&M Health Science Center College of Medicine:

Comment: The Texas A&M Health Science Center College of Medicine requested clarification be made in the new §5.10 as to what entity will be reporting practice choices made by a physician upon completion of his or her residency as well as for the two-year period following completion of that program. The Texas

A&M Health Science Center College of Medicine expressed concern that as written, the rules propose using "any data reasonably available...including data maintained or accessible to medical schools or residency programs" without clarifying how this data is to be obtained. The Texas A&M Health Science Center College of Medicine states that medical schools currently do not collect data on what practice choice individuals make upon completing their residency program; and it is unclear how either a medical school or a residency program would obtain data from a person who has completed their residency program and is two years into their medical career or a fellowship.

Response: The Coordinating Board entered into a Memorandum of Understanding with the Texas Medical Board (TMB) in 2014, which allows the TMB to send physician licensure data to the Coordinating Board. The Coordinating Board will match Texas physician licensure data to the existing data collected from the Texas medical schools about the residents pursuing graduate medical education training in Texas. Using these existing data resources, the Coordinating Board intends to collect data on practice choices made by persons completing a medical residency in the state. The Coordinating Board does not anticipate collecting this data from medical schools or residency programs. However, data collection on practice choices made by persons completing a medical residency in the state is one of the requirements of Texas Education Code, Chapter 61, Subchapter C, §61.0906. If data from TMB becomes unavailable to the Coordinating Board or is deemed insufficient, the Coordinating Board will be required to analyze and determine other potential sources for these data. The Coordinating Board will provide medical schools and residency programs in the state reasonable notice of and opportunity to comment on new data reporting requirements, if that is necessary. No changes were made as a result of this comment.

The new section is adopted under the Texas Education Code, §61.061, which provides the Coordinating Board with authority to adopt rules relating to carrying out the duties with respect to public junior colleges placed upon it by the legislature.

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600481
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: February 22, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 427-6114

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SUBCHAPTER C. APPROVAL OF NEW ACADEMIC PROGRAMS AT PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND REVIEW OF EXISTING DEGREE PROGRAMS

19 TAC §5.46

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §5.46 concerning Criteria for New Doctoral Programs without changes to the proposed text as published in the October 2, 2015, issue of the *Texas Register* (40 TexReg 6818). The intent of the amendments is to clearly delineate the criteria for approval of new doctoral programs; and clarify the information and documentation that public universities and health-related institutions must submit when requesting a new doctoral program.

The following comment was received from The University of Texas System (UT System):

Comment: The UT System expressed concern with the amendment of Criterion 10, Carefully Programmed Course of Study, which adds the following sentence: "Consideration must also be given to alternative methods of determining mastery of program content, such as competency-based education, prior learning assessment, and other options of reducing student time to degree." UT System does not support this change, and believes that any decision to include competency-based education depends upon the discipline of the degree program and should be made exclusively by the faculty. UT System notes that time-to-degree could be improved among existing doctoral programs, but feels that goal is best accomplished by periodic assessments of program requirements by faculty, early mentoring of doctoral students, and competitive financial support. UT System asks for reconsideration of this change to the Criteria for New Doctoral Programs.

Response: The amendment to Criterion 10 does not require institutions to use competency-based education or other methods of reducing student time to degree. The amendment only requires institutions to give consideration to the use of such methods. Coordinating Board staff agree that faculty should decide if competency-based education is appropriate for a program in their discipline. No changes were made as a result of this comment.

The following comments were received from Texas Tech University (TTU):

Comment: TTU supported changes to criteria one through three, but opposed the amendment to criterion four, saying "at its core, this addition appears predicated on the assumption that only current workforce demands are the target for doctoral graduates and that existing programs are positioned better than new programs to meet current or future workforce needs. This addition does not recognize that viable employment opportunities do/will exist outside of Texas or that research universities such as TTU serve as economic engines that create NEW jobs that add to our workforce demands and economic expansion. Moreover, the examples given may be difficult or impossible to obtain (admission data) or of questionable relevance."

Response: The amendment to criterion four does not alter the workforce demand data requested by the Coordinating Board. The amendment adds a request for evidence of student demand for the proposed program. No changes were made as a result of this comment.

Comment: TTU opposed the changes to criterion 10, which adds a requirement that the institution give consideration to competency-based education and other methods of reducing student time to degree, saying "There are no data connecting alternative methods of demonstrating mastery of content to time to degree for doctoral students, and so this addition may be based on an invalid premise. Moreover, adaptability and/or validity of such

methods to specific fields of study may be unproven and/or impractical to implement. Lastly, the addition may be addressing a non-problem as time to degree varies among fields and may not be at variance with national standards."

Response: Reducing student time to degree can help lower educational costs for students and the state, therefore this provision encourages institutions to consider a variety of methods for achieving this important objective, but does not mandate that institutions use any particular method. No changes were made as a result of this comment.

Comment: TTU supported the portion of the addition to criterion 11 that requires a plan for providing external learning experiences. However, TTU opposed the portion of the addition that requires increasing the number of such opportunities: "First, it may be impractical or impossible to determine the number of opportunities in the state given the dynamic nature of the workforce and economic factors that govern such opportunities at any point in time. Secondly, there is an assumption that existing degree programs are of fixed size and/or are suitably addressing workforce needs that may or may not be correct. Lastly, external learning experiences outside of Texas may be undersubscribed and offer viable alternatives for meeting program demands."

Response: In recent years Texas institutions have had difficulties placing students in some disciplines into internships and other types of external learning experiences. In order to alleviate this shortage, Coordinating Board staff have added this provision to encourage institutions to increase the number of external learning experiences in those disciplines where shortages exist. No changes were made as a result of this comment.

Comment: TTU supported the amendment to criterion 15, Costs and Funding, to provide a budgetary plan for the new program that clearly delineates the anticipated costs and the sources of funding. TTU opposed "the portion of this new provision that prohibits reallocation of resources from existing programs. There is an underlying assumption of this aspect of the provision that existing programs are meeting student demand and workforce needs, which may or may not be correct. Moreover, this aspect of the provision unnecessarily intrudes on the strategic management of institutional resources and hinders the ability of the institution to respond and adapt to changes in internal or external forces."

Response: The amendment does not prohibit the use of reallocated funds for newly proposed doctoral programs. The amendment specifies that "existing programs should not be negatively affected by the reallocation of funds." New doctoral programs should build on the strengths of existing programs, rather than debilitating them. No changes were made as a result of this comment.

The rule is adopted under Texas Education Code, Chapter 61, Subchapter C, §61.0512, which provides the Coordinating Board with the authority to approve new degree programs.

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600482

Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: February 22, 2016
Proposal publication date: October 2, 2015
For further information, please call: (512) 427-6114

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CHAPTER 9. PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES
SUBCHAPTER M. BLOCK SCHEDULING

19 TAC §§9.660 - 9.666

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§9.660 - 9.666 concerning Block Scheduling without changes to the proposed text as published in the October 30, 2015, issue of the *Texas Register* (40 TexReg 7556). Senate Bill 215, 83rd Texas Legislature, Regular Session, called for the Board to engage institutions of higher education in a negotiated rulemaking process as described in Subchapter 2008, Government Code in the development of such rules. The new Block Scheduling rules proposed for this section were reviewed and approved by the Negotiated Rulemaking Committee on Block Scheduling on October 13, 2015.

The intent of these new rules was to establish the Board's oversight for public junior colleges regarding block scheduling of certain associate degree and certificate programs. House Bill 1583, 84th Texas Legislature, Regular Session requires public junior colleges to adopt at least five associate degree or certificate programs from the allied health, nursing, or career and technology education fields as block scheduled programs.

One comment was received from Blinn College.

Comment: If block scheduling classes do not meet minimum enrollment requirements, as established by the community college, will the college be mandated to offer the class? For example, if the minimum enrollment is 20 students and 3 register, must the block scheduled class still be allowed to continue?

Response: The Block Scheduling rules do not mandate class enrollment minimums. School policies related to enrollment minimums and cost efficiency would apply. No recommended changes to the rules are suggested as a result of this comment.

The rules are adopted under Texas Education Code, Chapter 130, §130.0095, which provides the Coordinating Board with the authority to adopt rules to administer the sections.

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

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Bill Franz
General Counsel
Texas Higher Education Coordinating Board
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CHAPTER 15. NATIONAL RESEARCH UNIVERSITIES

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §15.10

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §15.10 concerning the Texas Research Incentive Program (TRIP) without changes to the proposed text as published in the October 30, 2015, issue of the *Texas Register* (40 TexReg 7557). Changes to this section were made in accordance with Senate Bill 44, passed by the 84th Texas Legislature, Regular Session. The TRIP rule amendments proposed for this section were reviewed and approved by the Negotiated Rulemaking Committee on TRIP on October 5, 2015. The report of the Negotiated Rulemaking Committee is available at the offices of the Coordinating Board located at 1200 East Anderson Lane, Austin, Texas. Specifically, this section is amended to explicitly allow donations for restricted undergraduate research to be matched and explicitly disallow donations for undergraduate financial aid grants to be matched.

No comments were received regarding the amendments.

The amendments are adopted under the Texas Education Code, §62.123. Texas Education Code, §62.124 provides the Coordinating Board with the authority to adopt rules for the administration of the program.

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

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CHAPTER 21. STUDENT SERVICES

SUBCHAPTER J. THE PHYSICIAN EDUCATION LOAN REPAYMENT PROGRAM

19 TAC §§21.254, 21.258, 21.260

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §§21.254, 21.258, and 21.260 concerning the Physician Education Loan Repayment Program (PELRP) without changes to the proposed text as published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7352).

Section 21.254 is amended to add definitions for National Provider Identifier, Program, Texas Medicaid and Healthcare Partnership, and Texas Provider Identifier. The definition of primary care specialty is expanded to include hospitalists practicing in Health Professional Shortage Areas, and language referring to combined internal medicine and pediatrics is added to clarify the term "medicine-pediatrics."

Section 21.258 currently specifies that, to be eligible for repayment, a loan may not be subject to repayment through another student loan repayment or loan forgiveness program. The amendment adds "or repayment assistance provided by the physician's employer," in addition to the phrase "while the physician is participating in the program."

Section 21.260 regarding limitations is amended to clarify that a physician may not receive loan repayment assistance through any other loan repayment program while participating in the PELRP. Additionally, this section is amended to delete a provision under §21.260(d) that is included in proposed new §21.257 regarding applications based on services to Medicaid or Texas Women's Health Program enrollees.

There were no comments received concerning these amendments.

The amended sections are adopted under the Texas Education Code, §61.537, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 61, Subchapter J.

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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19 TAC §§21.255 - 21.257

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of §§21.255 - 21.257 without changes to the proposed text as published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7353). Section 21.255 is no longer relevant. Section 21.256 and §21.257 must be repealed and readopted to reflect renumbering and new language.

There were no comments received concerning the repeal of these sections.

The repealed sections are adopted under the Texas Education Code, §61.537, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 61, Subchapter J.

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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19 TAC §§21.255 - 21.257

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§21.255 - 21.257 concerning the Physician Education Loan Repayment Program (PELRP) without changes to the proposed text as published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7354).

Section 21.255 replaces former §21.255 which was repealed because it is no longer applicable. New §21.255, regarding eligibility, adds language to the previous eligibility rule clarifying that physicians practicing in Health Professional Shortage Areas (HPSAs) must serve uninsured persons, persons enrolled in Medicare (except in the case of pediatricians), Medicaid, and CHIP (if the practice includes children), to qualify for loan repayment assistance. Additionally, this section clarifies that only primary care physicians who are not practicing in HPSAs may qualify on the basis of meeting specified service levels for Medicaid and Texas Women's Health Program enrollees.

Section 21.256 was repealed. New §21.256 includes new language regarding priorities of ranking criteria for physicians qualifying strictly on the basis of Medicaid and Texas Women's Health Program service levels, if there are insufficient funds for all applicants who qualify on this basis.

New §21.257 provides additional information about the source of data used in determining Medicaid and Texas Women's Health Program service levels, the basis for required service levels, and requirements relating to verification of physician services data.

There were no comments received concerning these new rules.

The new sections are adopted under the Texas Education Code, §61.537, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 61, Subchapter J.

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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SUBCHAPTER M. TEXAS COLLEGE WORK-STUDY PROGRAM

19 TAC §21.403, §21.405

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §21.403 and §21.405 concerning the Texas College Work-Study Program without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6489). The amendment to §21.403 aligns the rules with the current statute and describes the method by which an institution is to establish and publicize a listing of work-study employment opportunities. The amendment to §21.405 is made to indicate the Senate Bill 1750 requirements regarding the percentage of off-campus employment positions (at least 20 percent, but no more than 50 percent) that must be provided by institutions participating in the work-study program.

There were no comments received concerning the amendments to these rules.

The amendments are adopted under the Texas Education Code, §56.077, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 56, Subchapter E.

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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19 TAC §21.410

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §21.410 concerning the Texas College Work-Study Program without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6490). The new section adds language to implement legislative changes mandated through the passage of Senate Bill 1750. It outlines new reporting requirements for the Board and specifies the type of data that is to be collected. The report must include the total number of students employed through the program, disaggregated by the positions' location on or off-campus and its status as a for-profit or nonprofit entity. The initial report is due May 1, 2019.

There were no comments received concerning the new rule.

The new section is adopted under the Texas Education Code, §56.077, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 56, Subchapter E.

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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SUBCHAPTER P. LOAN REPAYMENT PROGRAM FOR MENTAL HEALTH PROFESSIONALS

19 TAC §§21.491, 21.493 - 21.495, 21.497

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §§21.491, 21.493 - 21.495 and 21.497 pertaining to the Loan Repayment Program for Mental Health Professionals. Section 21.497 is adopted with changes to the proposed text as published in the December 4, 2015, issue of the *Texas Register* (40 TexReg 8715). Sections 21.491 and 21.493 - 21.495 are adopted without changes. In accordance with Texas Education Code, §61.608, rules for the administration of the new program were adopted by the Board on October 23, 2015 and became effective on November 12, 2015.

Although the adopted rules incorporated changes recommended by The University of Texas at Austin during the public comment period, a representative of the Texas Counseling Association and the National Association of Social Workers - Texas Chapter provided testimony to the Board expressing concerns about the definition of full-time service required for a mental health professional to qualify for a full loan repayment award. Staff expressed a desire to work with the representatives and others to develop any appropriate amendments for the Board's consideration at its meeting in January.

On October 28, 2015, staff met with representatives of the organizations mentioned above, in addition to staff of the Senate Health and Human Services Committee and the Texas Department of State Health Services. In addition to addressing the definition of full-time service, the group discussed the need to establish priorities for ranking applications, given the expectation that the amount of appropriated funding will not be sufficient to allow for awards to all eligible applicants. The recommended amendments reflect changes that were agreed upon at the meeting and subsequent communications among the stakeholders and staff.

Section 21.491(3) is amended to define full-time service in a manner that takes into consideration the work that mental health professionals must do in addition to direct client contact.

Section 21.494 regarding selection of eligible applicants and limitations is amended as follows: subsection (a) corrects punctuation, subsection (b) adds the statement that applications from professionals providing services to persons committed to secure correctional facilities will be selected on a first-come-first-served basis, and subsection (d) is added to describe the manner in which applications for each practice specialty will be ranked.

Section 21.495(1) is amended to clarify that, to qualify for a loan repayment disbursement a mental health professional must have completed service in a Mental Health Professional Shortage Area providing direct patient care to Medicaid enrollees and/or CHIP enrollees, if the practice serves children, or persons committed to a secure correctional facility.

Section 21.497 is amended as follows: paragraph (1) corrects a capitalization error, paragraph (3) is added to clarify that a mental health provider whose student loan indebtedness is less than the maximum aggregate amount allowed for the practice specialty is eligible for an annual award amount based on the specified annual percentages of the amount owed at the time of the enrollment application, former paragraph (3) is changed to paragraph (4) and is amended to state that a prorated award is allowed if the provider is employed for a minimum of 20 hours per week, and former paragraph (4) is changed to paragraph (5).

There were no comments received concerning these amendments.

The amendments are adopted under the Texas Education Code (TEC), §61.608, which authorizes the Coordinating Board to adopt rules necessary to administer new Subchapter K of TEC Chapter 61.

§21.497. Amount of Repayment Assistance.

Loan repayment awards will be disbursed directly to lenders in behalf of eligible mental health professionals and:

(1) Repayment assistance for each year of full-time service will be in an amount determined by applying the following applicable percentage to the maximum total amount of assistance allowed for the professional:

(A) for the first year, 10 percent;

(B) for the second year, 15 percent;

(C) for the third year, 20 percent;

(D) for the fourth year, 25 percent; and

(E) for the fifth year, 30 percent.

(2) The total amount of repayment assistance received by a mental health professional under this subchapter may not exceed:

(A) $160,000, for a psychiatrist;

(B) $80,000, for:

(i) a psychologist;

(ii) a licensed clinical social worker, if the social worker has received a doctoral degree related to social work; or

(iii) a licensed professional counselor, if the counselor has received a doctoral degree related to counseling;

(C) $60,000, for an advanced practice registered nurse; and

(D) $40,000, for a licensed clinical social worker or a licensed professional counselor who has not received a doctoral degree related to social work or counseling.

(3) If a mental health provider's total student loan indebtedness is less than the total amount of repayment assistance allowed for the provider's practice specialty, the annual loan repayment award amounts based on full-time service will be the following percentages of the student loan debt owed at the time of application for enrollment in the program: 10% for year one, 15% for year two, 20% for year three, 25% for year four, and 30% for year five.

(4) An eligible professional may receive prorated loan repayment assistance based on the percentage of full-time service provided for each service period, for a minimum of 20 hours per week if employed or contracted by an agency or facility in a mental health professional shortage area for the primary purpose of providing direct mental health services to:

(A) Medicaid recipients;

(B) CHIP enrollees;

(C) persons in facilities operated by or under contract with the Texas Juvenile Justice Department; and/or,

(D) persons in facilities operated by or under contract with the Texas Department of Criminal Justice.

(5) Failure to meet the program requirements will result in non-payment for the applicable service period(s) and, except under circumstances determined by the Board to constitute good cause, removal from the program.

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

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Bill Franz
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CHAPTER 22. GRANT AND SCHOLARSHIP PROGRAMS

SUBCHAPTER K. PROVISIONS FOR SCHOLARSHIPS FOR STUDENTS GRADUATING IN THE TOP 10 PERCENT OF THEIR HIGH SCHOOL CLASS

19 TAC §22.197

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §22.197 concerning the Provisions for Scholarships for Students Graduating in the Top 10 Percent of their High School Class without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6490). The amendments to this section correct the citation referenced in the definition of "Institution of Higher Education", from §61.003(6) to §61.003(8).

There were no comments received concerning these amendments.

The amendments are adopted under the Texas Education Code, §56.493, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 56, Subchapter R.

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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19 TAC §22.203

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §22.203, concerning the Provisions for Scholarships for Students Graduating in the Top 10 Percent of Their High School Class, without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6491). The new section adds language to implement legislative changes mandated by the 84th Legislature through the passage of H.B. 1 to address the priority awarding of students if the program is not fully funded.

There were no comments received concerning this new rule.

The new section is adopted under the Texas Education Code, §56.493, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 56, Subchapter R.

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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SUBCHAPTER L. TOWARD EXCELLENCE, ACCESS, AND SUCCESS (TEXAS) GRANT PROGRAM

19 TAC §22.235

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §22.235 concerning the Towards EXcellence, Access & Success (TEXAS) Grant Program without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6491). The title to this section is amended to distinguish between awarding a student after the end of his/her period of enrollment instead of during a student's period of enrollment.

There were no comments received concerning this amendment.

The amendment is adopted under the Texas Education Code, §56.303, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 56, Subchapter M.

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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SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

19 TAC §22.261

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §22.261 concerning the Texas Educational Opportunity Grant Program (TEOG) without changes to the proposed text as published in the September 25, 2015, issue of the *Texas Register* (40 TexReg 6492). The title to this section is amended to distinguish between awarding a student after the end of his/her period of enrollment instead of during a student's period of enrollment. The amendment to subsection (b) clarifies that funds disbursed after period of enrollment must be used to pay a student's outstanding balance or payment against an outstanding loan.

There were no comments received concerning these amendments.

The amendments are adopted under the Texas Education Code, §56.403, which gives the Coordinating Board the authority to adopt rules consistent with Texas Education Code, Chapter 56, Subchapter P.

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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CHAPTER 26. PROGRAMS OF STUDY

SUBCHAPTER A. AGRICULTURE, FOOD AND NATURAL RESOURCES PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.101 - 26.107

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.101 - 26.107, concerning the establishment of an advisory committee to develop programs of study specific to the Agriculture, Food, and Natural Resources Career Cluster, without changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7171). The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Agriculture, Food, and Natural Resources Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received concerning these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

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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SUBCHAPTER B. ARCHITECTURE AND CONSTRUCTION PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.121 - 26.127

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.121 - 26.127, concerning the establishment of an advisory committee to develop programs of study specific to the Architecture and Construction Career Cluster, without changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7172). The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Architecture and Construction Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

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SUBCHAPTER C. ARTS, AUDIO/VISUAL TECHNOLOGY AND COMMUNICATIONS PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.141 - 26.147

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.141 - 26.147, concerning the establishment of an advisory committee to develop programs of study specific to the Arts, Audio/Visual, Technology, and Communications Career Cluster, without changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7173). The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Arts, Audio/Visual, Technology, and Communications Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

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SUBCHAPTER D. BUSINESS MANAGEMENT AND ADMINISTRATION PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.161 - 26.167

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.161 - 26.167, concerning the establishment of an advisory committee to develop programs of study specific to the Business Management and Administration Career Cluster. Section 26.161 is adopted with changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7174). Sections 26.162 - 26.167 are adopted without changes. The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Business Management and Administration Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding the new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

§26.161. Authority and Specific Purposes of the Business Management and Administration Programs of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.8235.

(b) Purpose. The Business Management and Administration Programs of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the programs of study curricula specific to this career cluster.

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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SUBCHAPTER E. EDUCATION AND TRAINING PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.181 - 26.187

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.181 - 26.187, concerning the establishment of an advisory committee to develop programs of study specific to the Education and Training Career Cluster. Section 26.181 is adopted with changes to the proposed text as pub-

lished in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7175). Sections 26.182 - 26.187 are adopted without changes. The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Education and Training Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding the new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

§26.181. Authority and Specific Purposes of the Education and Training Programs of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.8235.

(b) Purpose. The Education and Training Programs of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the programs of study curricula specific to this career cluster.

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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SUBCHAPTER F. FINANCE PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.201 - 26.207

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.201 - 26.207, concerning the establishment of an advisory committee to develop programs of study specific to the Finance Career Cluster. Section 26.201 is adopted with changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7176). Sections 26.202 - 26.207 are adopted without changes. The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Finance Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

§26.201. Authority and Specific Purposes of the Finance Programs of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.8235.

(b) Purpose. The Finance Programs of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the programs of study curricula specific to this career cluster.

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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SUBCHAPTER G. GOVERNMENT AND PUBLIC ADMINISTRATION PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.221 - 26.227

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.221 - 26.227, concerning the establishment of an advisory committee to develop programs of study specific to the Business Management and Administration Career Cluster. Section 26.221 is adopted with changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7178). Sections 26.262 - 26.267 are adopted without changes. The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Government and Public Administration Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

§26.221. Authority and Specific Purposes of the Government and Public Administration Programs of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.8235.

(b) Purpose. The Government and Public Administration Programs of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the programs of study curricula specific to this career cluster.

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600493
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: February 22, 2016
Proposal publication date: October 16, 2015
For further information, please call: (512) 427-6114

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SUBCHAPTER H. HEALTH SCIENCE PROGRAMS OF STUDY ADVISORY COMMITTEE

19 TAC §§26.241 - 26.247

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§26.241 - 26.247, concerning the establishment of an advisory committee to develop programs of study specific to the Health Science Career Cluster. Section 26.241 is adopted with changes to the proposed text as published in the October 16, 2015, issue of the *Texas Register* (40 TexReg 7179). Sections 26.242 - 26.247 are adopted without changes. The new rules authorize the Board to create an advisory committee to develop programs of study specific to the Health Science Career Cluster. The newly added rules will affect students when the programs of study are adopted by the Board.

There were no comments received regarding these new rules.

The new rules are adopted under Texas Education Code, Chapter 61, §61.8235, pursuant to House Bill 2628 enacted by the 84th Texas Legislative Session, and Texas Government Code, Chapter 2110, §2110.005, which provides the Coordinating Board with the authority to develop programs of study curricula with the assistance of advisory committees.

§26.241. Authority and Specific Purposes of the Health Science Programs of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.8235.

(b) Purpose. The Health Science Programs of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the programs of study curricula specific to this career cluster.

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

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Bill Franz
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6114

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 62. COMMISSIONER'S RULES CONCERNING THE EQUALIZED WEALTH LEVEL

19 TAC §62.1071

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §62.1071(a) is not included in the print version of the Texas Register. The figure is available in the on-line version of the February 19, 2016, issue of the Texas Register.)

The Texas Education Agency (TEA) adopts an amendment to §62.1071, concerning the equalized wealth level. The amendment to §62.1071 is adopted with changes to the proposed text as published in the October 23, 2015 issue of the *Texas Register* (40 TexReg 7355). The section establishes provisions relating to wealth equalization requirements. The amendment adopts as a part of the Texas Administrative Code (TAC) the *Manual for Districts Subject to Wealth Equalization 2015-2016 School Year.* The manual contains the processes and procedures that the TEA uses in the administration of the provisions of the Texas Education Code (TEC), Chapter 41, and the fiscal, procedural, and administrative requirements that school districts subject to the TEC, Chapter 41, must meet.

REASONED JUSTIFICATION. Legal counsel with the TEA has advised that the procedures contained in each yearly manual for districts subject to wealth equalization be adopted as part of the TAC. The intent is to annually update 19 TAC §62.1071 to refer to the most recently published manual. Manuals adopted for previous school years will remain in effect with respect to those school years.

The amendment to 19 TAC §62.1071, Manual for Districts Subject to Wealth Equalization, adopts in rule the official TEA publication *Manual for Districts Subject to Wealth Equalization 2015-2016 School Year* as Figure: 19 TAC §62.1071(a).

Each school year's manual for districts subject to wealth equalization explains how districts subject to wealth equalization are identified; the fiscal, procedural, and administrative requirements those districts must meet; and the consequences for not meeting requirements. The manual also provides information on using the online Foundation School Program (FSP) System to fulfill certain requirements.

Two significant changes to the *Manual for Districts Subject to Wealth Equalization 2015-2016 School Year* from the *Manual for Districts Subject to Wealth Equalization 2014-2015 School Year* are as follows.

Appendix B: Forms. The District Intent and Choice Selection forms are now combined into one form, the District Intent/Choice Selection.

Changes to deadlines noted throughout. The manual includes provisions for the mandatory homestead exemption in Senate Bill 1, 84th Texas Legislature, 2015, which passed voter approval in November 2015. These provisions only apply to districts that would need a Chapter 41 election and that would likely fall below the equalized wealth level once the homestead exemption is incorporated into the property value used to determine the property wealth of the district.

In response to public comment, Appendix E: Glossary of the manual was modified at adoption to revise the definition of *appraisal costs* to be consistent with the current methodology for determining county appraisal district (CAD) costs in the cost of recapture.

The adopted rule action places the specific procedures contained in the *Manual for Districts Subject to Wealth Equalization 2015-2016 School Year* in the TAC. The TEA administers the wealth equalization provisions of the TEC, Chapter 41, according to the procedures specified in each yearly manual for districts subject to wealth equalization. Data reporting requirements are addressed primarily through the online FSP System. The adopted rule action has no locally maintained paperwork requirements.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began October 23, 2015, and ended November 23, 2015. Following is a summary of public comments received and corresponding agency responses regarding the proposed amendment to 19 TAC §62.1071, Manual for Districts Subject to Wealth Equalization.

Comment. The Equity Center proposed a different calculation for the cost of attendance credits as established in the TEC, §41.093(a)(2), for Tier 2, Level 2 only. The Equity Center commented that the TEC, §41.093(a)(2), states, "the cost of each credit is an amount equal to the amount of the statewide district average of maintenance and operations (M&O) tax revenue per student in weighted average daily attendance (WADA)...." The Equity Center stated that the proposed calculation would base the amount for Tier 2, Level 2 only on the product of "the statewide district average tax revenue" for Tier 2, Level 2 per the statewide district average number of Tier 2, Level 2 pennies adopted (5.085) multiplied by the number of Tier 2, Level 2 pennies adopted by a district subject to the provision.

Agency Response. The agency disagrees. A statutory change would be needed to implement the change proposed by the Equity Center. The statutory language in the TEC, §41.093(a)(2), is explicit that the amount be based upon the statewide district average of M&O tax revenue per student in WADA and does not distinguish between Tier 1 and Tier 2 calculations of the statewide district average of M&O tax revenue per student in WADA.

Comment. The Equity Center proposed a change to the definition of the term *appraisal costs* in the glossary to conform to current practice. The Equity Center acknowledged that Chapter 41 districts are eligible for a credit for the portion of the costs resulting from the recaptured excess value of costs associated with the operation of CADs and not the entire amount of these costs as currently defined in the manual proposed for adoption under 19 TAC §62.1071.

Agency Response. The agency agrees and has modified Appendix E: Glossary of the manual at adoption to revise the definition of *appraisal costs* as suggested to be consistent with the current methodology for determining CAD costs in the cost of recapture.

Comment. The Equity Center proposed a change to the definition of the term *property-wealthy district* in the glossary to include language acknowledging that this term only applies to districts whose recapture exceeds state funding. The Equity Center noted that the manual proposed for adoption under 19 TAC §62.1071 defines a property-wealthy district as a district whose wealth per student exceeds $319,500, otherwise known as a Chapter 41 district.

Agency Response. The agency disagrees. The term *property-wealthy district* in the manual adopted under 19 TAC §62.1071 exists to identify districts subject to the TEC, Chapter 41, and 19 TAC §62.1071 as those with property wealth greater than the equalized wealth level, and this threshold is set in statute at $319,500. All districts with property wealth greater than $319,500 are subject to the TEC, Chapter 41, and 19 TAC §62.1071 regardless of whether state aid exceeds recapture.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §41.006, which authorizes the commissioner of education to adopt rules necessary for the implementation of the TEC, Chapter 41.

CROSS REFERENCE TO STATUTE. The amendment implements the TEC, §41.006.

§62.1071. Manual for Districts Subject to Wealth Equalization.

(a) The processes and procedures that the Texas Education Agency (TEA) uses in the administration of the provisions of the Texas Education Code (TEC), Chapter 41, and the fiscal, procedural, and administrative requirements that school districts subject to the TEC, Chapter 41, must meet are described in the official TEA publication Manual for Districts Subject to Wealth Equalization 2015-2016 School Year, provided in this subsection.

Figure: 19 TAC §62.1071(a)

(b) The specific processes, procedures, and requirements used in the manual for districts subject to wealth equalization are established annually by the commissioner of education and communicated to all school districts.

(c) School district actions and inactions in previous school years and data from those school years will continue to be subject to the annual manual for districts subject to wealth equalization with respect to those years.

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

Filed with the Office of the Secretary of State on February 5, 2016.

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Director, Rulemaking
Texas Education Agency
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Proposal publication date: October 23, 2015
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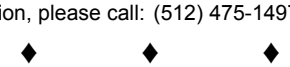

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 227. PROVISIONS FOR EDUCATOR PREPARATION CANDIDATES

The State Board for Educator Certification (SBEC) adopts amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, 227.20, 227.103, 227.105, and 227.107 and adopts new 19 TAC §227.17 and §227.19, concerning provisions for educator preparation candidates. The amendments to §§227.1, 227.5, 227.20, 227.103, 227.105, and 227.107 and new 19 TAC §227.19 are adopted without changes to the proposed text as published in the November 6, 2015 issue of the *Texas Register* (40 TexReg 7776) and will not be republished. The amendments to §227.10 and §227.15 and new 19 TAC §227.17 are adopted with changes to the proposed text as published in the November 6, 2015 issue of the *Texas Register* (40 TexReg 7776). The adopted revisions to 19 TAC Chapter 227 include changes as a result of House Bill (HB) 2012, 83rd Texas Legislature, Regular Session, 2013, which required the Texas Education Agency (TEA), the SBEC, and the Texas Higher Education Coordinating Board (THECB) to perform a joint review of the existing standards for preparation and admission that are applicable to educator preparation programs (EPPs). In addition, HBs 1300 and 2205, 84th Texas Legislature, Regular Session, 2015, have been addressed. The adopted revisions update the rules to reflect current law, clarify minimum standards for all EPPs, allow for flexibility, and ensure consistency among EPPs in the state. The adopted amendments to 19 TAC §§227.103, 227.105, and 227.107 reflect conforming technical edits.

REASONED JUSTIFICATION. The SBEC rules in 19 TAC Chapter 227 begin with Subchapter A, Admission to Educator Preparation Programs, which provides for rules that establish requirements for admission to an EPP. Subchapter B, Preliminary Evaluation of Certification Eligibility, provides for rules for the implementation of a preliminary criminal history evaluation, as provided in the Texas Occupations Code, Chapter 53, Subchapter D. The Texas Education Code (TEC), §21.031, states that the SBEC is established to oversee all aspects of the certification and continuing education of public school educators and to ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state. The TEC, §21.049, authorizes the SBEC to adopt rules providing for educator certification programs as an alternative to traditional EPPs.

The adopted revisions include changes as a result of HB 2012, 83rd Texas Legislature, Regular Session, 2013, and HBs 1300 and 2205, 84th Texas Legislature, Regular Session, 2015. The adopted revisions also reflect discussions held during stakeholder meetings with EPPs on January 14, 2014; February 18, 2014; and March 26, 2014, and regional stakeholder meetings held on February 27, 2014, and March 3-4, 2014, with district and regional administrators. The adopted revisions also reflect input received from staff at the THECB and the TEA. Additional stakeholder meetings were held with the Educator Preparation Advisory Committee (EPAC) on December 1, 2014; February 2, 2015; May 4, 2015; June 29, 2015; August 31, 2015; and November 2, 2015.

SBEC Input

At the January 2015 SBEC Work Session, the SBEC members received three presentations on educator quality. The Texas Teaching Commission, the Council for the Accreditation of Educator Preparation, and the National Council on Teacher Quality provided state and national perspectives on educator quality. SBEC members provided feedback to TEA staff on those presentations. Specifically, as it relates to 19 TAC Chapter 227, the SBEC requested policy options that focus on raising EPP standards, improving teacher preparation programs, and providing solutions to correct current problems in Texas EPPs. The adopted revisions to 19 TAC Chapter 227 address this request.

The following adopted amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, and 227.20 and adopted new 19 TAC §227.17 and §227.19 are the result of legislation and input from the SBEC, stakeholders, THECB staff, and TEA staff.

General Provisions

The amendment to 19 TAC §227.1 clarifies the responsibility of the EPP to inform applicants of the background check requirement for clinical teaching and teaching; adds language to require EPPs to inform applicants of admission and program completion requirements; and adds language to require EPPs to inform applicants of the performance over time of the EPP and the effect of supply and demand on the educator workforce in the state, in accordance with TEC, §21.044, added by HB 2012, 83rd Texas Legislature, Regular Session, 2013.

Definitions

The amendment to 19 TAC §227.5 adds definitions of *accredited institution of higher education, applicant, formal admission,* and *post-baccalaureate program* for clarity; clarifies that the bachelor's degree needs to be from an accredited institution of higher education (IHE); clarifies and updates the definitions of *alternative certification program, candidate, clinical teaching,* and *semester credit hour;* removes a phrase from the definition of *contingency admission* to stay in alignment with the acceptance of accredited IHE; adds the phrase "that must be" to the definition of *educator preparation program* for clarity; adds a definition of *incoming class* in accordance with TEC, §21.0441, added by HB 2205, 84th Texas Legislature, Regular Session, 2015; and removes definitions for words and terms not used in Chapter 227 and renumbers as necessary.

Admission Criteria

The amendment to 19 TAC §227.10 clarifies which requirements are for those who are seeking admission to an EPP for initial certification in each class of certificate; clarifies the admission requirement for a candidate seeking admission to an undergraduate university program; aligns the acceptance of an accredited IHE; clarifies that candidates seeking admission to an EPP for initial certification must have either a 2.5 grade point average (GPA) or a 2.5 in the last 60 semester credit hours in accordance with TEC, §21.0441, added by HB 2205, 84th Texas Legislature, Regular Session, 2015; clarifies that the minimum GPA must be from the current accredited IHE or the IHE from which the most recent bachelor's degree or higher was conferred; and requires that an applicant to an EPP pass a content examination to be eligible for an extraordinary circumstances exception to the minimum GPA requirement, in accordance with TEC, §21.0441, added by HB 1300, 84th Texas Legislature, Regular Session, 2015. The adopted amendment also clarifies that a content examination that is used as part of admission requirement must be passed by the applicant before the applicant is admitted to an EPP; clarifies that an applicant is ineligible to register for a pre-admission content examination (PACT) if the applicant had previously been admitted to an EPP. The phrase "do not meet the minimum GPA requirement and" was inadvertently included in the rule text that was published in the *Texas Register* though

it was not addressed in the preamble as published in the *Texas Register.* An edit to correct the typographical error was made in subsection (a)(4)(D), as published, to remove the phrase "do not meet the minimum GPA requirement and" so that the rule text reflects the discussion at the time this item was proposed at the October 2015 SBEC meeting and the preamble that was included with the rule text in the *Texas Register.* The adopted amendment also clarifies that an applicant who has previously been enrolled in an EPP and does not meet the minimum GPA requirement may request permission to register for a PACT under procedures developed by TEA staff; and clarifies that an applicant who is seeking a career and technical education certificate that does not require a degree from an accredited IHE is exempt from the minimum GPA requirement. The adopted amendment clarifies that a minimum of 12 semester credit hours in the subject-specific content area is required for an applicant who will be seeking an initial certificate in the classroom teacher class of certificate, unless certification is sought for mathematics or science at or above Grade 7; adds a 15 semester credit hour prerequisite for those seeking admission for mathematics or science certification at or above Grade 7, in accordance with the TEC, §21.0441, added by HB 2012, 83rd Texas Legislature, Regular Session, 2013; clarifies that an applicant who has previously enrolled in an EPP may request permission to register for a PACT under procedures developed by TEA staff; and amends the requirement for a basic skills assessment in reading, written communication, and mathematics to reflect current methods of meeting the requirement. In addition, the amendment requires candidates with credentials from outside the United States to meet all of the English language proficiency requirements as specified in 19 TAC §230.11, General Requirements, and clarifies that an applicant who is seeking a career and technical education certificate that does not require a bachelor's degree from an accredited IHE may satisfy the English language proficiency requirement with an associate's degree or high school diploma that was earned at an accredited IHE or an accredited high school in the United States. The adopted amendment also clarifies that an application and either an interview or other screening instrument are required to determine if an applicant's knowledge, experience, skills, and aptitude are appropriate for the certification sought; clarifies that an applicant who has completed a program may enroll in another program for the purpose of receiving approval to take a certification examination; and clarifies that an applicant who has been employed for three years on a probationary certificate or permit may enroll in another program for the purpose of completing a clinical teaching experience.

Contingency Admission

The amendment to 19 TAC §227.15 adds language that requires an EPP to extend an offer of contingency admission in writing and requires an applicant to accept an offer of contingency admission in writing; clarifies the effective date of contingency admission; adds language that, except as allowed in §227.10, prohibits an alternative certification program or post-baccalaureate program from providing coursework, training, and/or examination approval that leads to initial certification in any class of certificate to applicants prior to contingency admission; and clarifies that a semester is based on the common calendar established by the THECB. The adopted amendment also removes the phrase "pre-admission content examination preparation" from 19 TAC §227.15(d), since proposed, because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Formal Admission

Adopted new 19 TAC §227.17 clarifies and documents when an applicant is considered formally admitted to an EPP; adds language that requires an EPP to extend an offer of formal admission in writing and requires an applicant to accept an offer of formal admission in writing; and adds language that prohibits an alternative certification program or post-baccalaureate program from providing coursework, training, and/or examination approval that leads to initial certification in any class of certificate to applicants prior to formal admission. The adopted amendment also adds the phrase "prior to formal admission" to §227.17(e), since proposed, because it was inadvertently not included in the rule text that was published as proposed in the *Texas Register* though it was addressed in the preamble as published in the *Texas Register;* and removes the phrase "pre-admission content examination preparation" from 19 TAC §227.17(e), since proposed, because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Incoming Class Grade Point Average

Adopted new 19 TAC §227.19 was added as a result of the TEC, §21.0441, amended by HB 2205, 84th Texas Legislature, Regular Session, 2015. The new section requires the overall GPA of each incoming class admitted by an EPP to be not less than 3.00 on a four-point scale or the equivalent; and clarifies that admitted candidates' GPAs must be from the current accredited IHEs or the IHEs from which the most recent bachelor's degrees or higher were conferred.

Implementation Date

The amendment to 19 TAC §227.20 updates the implementation date to reflect when the rules in Subchapter A, Admission to Educator Preparation Programs, apply to applicants.

Technical Changes

The adopted revisions to 19 TAC Chapter 227, Subchapters A and B, include minor technical edits such as updating cross references and conforming to *Texas Register* style and format requirements.

SUMMARY OF COMMENTS AND BOARD RESPONSES. The public comment period on the proposal began November 6, 2015, and ended December 7, 2015. The SBEC also provided an opportunity for registered oral and written comments at the December 11, 2015 meeting in accordance with the SBEC board operating policies and procedures. Following is a summary of the public comments received and corresponding board responses regarding the proposed amendments to 19 TAC §§227.1, 227.5, 227.10, 227.15, 227.20, 227.103, 227.105, and 227.107 and proposed new 19 TAC §227.17 and §227.19.

Comment: Education Career Alternatives Program (ECAP) provided the results of a survey that it distributed to school districts and charter schools in the North Texas region. As a preface to the survey, ECAP stated that EPPs were commissioned to teach pedagogical practices to individuals who already possess content knowledge. ECAP noted that EPPs in Texas are not adequately staffed nor qualified to provide content training and that the proposed 19 TAC §227.15 and §227.17 would prohibit EPPs from admitting candidates who had not already passed the PACT. ECAP further noted that the proposed rules would prohibit an EPP from approving additional areas of certification for admitted candidates because an EPP cannot approve additional certification examinations. In addition, the commenter stated that the proposed revisions would prohibit an EPP from providing PACT preparation prior to admission. Twenty-five indi-

viduals from school districts or charter schools in the North Texas area responded to the survey, and a majority indicated that the proposed rules would be detrimental to staffing and would decrease the percentage of highly qualified teachers. ECAP recommended that proposed §227.15 and §227.17 be tabled.

Board Response: As the comments relate to EPP responsibility for only teaching pedagogical practices to individuals who already possess content knowledge, the SBEC disagreed. The TEC, §21.0443(b), requires that to be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification. With the exception of the Trade and Industrial Education certificates and the Junior Reserve Officer Training Corps certificate, the requirements for an initial classroom teacher certificate require a candidate to pass the appropriate content certification examination(s). Requirements for EPPs are found in 19 TAC Chapter 228. Section 228.20(c) requires EPP accountability for the quality of the candidates the EPP recommends for certification. Section 228.35(a)(1) requires EPP responsibility for ensuring that candidates are effective in the classroom. Section 228.40(a) requires EPP responsibility for preparing candidates for receiving a standard certificate. Most importantly, 19 TAC §228.30(a) requires that the educator standards, which include content knowledge and pedagogical practices, be the curricular basis for all educator preparation.

As the comments relate to the claim that EPPs are not adequately staffed nor qualified to provide content training, the SBEC disagreed. Section 228.20(c) requires the governing body and chief operating officer of an entity approved to deliver educator preparation to provide sufficient support to enable the EPP to meet all standards set by the SBEC. The results of continuous approval reviews by TEA staff have shown that many EPPs are adequately staffed and are qualified to provide content training. If EPP staff feel that they are not adequately staffed or qualified to meet the SBEC standards, the EPP staff should address these issues with their advisory committees, governing bodies, and chief operating officers so that sufficient support can be provided.

As the comments relate to the claim that the proposed amendment to 19 TAC §227.15(d) and proposed new 19 TAC §227.17(e) would prohibit EPPs from admitting candidates who had not already passed the PACT, the SBEC disagreed. Section 227.10(a)(4)(A) and (B) allow an EPP to admit an applicant who has a minimum number of hours of college credit in the subject-specific content area for the certification sought. The proposed rules do not affect this option for demonstrating content knowledge.

As the comments relate to the claim that the proposed amendment to 19 TAC §227.15(d) and proposed new 19 TAC §227.17(e) would prohibit an EPP from approving additional areas of certification for admitted candidates because an EPP cannot approve additional certification examinations, the SBEC disagreed. There is nothing in current rule or the proposed rules that prohibits a candidate from changing from the certification field that the person was originally admitted to a different certification field. TEA staff recommended that an EPP retain documentation in a candidate's file when a candidate requests a change in certification field. The process by which a candidate can change certification fields was discussed as a proposed change to 19 TAC Chapter 228, which was included as a separate item on the December 2015 SBEC agenda.

As the comments relate to prohibiting an EPP from providing PACT preparation prior to admission, the SBEC agreed. Because PACT preparation is not something that is included in the EPP requirements in 19 TAC Chapter 228, the SBEC took action to remove the phrase "pre-admission content test preparation" from the proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e).

As the comments relate to tabling the proposed amendment to §227.15 and proposed new §227.17, the SBEC disagreed and took action to adopt the revisions to Chapter 227 with changes.

Comment: One individual and ACT San Antonio commented that the proposed rule actions to 19 TAC §227.15 and §227.17 would prohibit EPPs from providing training or professional development to individuals who are interested in becoming a teacher so that they can decide if teaching is the correct path for them.

Board Response: As the comments relate to an EPP providing coursework and training before contingent admission, the SBEC disagreed. The TEC, §21.0441, requires that the rules of the SBEC must provide that a person is not eligible for admission to an EPP unless the person has met minimum GPA and content knowledge requirements. Therefore, EPPs cannot offer coursework and training that lead to initial certification unless a person is admitted to an EPP. The proposed amendment to 19 TAC §227.15(d) would clarify that EPPs can provide coursework and training after an individual is contingently admitted. As the comments relate to assisting individuals with deciding if teaching is the correct path for them, the proposed amendment to 19 TAC §227.1 would require EPPs to inform all applicants of the admission requirements, the program completion requirements, and the effect of supply and demand on the educator workforce. In addition, the EPP application process that is described in 19 TAC §227.10 should assist individuals with deciding if teaching is the correct path for them.

As the comments relate to an EPP providing coursework and training before formal admission, the SBEC agreed. The phrase "prior to formal admission" was inadvertently not included in proposed new 19 TAC §227.17(e) that was published as proposed in the *Texas Register.* The SBEC took action to add the phrase "prior to formal admission" in proposed new 19 TAC §227.17(e) so that the proposed rule reflects the explanation that was provided at the time the new section was approved for filing as proposed at the October 2015 meeting and the preamble that was published with the rule text in the *Texas Register.* The SBEC also took action to remove the phrase "pre-admission content test preparation" from the proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e) because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Comment: Seven individuals and ECAP commented that the proposed rules in 19 TAC §227.15 and §227.17 would make the teaching profession harder to pursue, would increase teacher shortages, and would require schools to employ larger numbers of substitute teachers.

Board Response: As the comments relate to an EPP providing coursework and training before contingent admission, the SBEC disagreed. The TEC, §21.0441, requires that the rules of the SBEC must provide that a person is not eligible for admission to an EPP unless the person has met minimum GPA and content knowledge requirements. Therefore, EPPs cannot offer coursework and training that lead to initial certification unless a person is admitted to an EPP. The proposed amendment to 19 TAC §227.15(d) would clarify that EPPs can provide coursework and training after an individual is contingently admitted. The SBEC

requires in 19 TAC Chapter 228 that EPPs must provide coursework and training for candidates. The SBEC also requires in 19 TAC Chapter 229 that EPPs are accountable for that coursework and training. The SBEC disagreed that adherence to TEC, §21.0441, and current SBEC rules would make the teaching profession harder to pursue, would increase teacher shortages, and would require schools to employ larger numbers of substitute teachers. The proposed rules would not affect an EPP's ability to admit an applicant who meets the minimum content knowledge requirements that include a minimum number of hours of college credit in the subject-specific content area for the certification sought. EPPs will continue to have the ability to grant certification examination approvals after an applicant is admitted to an EPP. EPPs will also continue to have the ability to collaborate with institutions of higher education, education service centers, school districts, and/or businesses to address the content knowledge needs of their candidates.

As the comments relate to an EPP providing coursework and training before formal admission, the SBEC agreed. The phrase "prior to formal admission" was inadvertently not included in proposed new 19 TAC §227.17(e) that was published as proposed in the *Texas Register.* The SBEC took action to add the phrase "prior to formal admission" in proposed new 19 TAC §227.17(e) so that the proposed rule reflects the explanation that was provided at the time the new section was approved for filing as proposed at the October 2015 SBEC meeting and the preamble that was published with the rule text in the *Texas Register.* The SBEC also took action to remove the phrase "pre-admission content test preparation" from the proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e) because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Comment: Four individuals, ECAP, and Quality ACT commented that the proposed rules in 19 TAC §227.15 and §227.17 would make it more difficult for schools to hire highly qualified teachers.

Board Response: As the comments relate to an EPP providing coursework and training before contingent admission, the SBEC disagreed. The TEC, §21.0441, requires that the rules of the SBEC must provide that a person is not eligible for admission to an EPP unless the person has met minimum GPA and content knowledge requirements. Therefore, EPPs cannot offer coursework and training that lead to initial certification unless a person is admitted to an EPP. The SBEC disagreed that the proposed rules would make it more difficult for schools to hire highly qualified teachers. The proposed rules would not affect an EPP's ability to admit an applicant who meets the minimum content knowledge requirements that include a minimum number of hours of college credit in the subject-specific content area for the certification sought. EPPs will continue to have the ability to grant certification examination approvals after an applicant is admitted to an EPP. EPPs will also continue to have the ability to collaborate with institutions of higher education, education service centers, school districts, and/or businesses to address the content knowledge needs of their candidates.

As the comments relate to an EPP providing coursework and training before formal admission, the SBEC agreed. The phrase "prior to formal admission" was inadvertently not included in proposed new 19 TAC §227.17(e) rule text that was published as proposed in the *Texas Register.* The SBEC took action to add the phrase "prior to formal admission" in proposed new 19 TAC §227.17(e) so that the proposed rule reflects the explanation that was provided at the time the new section was approved for filing as proposed at the October 2015 SBEC meeting and the preamble that was published with the rule text in the *Texas Register.* The SBEC also took action to remove the phrase "pre-admission content test preparation" from the proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e) because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Comment: One individual, ECAP, and Quality ACT commented that the proposed rules in 19 TAC §227.15 and §227.17 would make it more difficult for candidates to become certified because many of the certification examinations are not given on a daily basis.

Board Response: The SBEC disagreed. The 70 examinations that make up the Texas Educator Certificate Program are administered according to the demand for the examinations and the complexity by which the examinations need to be scored. Twenty-nine percent of the examinations are offered on a continuous basis through computer-based testing. During 2014-2015, 133,639 certification examinations were taken through this method. Forty-seven percent of the examinations are offered seven times a year with the majority of the test dates occurring in the spring and summer. During 2014-2015, 11,908 certification examinations were taken through this method. Ten percent of the examinations are offered three to six times during the year with the majority of the test dates occurring in the spring and summer. During 2014-2015, 6,747 certification examinations were taken through this method. The lowest volume examinations (Master Teacher) and the examinations that are the most complicated to score (Sign Communication and Braille) are only offered two times a year. During 2014-2015, 360 certification examinations were taken through this method. TEA staff monitors the demand for examinations and adjusts the frequency of examination administrations as appropriate. EPPs also have the ability to recommend a candidate for a secondary school probationary certificate if the candidate has twenty-four hours of college credit in the content area with twelve of the hours being upper division.

Comment: Two individuals, ECAP, and ACT San Antonio commented that the proposed rules in 19 TAC §227.15 and 227.17 would restrict the number of people who are eligible to attempt a PACT examination.

Board Response: The SBEC disagreed. The proposed amendment to 19 TAC §227.15 and proposed new §227.17 would not affect an individual's ability to register for a PACT examination through the testing vendor or with TEA staff. The proposed rules also do not affect an EPP's ability to grant certification examination approvals after an applicant is admitted to a program. In addition, the proposed amendment to 19 TAC §227.10 would clarify that an individual who has previously been enrolled in an EPP may register for a PACT examination under procedures developed by TEA staff.

Comment: Eight individuals commented that the proposed rules in 19 TAC §227.15 and §227.17 would prohibit alternative certification programs from preparing educators.

Board Response: As the comments relate to an EPP providing coursework and training before contingent admission, the SBEC disagreed. The TEC, §21.0441, requires that the rules of the SBEC must provide that a person is not eligible for admission to an EPP unless the person has met minimum GPA and content knowledge requirements. Therefore, EPPs cannot offer coursework and training that lead to initial certification unless a per-

son is admitted to an EPP. The proposed amendment to 19 TAC §227.15(d) would clarify that EPPs can provide coursework and training after an individual is contingently admitted.

As the comments relate to an EPP providing coursework and training before formal admission, the SBEC agreed. The phrase "prior to formal admission" was inadvertently not included in proposed new 19 TAC §227.17(e) rule text that was published as proposed in the *Texas Register.* The SBEC took action to add the phrase "prior to formal admission" in proposed new 19 TAC §227.17(e) so that the proposed rule reflects the explanation that was provided at the time the new section was approved for filing as proposed at the October 2015 SBEC meeting and the preamble that was published with the rule text in the *Texas Register.* The SBEC also took action to remove the phrase "pre-admission content test preparation" from the proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e) because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Comment: The University of Dallas EPP commented that the proposed rules in 19 TAC §227.15 and §227.17 would have an adverse effect on post-baccalaureate programs because it would not allow transitions from an undergraduate and graduate program at the same institution and it would not allow an individual who graduates with a bachelor's degree from being admitted to the post-baccalaureate program at the same institution.

Board Response: The SBEC disagreed. The proposed amendment to 19 TAC §227.15 and proposed new §227.17 would not prohibit the transition from an undergraduate to a graduate program because if an individual begins his or her educator preparation in an undergraduate program, the individual may be admitted to the entity's post-baccalaureate program for the purpose of completing the program because the undergraduate and post-baccalaureate programs are within the same entity. The proposed rules would also not prohibit an individual who graduates with a bachelor's degree from being admitted to the post-baccalaureate program at the same institution because the coursework and training that was provided by the undergraduate program was for the purpose of the bachelor's degree.

Comment: iteachTEXAS and ECAP commented that the proposed rules in 19 TAC §227.15(d) and §227.17(e) are an overreaching prohibition that would not allow EPPs to work with school districts to meet their unique needs.

Board Response: As the comments relate to an EPP providing coursework and training before contingent admission, the SBEC disagreed. The TEC, §21.0441, requires that the rules of the SBEC must provide that a person is not eligible for admission to an EPP unless the person has met minimum GPA and content knowledge requirements. Therefore, EPPs cannot offer coursework and training that lead to initial certification unless a person is admitted to an EPP. The proposed amendment to 19 TAC §227.15(d) would clarify that EPPs can provide coursework and training after an individual is contingently admitted. The SBEC requires in 19 TAC Chapter 228 that programs must provide coursework and training for candidates and that programs are held accountable for that coursework and training in 19 TAC Chapter 229. The SBEC disagreed that adherence to TEC, §21.0441, and current SBEC rules are an overreaching prohibition that would not allow EPPs to work with school districts to meet their unique needs. The proposed rules would not affect an EPP's ability to admit an applicant who meets the minimum content knowledge requirements that include a minimum number of hours of college credit in the subject-specific content area for the certification sought. EPPs will continue to have the ability to grant certification examination approvals after an applicant is admitted to an EPP. EPPs will also continue to have the ability to collaborate with institutions of higher education, education service centers, school districts, and/or businesses to address the content knowledge needs of their candidates.

As the comments relate to an EPP providing coursework and training before formal admission, the SBEC agreed. The phrase "prior to formal admission" was inadvertently not included in proposed new 19 TAC §227.17(e) that was published as proposed in the *Texas Register.* The SBEC took action to add the phrase "prior to formal admission" in proposed new 19 TAC §227.17(e) so that the proposed rule text reflects the explanation that was provided at the time the new section was approved for filing as proposed at the October 2015 SBEC meeting and the preamble that was published with the rule text in the *Texas Register.* The SBEC also took action to remove the phrase "pre-admission content test preparation" from the proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e) because PACT preparation is not included in the EPP requirements in 19 TAC Chapter 228.

Comment: iteachTEXAS commented that an additional clarification should be made to the proposed rules in 19 TAC §227.15(d) and §227.17(e) to require EPPs to notify TEA of the date of contingent and formal admissions within five business days.

Board Response: The SBEC agreed in part. A requirement to notify TEA of the date of contingent and formal admissions within five business days would benefit EPPs, candidates, and TEA staff; however, because this additional clarification may be considered a substantive change at adoption for 19 TAC Chapter 227, this clarification would be added to the proposed reporting requirements in 19 TAC Chapter 229, which was discussed at the December 2015 SBEC meeting.

Comment: ACT San Antonio commented that the proposed rules in 19 TAC Chapter 227 that require documentation of admission offers and acceptance would create additional hurdles to the admission process.

Board Response: The SBEC disagreed. The proposed amendments to 19 TAC §227.15(a)(3) and §227.15(a)(4) and proposed new §227.17(b) and §227.17(c) would require an EPP to extend an offer of admission in writing to an applicant and require an applicant to accept an offer of admission in writing. The offer and acceptance of admission can be accomplished through mail, personal delivery, facsimile, email, or an electronic notification. Many of the issues that EPPs, candidates, and TEA staff have experienced due to the lack of a clear and consistent admission agreement process between EPPs and candidates would be resolved.

Comment: ACT San Antonio commented that formal admission should be defined as when a candidate completes all program requirements and is eligible for an internship or when a candidate secures a teaching position and enrolls in the internship phase of a program.

Board Response: The SBEC disagreed. The TEC, §21.0441, requires that the rules of the Board provide that a person is not eligible for admission to an EPP unless the person has met minimum GPA and content knowledge requirements. The TEC, §21.051, requires that before a candidate for certification can be employed, the candidate must complete at least 15 hours of field-based experience in which the candidate is actively engaged in instructional or educational activities under supervi-

sion. Therefore, EPPs cannot offer coursework, training, and field-based experiences that lead to initial certification unless a person is admitted to an EPP. The proposed amendment to 19 TAC §227.15(d) and proposed new §227.17(e) would clarify that EPPs can provide coursework and training after an individual is contingently or formally admitted.

Comment: The Huston-Tillotson University EPP and iteach-TEXAS commented that the minimum requirements proposed in 19 TAC §227.10 are very acceptable, illustrate that the SBEC is serious about professional credentials, and provides a balanced solution that holds EPPs accountable while allowing EPPs and schools to recruit strong educator candidates.

Board Response: The SBEC agreed.

Comment: The UTeach Program at The University of Texas at Austin commented that the proposed rules do not state that a university undergraduate EPP can count coursework that is provided prior to formal admission to the EPP and were unclear as to how an EPP must determine the admission GPA and as to whether an incoming class was defined as all candidates admitted to an EPP or by programs within an EPP.

Board Response: As the comments relate to an EPP providing coursework and training before contingent admission, the SBEC disagreed. Section 228.35(a)(6) allows an EPP to substitute a candidate's prior or ongoing experience and/or professional training that is directly related to the certificate being sought as long as the experience or training is not also counted as a part of the internship, clinical teaching, or practicum requirements.

As the comments relate to how an EPP may determine an admission GPA, the SBEC offers the following clarification. Each of the methods that an EPP may use to determine an admission GPA, in the proposed amendment to 19 TAC §227.10(a)(3)(A)(i) and (ii), has the word "or" at the end of the phrase. Therefore, an EPP can choose either of the methods.

As the comments relate to how an EPP may determine an admission GPA, the SBEC offers the following clarification. The proposed amendment to 19 TAC §227.5(9) defines *incoming class* as the individuals who are admitted to an EPP and the proposed amendment to 19 TAC §227.5(7) defines *educator preparation program* as the entity that is approved to recommend candidates for certification. Unless a program within an entity has been separately approved by the SBEC to recommend candidates for certification, the incoming class includes all candidates admitted to an entity.

The State Board of Education (SBOE) took no action on the review of the proposed revisions to 19 TAC Chapter 227 at the January 29, 2016 SBOE meeting.

SUBCHAPTER A. ADMISSION TO EDUCATOR PREPARATION PROGRAMS

19 TAC §§227.1, 227.5, 227.10, 227.15, 227.17, 227.19, 227.20

STATUTORY AUTHORITY. The amendments and new sections are adopted under the Texas Education Code (TEC), §21.031(a), which states that the State Board for Educator Certification (SBEC) shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.031(b), which states that in proposing rules under the TEC, Chapter 21, Subchapter B, the SBEC shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; §21.044(a), which authorizes the SBEC to propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; §21.044(g), as amended by Senate Bill (SB) 1296, 84th Texas Legislature, Regular Session, 2015, which requires educator preparation programs to provide the SBEC with certain information; §21.0441, as amended by House Bills (HBs) 2205 and 1300, 84th Texas Legislature, Regular Session, 2015, which requires the SBEC to adopt rules setting certain admission requirements for educator preparation programs (EPPs); §21.049, which authorizes the SBEC to adopt rules providing for educator certification programs as an alternative to traditional EPPs; §21.050(a), which states that a person who applies for a teaching certificate for which SBEC rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under TEC, Chapter 28, Subchapter A; and §21.051, which provides a requirement that before a school may employ a certification candidate as a teacher of record, the candidate must have completed at least 15 hours of field-based experience in which the candidate was actively engaged at an approved school in instructional or educational activities under supervision.

CROSS REFERENCE TO STATUTE. The adopted amendments and new sections implement the TEC, §§21.031; 21.044(a) and (g), as amended by SB 1296, 84th Texas Legislature, Regular Session, 2015; 21.0441, as amended by HBs 2205 and 1300, 84th Texas Legislature, Regular Session, 2015; 21.049; 21.050(a); and 21.051.

§227.10. Admission Criteria.

(a) The educator preparation program (EPP) delivering educator preparation shall require the following minimum criteria of all applicants seeking initial certification in any class of certificate, unless specified otherwise, prior to admission to the program:

(1) for an undergraduate university program, an applicant shall be enrolled in an accredited institution of higher education;

(2) for an alternative certification program or post-baccalaureate program, an applicant shall have, at a minimum, a bachelor's degree earned from and conferred by an accredited institution of higher education;

(3) for an undergraduate university program, alternative certification program, or post-baccalaureate program, to be eligible for admission, an applicant into an EPP shall have a grade point average (GPA) of at least 2.5 before admission.

(A) The GPA shall be calculated as follows:

(i) 2.5 on all coursework previously attempted by the person at an accredited institution of higher education:

(I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission); or

(II) from which the most recent bachelor's degree or higher from an accredited institution of higher education was conferred (alternative certification program formal admission or post-baccalaureate program formal admission); or

(ii) 2.5 in the last 60 semester credit hours on all coursework previously attempted by the person at an accredited institution of higher education:

(I) at which the applicant is currently enrolled (undergraduate university program formal admission, alternative certification program contingency admission, or post-baccalaureate program contingency admission); or

(II) from which the most recent bachelor's degree or higher from an accredited institution of higher education was conferred (alternative certification program formal admission or post-baccalaureate program formal admission).

(B) An exception to the minimum GPA requirement may be granted by the program director only in extraordinary circumstances and may not be used by a program to admit more than 10% of any incoming class of candidates. An applicant is eligible for this exception if:

(i) documentation and certification from the program director that an applicant's work, business, or career experience demonstrates achievement equivalent to the academic achievement represented by the GPA requirement; and

(ii) in accordance with the Texas Education Code, §21.0441(b), an applicant must perform at a satisfactory level on an appropriate content matter examination as specified in paragraph (4)(C) and (D) of this subsection for each subject in which the applicant seeks certification prior to admission. Applicants who do not meet the minimum GPA requirement and have previously been admitted into an EPP may request permission to register for an appropriate content matter examination as specified in paragraph (4)(D) of this subsection under procedures approved by Texas Education Agency (TEA) staff.

(C) An applicant who is seeking a career and technical education (CTE) certificate that does not require a degree from an accredited institution of higher education is exempt from the minimum GPA requirement.

(4) for an applicant who will be seeking an initial certificate in the classroom teacher class of certificate, the applicant shall have successfully completed, prior to admission, at least:

(A) a minimum of 12 semester credit hours in the subject-specific content area for the certification sought, unless certification sought is for mathematics or science at or above Grade 7; or

(B) 15 semester credit hours in the subject-specific content area for the certification sought if the certification sought is for mathematics or science at or above Grade 7; or

(C) a passing score on a comparable content certification examination administered by a vendor on the TEA-approved vendor list published by the commissioner of education on the TEA website for the calendar year during which the applicant seeks admission; or

(D) for applicants who have not previously been admitted into an EPP, a passing score on a pre-admission content certification examination administered by a TEA-approved vendor. Applicants who have previously been admitted into an EPP may request permission to register for a pre-admission content examination under procedures approved by TEA staff;

(5) demonstration of basic skills in reading, written communication, and mathematics by meeting one of the requirements established by §4.54 of this title (relating to Exemptions, Exceptions, and Waivers);

(6) demonstration of the English language proficiency skills as specified in §230.11 of this title (relating to General Requirements). An applicant for CTE certification that does not require a bachelor's degree from an accredited institution of higher education may satisfy the English language proficiency requirement with an associate's degree or high school diploma that was earned at an accredited institution of higher education or an accredited high school in the United States;

(7) an application and either an interview or other screening instrument to determine if the EPP applicant's knowledge, experience, skills, and aptitude are appropriate for the certification sought; and

(8) any other academic criteria for admission that are published and applied consistently to all EPP applicants.

(b) An EPP may adopt requirements in addition to and that do not conflict with those explicitly required in this section.

(c) An EPP may not admit an applicant who:

(1) has been reported as completing all EPP requirements by another EPP in the same certification field, unless the applicant only needs certification examination approval; or

(2) has been employed for three years in a public school under a permit or probationary certificate as specified in Chapter 230, Subchapter D, of this title (relating to Types and Classes of Certificates Issued), unless the applicant is seeking clinical teaching that may lead to the issuance of an initial standard certificate.

(d) An EPP may admit an applicant for CTE certification who has met the experience and preparation requirements specified in Chapter 230 of this title (relating to Professional Educator Preparation and Certification) and Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(e) An EPP may admit an applicant who has met the minimum academic criteria through credentials from outside the United States that are determined to be equivalent to those required by this section using the procedures and standards specified in Chapter 245 of this title (relating to Certification of Educators from Other Countries).

§227.15. Contingency Admission.

(a) An applicant may be accepted into an alternative certification program or post-baccalaureate program on a contingency basis pending receipt of an official transcript showing degree conferred, as specified in §227.10(a)(2) of this title (relating to Admission Criteria), provided that:

(1) the applicant is currently enrolled in and expects to complete the courses and other requirements for obtaining, at a minimum, a bachelor's degree at the end of the semester in which admission to the program is sought;

(2) all other admission requirements specified in §227.10 of this title have been met;

(3) the EPP must notify the applicant of the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification; and

(4) the applicant must accept the offer of contingency admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(b) The date of contingency admission shall be effective upon the applicant's acceptance of the offer of contingency admission.

(c) An applicant admitted on a contingency basis may begin program training and may be approved to take a certification examina-

tion, but shall not be recommended for a probationary certificate until the bachelor's degree or higher from an accredited institution of higher education has been conferred.

(d) Except as provided by this section, an alternative certification program or post-baccalaureate program, prior to admission on a contingency basis, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate.

(e) The contingency admission will be valid for only the fall, spring, or summer semester for which the contingency admission was granted and may not be extended for another semester. The end of each semester shall be consistent with the common calendar established by the Texas Higher Education Coordinating Board.

§227.17. Formal Admission.

(a) For an applicant to be formally admitted to an educator preparation program (EPP), the applicant must meet all the admission requirements specified in §227.10 of this title (relating to Admission Criteria).

(b) For an applicant to be formally admitted to an EPP, the EPP must notify the applicant of the offer of formal admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(c) For an applicant to be considered formally admitted to the EPP, the applicant must accept the offer of formal admission in writing by mail, personal delivery, facsimile, email, or an electronic notification.

(d) The date of formal admission shall be effective upon the applicant's acceptance of the offer of formal admission.

(e) Except as provided by §227.15 of this title (relating to Contingency Admission), an alternative certification program or post-baccalaureate program, prior to formal admission, shall not provide coursework, training, and/or examination approval to an applicant that leads to initial certification in any class of certificate.

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

Filed with the Office of the Secretary of State on February 8, 2016.

TRD-201600588
Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Effective date: February 28, 2016
Proposal publication date: November 6, 2015
For further information, please call: (512) 475-1497

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SUBCHAPTER B. PRELIMINARY EVALUATION OF CERTIFICATION ELIGIBILITY

19 TAC §§227.103, 227.105, 227.107

STATUTORY AUTHORITY. The amendments are adopted under the Texas Education Code (TEC), §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and the Texas Occupations Code, §53.105, which specifies that a licensing authority may charge a person requesting an evaluation under the Texas Occupations Code, Chapter 53, Subchapter D, a fee adopted by the authority. Fees adopted by a licensing authority under the Texas Occupations Code, Chapter 53, Subchapter D, must be in an amount sufficient to cover the cost of administering this subchapter.

CROSS REFERENCE TO STATUTE. The adopted amendments implement the TEC, §21.041(b)(1) and (4), and Texas Occupations Code, §53.105.

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

Filed with the Office of the Secretary of State on February 8, 2016.

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Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Effective date: February 28, 2016
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For further information, please call: (512) 475-1497

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CHAPTER 242. SUPERINTENDENT CERTIFICATE

19 TAC §242.20

The State Board for Educator Certification (SBEC) adopts an amendment to 19 TAC §242.20, concerning provisions for the superintendent certificate. The amendment to §242.20 is adopted with changes to the proposed text as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5644). The adopted amendment to 19 TAC §242.20 provides an individual seeking a superintendent certificate the option to substitute managerial experience in a public school district for the requirement of a principal certificate.

REASONED JUSTIFICATION. The SBEC rules in 19 TAC Chapter 242 establish requirements for the issuance and renewal of the superintendent certificate. Section 242.20 currently provides requirements for a superintendent certificate.

In December 2014, Texas Education Agency (TEA) staff held a stakeholder meeting with educators to discuss the rules in 19 TAC Chapter 242. Upon bringing stakeholder recommendations to the SBEC during the March 2015 meeting, the SBEC requested that TEA staff convene an additional stakeholder meeting with business leaders. This meeting was held in June 2015. Both stakeholder groups determined that the rules in 19 TAC Chapter 242 need to be revised and updated to comply with the Texas Education Code (TEC), §21.046(a), which requires candidates for superintendent certification to be allowed to substitute managerial training or experience for at least part of the educational experience, and to allow for a broader pathway to superintendent certification so that the pool of candidates for superintendent could include more diverse experiences and skillsets. The SBEC adopted, subject to State Board of Education (SBOE)

review, the recommendations of both stakeholder groups in their October 2015 meeting, and the SBOE subsequently rejected that rule item in their November 2015 meeting with the recommendation that the SBEC reconsider only the recommendations from the first stakeholder meeting. In December 2015, the SBEC revisited the rule item and, consistent with SBOE discussion and action, adopted, subject to SBOE review, the rule revisions that would only allow for the substitution of school district managerial experience for the requirement of the principal certificate.

In 19 TAC §242.20, language has been added to provide for the substitution of managerial experience in a public school district for the requirement of a principal certificate provided that the managerial experience was at least three years in duration; included supervisory or appraisal duties and district-level planning and coordination of programs, activities, or initiatives; and involved either the creation or maintenance of a budget. The amendment also requires the candidate seeking the substitution of managerial experience for principal certification to submit an application to TEA staff so that TEA staff can ensure that the experience meets the requirements specified in the rule.

The adopted amendment to 19 TAC §242.20 broadens the prerequisite experience required of superintendent candidates. The current rule narrowly limits the required experience in education to principal certification, which in turn requires two years of teaching experience. The effect of the adopted amendment is an expansion of the superintendent candidate pool to include those who had not necessarily been teachers or principals but who had management experience in a public school district.

SUMMARY OF COMMENTS AND BOARD RESPONSES. The public comment period on the proposal began September 4, 2015, and ended October 5, 2015. The SBEC also provided an opportunity for registered oral and written comments at the October 15, 2015 and December 11, 2015 meetings in accordance with the SBEC board operating policies and procedures. Following is a summary of the public comments received and corresponding board responses regarding the proposed amendment to 19 TAC §242.20.

Comment: Eighteen individuals, the Association of Texas Professional Educators (ATPE), and the Texas Association of School Administrators (TASA) commented that superintendent certification rules should require the attainment of a master's degree as a prerequisite for superintendent certification, as indicated in proposed 19 TAC §242.20(a)(3).

Board Response: The SBEC agreed and took action to remove proposed subsection (b) that would have removed the requirement for a master's degree.

Comment: Twenty-six individuals and the ATPE commented that superintendent certification rules should require experience as a campus principal as a prerequisite for superintendent certification, as indicated in 19 TAC §242.20(a)(4).

Board Response: The SBEC disagreed. Neither current rule nor the proposed amendment requires experience as a principal prior to receiving certification as a superintendent. Current 19 TAC §242.20(4) requires certification as a principal, but not experience as a principal. At the August 2015 SBEC meeting, the SBEC discussed the requirement that a certified superintendent possess certification as a principal. The discussion led to the determination that, although the large majority of school districts would still require and be well served by superintendents that have principal certification, some school districts may require a specific skillset from the superintendent that non-principals could possess. The SBEC noted that past and current superintendents in certain school districts have demonstrated success without having principal certification.

Comment: Thirty-nine individuals, the Texas American Federation of Teachers (AFT), the Texas State Teachers Association (TSTA) and the ATPE commented that superintendent certification rules should require experience as a classroom teacher as a prerequisite for superintendent certification, which is an implicit requirement for superintendent certification based on the requirement that superintendents must possess principal certification prior to receiving superintendent certification. Section 242.20(4) indicates that a candidate for principal certification must have two creditable years of classroom teaching experience.

Board Response: The SBEC disagreed. At the August 2015 and October 2015 SBEC meetings, the SBEC discussed the implicit requirement that a certified superintendent have teaching experience. The discussion led to the determination that, although the large majority of school districts would still require and be well served by superintendents that have teaching experience, some school districts may require a specific skillset from the superintendent that non-teachers could possess. The SBEC noted that past and current superintendents in certain districts have demonstrated success without having classroom teaching experience.

Comment: The Texas Classroom Teachers Association (TCTA) commented that the amendment to 19 TAC §242.20(a)(5), as proposed, would satisfy the statutory requirement of the TEC, §21.046(a), indicating that a candidate for superintendent certification must be able to substitute managerial experience for a part of the educational experience requirements.

Board Response: The SBEC agreed.

Comment: The TCTA commented that the amendment to 19 TAC §242.20(b), as proposed, does not satisfy the requirements of TEC, §21.046(a), indicating that a candidate for superintendent certification must be able to substitute managerial experience for a part of the educational experience requirements.

Board Response: The SBEC disagreed. Proposed 19 TAC §242.20(b) was not intended to satisfy the requirement of the TEC, §21.046(a), but would have been discretionary. Instead, proposed 19 TAC §242.20(a) was intended to implement the TEC, §21.046(a). The SBEC took action to remove proposed §242.20(b) from the adopted rule. Section 242.20, as adopted, is intended to fulfill the requirements of TEC, §21.046(a).

Comment: Five individuals, the TASA, and the Texas Council of Professors of Educational Administration commented in support of the amendment to 19 TAC §242.20(a), as proposed, but do not support the amendment to 19 TAC §242.20(b), as proposed, which could potentially allow an individual to become a certified superintendent without a master's degree or any experience in education. The commenters indicated that an individual should be able to substitute three years of managerial experience in Kindergarten-Grade 12 (K-12) public education for the principal certification requirement in 19 TAC §242.20(a)(4), but that no individual should be allowed to earn superintendent certification without a master's degree and significant experience in education as evidenced through either the principal certificate or the substitution of three years of K-12 public education management experience in lieu of the principal certificate.

Board Response: The SBEC agreed and took action to remove proposed 19 TAC §242.20(b).

Comment: The TCTA commented that the amendment to 19 TAC §242.20(b)(1), as proposed, does not comply with the statutory requirements of the TEC, §21.003(c), which prevents a school district from hiring an uncertified superintendent without a waiver from the commissioner of education.

Board Response: The SBEC disagreed that the proposed amendment violates TEC, §21.003(c). The proposed amendment would have set out new requirements for superintendent certification; candidates who meet the requirements for superintendent certification do not need to seek a waiver under TEC, §21.003(c). The SBEC has the authority to set certification requirements of superintendents under TEC, §21.041, and a waiver from the commissioner of education is only required under TEC, §21.003(c), when a candidate does not meet the requirements for certification. The SBEC voted to remove proposed §242.20(b). Candidates will have to seek a waiver from the commissioner if an individual lacks the qualifications required under §242.20, as adopted, in accordance with TEC, §21.003(c).

Comment: The TCTA commented that the amendment to 19 TAC §242.20(b), as proposed, should include a requirement that a school board post public notice of the reasons why the school board intends to hire the nontraditional candidate for the position of superintendent.

Board Response: The SBEC agreed that public notice would be appropriate under those conditions. The SBEC voted to remove proposed §242.20(b), however, so no such public notice is necessary in the amendment as adopted.

Comment: The TCTA commented that the amendment to 19 TAC §242.20(b), as proposed, should include a requirement to seek approval from the commissioner of education prior to a school district hiring a nontraditional candidate for superintendent.

Board Response: The SBEC neither agreed nor disagreed because the term "nontraditional" is vague. The SBEC voted to remove proposed §242.20(b). As a result, an individual has to seek a waiver from the commissioner if an individual lacks the qualifications required under §242.20, as adopted.

Comment: One individual and the ATPE commented that no amendment needs to be made to 19 TAC §242.20 because the process by which the commissioner of education can grant a waiver to the requirement that a school district hire a certified superintendent, in accordance with the TEC, §21.003(c), provides an already established and preferable pathway to allowing school districts to hire nontraditional superintendents.

Board Response: The SBEC disagreed. Individuals working as a superintendent through the commissioner's waiver authority in TEC, §21.003(c), are not required by rule to enter into and complete a superintendent preparation program or pass the superintendent certification examination. In addition, if a current superintendent working under a waiver does not have the appropriate prerequisites for earning a standard superintendent certificate, specifically the requirement for a master's degree in 19 TAC §242.20(3) or the principal's certificate in 19 TAC §242.20(4), then that individual is categorically barred from completing a superintendent preparation program and taking the superintendent certification examination due to current rule.

Comment: Eight individuals commented that the SBEC should not weaken standards for becoming a certified superintendent.

Board Response: The SBEC is unable to respond to these comments due to their lack of specificity and vague nature.

Comment: Four individuals and iteachTexas commented that they support the amendment to 19 TAC §242.20 as published as proposed.

Board Response: As it relates to substituting managerial experience in a public school district for the requirement of a principal certificate, the SBEC agreed. As it relates to a school district's ability to hire a superintendent regardless of a candidate's background, the SBEC disagreed. The SBEC determined that a candidate should have at least three years of managerial experience in a public school district or should have a principal's certificate in order to earn a standard superintendent certificate.

The SBOE took no action on the review of the proposed amendment to 19 TAC §242.20 at the January 29, 2016 SBOE meeting.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; §21.041(b)(3), which requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid; §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and §21.046(a), which states that the qualifications for superintendent must permit a candidate for certification to substitute management training or experience for part of the educational experience.

CROSS REFERENCE TO STATUTE. The adopted amendment implements the TEC, §§21.003(a), 21.040(4), 21.041(b)(2)-(4), and 21.046(a).

§242.20. Requirements for the Issuance of the Standard Superintendent Certificate.

To be eligible to receive the standard Superintendent Certificate, a candidate must:

(1) satisfactorily complete an examination based on the standards identified in §242.15 of this title (relating to Standards Required for the Superintendent Certificate); and

(2) successfully complete a State Board for Educator Certification-approved superintendent preparation program and be recommended for certification by that program; and

(3) hold, at a minimum, a master's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and

(4) hold, at a minimum, a principal certificate or the equivalent issued under this title or by another state or country; or

(5) have at least three creditable years of managerial experience in a public school district.

(A) The managerial experience must include responsibility for:

(i) supervising or appraising faculty or staff;

(ii) conducting district-level planning and coordination of programs, activities, or initiatives; and

(iii) creating or maintaining a budget.

(B) The candidate must submit an application to Texas Education Agency (TEA) staff for the substitution of managerial experience as defined in this paragraph. The TEA staff will review the application and will notify the applicant, in writing, of approval or denial within 60 calendar days from date of receipt.

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

Filed with the Office of the Secretary of State on February 8, 2016.

TRD-201600590
Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Effective date: February 28, 2016
Proposal publication date: September 4, 2015
For further information, please call: (512) 475-1497

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TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 129. INCOME BENEFITS--TEMPORARY INCOME BENEFITS

28 TAC §129.3, §129.11

The Texas Department of Insurance, Division of Workers' Compensation (division) adopts amendments to 28 TAC §129.3 and §129.11, concerning temporary income benefits (TIBs). The amended sections are adopted without changes to the proposed text as published in the October 9, 2015, issue of the *Texas Register* (40 TexReg 7043). No request for a public hearing was submitted to the division. An informal working draft of amended 28 TAC §129.3 and §129.11 was posted on the division's website on June 8, 2015.

The public comment period closed on November 9, 2015. The division made no changes in response to public comments.

The division adopts non-substantive amendments throughout the rule text to conform to agency style. The division deleted the word "Commission," added the word "division," and added the word "insurance" before the word "carrier(s)." The division also relettered and renumbered rule text.

In accordance with Government Code §2001.033, the division's reasoned justification for these rules is set out in this order, which includes the preamble. The following paragraphs include a detailed section-by-section description and reasoned justification of all amendments to 28 TAC §129.3 and §129.11.

Amendments to §129.3 and §129.11 are necessary to implement Senate Bill (SB) 901, 84th Legislature, Regular Session (2015), which amends Labor Code §408.103. Labor Code §408.103 provides the method for calculating the amount of TIBs an injured employee is entitled to receive. SB 901 increased the hourly wage that qualifies an injured employee to be paid TIBs at 75% of the employee's pre-injury average weekly wage for the first 26 weeks of the injured employee's disability. SB 901 increased the qualifying wage from less than $8.50 an hour to less than $10 an hour for workers' compensation claims with a date of injury on or after September 1, 2015 under Labor Code §408.103(a)(2). Before SB 901, in order to be eligible for the higher TIBs rate of 75% of the pre-injury average weekly wage for the first 26 weeks of disability, an injured employee had to earn less than $8.50 an hour. Under SB 901, an injured employee has to earn less than $10.00 an hour in order to qualify for the higher TIBs rate of 75% of the pre-injury average weekly wage for the first 26 weeks of the injured employee's disability. Amended §129.3 and §129.11 only reflect the amount of statutory TIBs provided by the SB 901 amendments to Labor Code §408.103(a) and do not add any new requirements.

The division also deleted §129.11(f) because the "January 1, 2000" applicability date is no longer relevant. At this point in time all agreements made under §129.11 for monthly payment of TIBs under the provisions of the Act would automatically be entered into after January 1, 2000. Further, any injured employees whose benefits began to accrue prior to January 1, 2000 would no longer be eligible for TIBs under Labor Code §408.083.

Amended §129.3.

Amended §129.3(b) and §129.3(f)(2) increase the hourly wage that qualifies an injured employee to be paid the higher TIBs rate of 75% of the employee's pre-injury average weekly wage for the first 26 weeks of disability. The qualifying wage increased from less than $8.50 an hour to less than $10 an hour for workers' compensation claims with a date of injury on or after September 1, 2015. The amendments align the division's rules regarding the calculation and payment of TIBs with statutory changes provided in Labor Code §408.103(a).

Amended §129.3(b) and §129.3(f)(1) clarify that the $8.50 an hour wage rate still applies to workers' compensation claims with a date of injury before September 1, 2015. The amendments reflect the effective date of Labor Code §408.103(a) as amended by SB 901 and are necessary for ease of stakeholder compliance. Claims that have not yet been brought with dates of injury before September 1, 2015, and claims that were already receiving TIBs before September 1, 2015, will continue to use the $8.50 an hour wage rate to calculate TIBs.

Amended §129.11.

Amended §129.11(b)(2) increases the hourly wage that qualifies an injured employee to be paid at the higher TIBs rate of 75% of the employee's pre-injury average weekly wage for the first 26 weeks of disability. The qualifying wage increased from less than $8.50 an hour to less than $10 an hour for workers' compensation claims with a date of injury on or after September 1, 2015. The amendment aligns the division's rules regarding the calculation and payment of TIBs with statutory changes provided by Labor Code §408.103(a).

Amended §129.11(b)(1) clarifies that the $8.50 an hour wage rate still applies to workers' compensation claims with a date of injury before September 1, 2015. The amendments reflect the effective date of Labor Code §408.103(a) as amended by SB 901 and are necessary for ease of stakeholder compliance. Claims that have not yet been brought with dates of injury before September 1, 2015, and claims that were already receiving TIBs

before September 1, 2015, will continue to use the $8.50 an hour wage rate to calculate TIBs.

The division deleted §129.11(f), which stated that §129.11 only applied to agreements entered into on or after January 1, 2000, for payment of TIBs under the provisions of the Act. Section 129.11(f) implemented House Bill 2510, 76th Legislature, Regular Session (1999), which amended Section Labor Code 408.081 to allow monthly payments of income benefits by agreement. The "January 1, 2000" date was relevant when §129.11 was adopted because §129.11 became effective December 26, 1999. However, at this point in time, all agreements made under §129.11 for monthly payment of TIBs under the provisions of the Act would automatically be entered into after January 1, 2000. Further, any injured employees whose benefits began to accrue prior to January 1, 2000 would no longer be eligible for TIBs under Labor Code §408.083.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Comment: Commenter expresses its support for the proposed amendments.

Division Response: The division appreciates the supportive comment.

NAMES OF THOSE COMMENTING FOR AND AGAINST THE PROPOSAL.

For: The Office of Injured Employee Counsel

For with changes: None

Against: None

The amendments are adopted under Labor Code §§402.00128, 402.021, 402.061, and 408.103. Section 402.00128 lists the general powers of the commissioner, including the power to hold hearings. Section 402.021 establishes the basic goals and legislative intent of the workers' compensation system, including the goal that the system must provide appropriate income benefits and medical benefits in a manner that is timely and cost-effective. Section 402.061 requires the division to adopt rules necessary for the implementation and enforcement of the Texas Workers' Compensation Act. Section 408.103 provides that the amount of TIBs is equal to: (1) 70% of the amount computed by subtracting the employee's weekly earnings after the injury from the employee's average weekly wage; or (2) for the first 26 weeks, 75% of the amount computed by subtracting the employee's weekly earnings after the injury from the employee's average weekly wage if the employee earns less than $10 an hour.

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

Filed with the Office of the Secretary of State on February 8, 2016.

TRD-201600584
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Texas Department of Insurance, Division of Workers' Compensation
Effective date: February 28, 2016
Proposal publication date: October 9, 2015
For further information, please call: (512) 804-4703

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 65. WILDLIFE

SUBCHAPTER B. DISEASE DETECTION AND RESPONSE

DIVISION 2. CHRONIC WASTING DISEASE - MOVEMENT OF DEER

31 TAC §65.94

The Texas Parks and Wildlife Commission (Commission), in a duly noticed meeting on January 21, 2016, adopted new §65.94 concerning Chronic Wasting Disease - Deer Management Permit Provisions without changes to the proposed text as published in the December 18, 2015, issue of the *Texas Register* (40 TexReg 9086).

The new rule is constituted as part of Subchapter B, Division 2, Chronic Wasting Disease - Movement of Deer. The department wishes to emphasize that the new rule is an interim replacement for current §65.94, adopted on an emergency basis on October 5, 2015, and published in the October 23, 2015, issue of the *Texas Register* (40 TexReg 7305), and extended by executive order dated January 28, 2016 (to be published in the February 12, 2016, issue of the *Texas Register),* which is necessary to maintain regulatory continuity for the duration of the 2015-2016 deer season and the period immediately thereafter. Based on additional information from the ongoing epidemiological investigation, disease surveillance data collected from captive and free ranging deer herds, guidance from the Texas Animal Health Commission, and input from stakeholder groups, the department intends to review the interim rule, along with interim rules governing deer breeder permits and rules regarding permits to Trap, Transport and Transplant (Triple T) deer following the close of the deer season and present the results of that review to the Commission at its March 2016 meeting for possible modifications.

The new rule is part of a comprehensive regulatory response intended to increase the probability of detecting chronic wasting disease (CWD) if a deer infected with CWD is released from a DMP facility. The new rule was developed in cooperation with the department, the Texas Animal Health Commission (TAHC), and other stakeholders (including veterinarians, epidemiologists, resource managers, and landowners) to protect susceptible species of exotic and native wildlife from CWD. TAHC is the state agency authorized to manage "any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl, regardless of whether the disease is communicable, even if the agent of transmission is an animal species that is not subject to the jurisdiction" of TAHC. Tex. Agric. Code §161.041(b).

CWD is a fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer, mule deer, elk, red deer, sika, and their hybrids (susceptible species). It is classified as a transmissible spongiform encephalopathy (TSE), a family of diseases that includes scrapie (found in sheep), bovine spongiform encephalopathy (BSE) in cattle, and variant Creutzfeldt-Jakob Disease (vCJD) in humans.

Much remains unknown about CWD. The peculiarities of its transmission (how it is passed from animal to animal), infection rate (the frequency of occurrence through time or other comparative standard), incubation period (the time from exposure to clinical manifestation), and potential for transmission to other species are still being investigated. There is no scientific evidence to indicate that CWD is transmissible to humans. What is known is that CWD is invariably fatal, and is transmitted both directly (through deer-to-deer contact) and indirectly (through environmental contamination). Moreover, a high prevalence of the disease in free-ranging populations has been correlated to deer population declines, and human dimensions research suggests that hunters will avoid areas of high CWD prevalence. The implications of CWD to the multi-billion dollar ranching, hunting, and wildlife management economies in Texas are significant, unless it is contained and controlled.

Under Parks and Wildlife Code, Chapter 43, Subchapters R and R-1, and Deer Management Permit (DMP) regulations for white-tailed deer at 31 TAC Chapter 65, Subchapter D, the department may allow the temporary possession of free-ranging white-tailed or mule deer for breeding purposes within an enclosure on property surrounded by a fence capable of retaining deer. At the current time, there are no rules authorizing DMP activities for mule deer.

In addition to authorizing the temporary possession of free-ranging white-tailed deer for breeding purposes, department regulations authorize the introduction of a buck deer from a deer breeding facility into a DMP facility for breeding purposes. Deer breeders are permitted under Parks and Wildlife Code, Chapter 43, Subchapter L and 31 TAC Chapter 65, Subchapter T. The current rules provide, among other things, that a buck deer introduced to a DMP pen from a deer breeding facility may be liberated from the DMP pen to the surrounding or adjacent high-fenced acreage identified in the deer management plan associated with the DMP facility, returned to the deer breeding facility from which the buck deer was transferred, or transferred to another deer breeding facility. All other deer introduced to a DMP pen, whether by trapping from a free-ranging herd or transfer from a deer breeding facility, must be liberated from the DMP enclosure by a date specified by the department in the DMP permit.

The department has been concerned for over a decade about the possible emergence of CWD in free-ranging and captive deer populations in Texas, and has engaged in several rulemakings over the years to address the threat posed by CWD. In 2005, the department closed the Texas border to the entry of out-of-state captive white-tailed and mule deer and increased regulatory requirements regarding disease monitoring and record keeping. The closure of Texas to out-of-state captive white-tailed and mule deer was updated, effective in January 2010, to address other disease threats to white-tailed and mule deer (35 TexReg 252). Prior to 2012, CWD had not been known to exist in Texas; however, on July 10, 2012, the department confirmed that two free-ranging mule deer sampled in the Texas portion of the Hueco Mountains tested positive for CWD. In response, the department and the Texas Animal Health Commission (TAHC) convened the CWD Task Force, comprised of wildlife-health professionals and cervid producers, to advise the department on the appropriate regulatory and policy measures to be taken to protect white-tailed and mule deer in Texas. Based on recommendations from the CWD Task Force, the department subsequently adopted new rules in 2013 (37 TexReg 10231) to implement a CWD containment strategy in far West Texas. The rules among other things require deer harvested in a specific geographical area to be presented at designated check stations to be tested for CWD.

On June 30, 2015, the department received confirmation that a two-year-old white-tailed deer held in a deer breeding facility in Medina County ("index facility") had tested positive for CWD. Subsequent testing confirmed the presence of CWD in additional white-tailed deer at the index facility. The source of the CWD at the index facility is unknown at this time. Within the last five years, the index facility accepted deer from 30 other Texas deer breeding facilities and transferred 835 deer to 147 separate sites (including 96 deer breeding facilities, 46 release sites, and three Deer Management Permit (DMP) facilities in Texas, as well as two destinations in Mexico). The department estimates that in the past five years, more than 728 locations in Texas (including 384 deer breeding facilities) either received deer from the index facility or received deer from a deer breeding facility that had received deer from the index facility. CWD has subsequently been detected in an additional deer breeding facility.

In response, the department engaged in a vigorous effort to involve and solicit input from other regulatory agencies, various stakeholder groups, and the regulated community to develop a regulatory response that both discharged the department's duty to protect the wildlife resources of the state for the enjoyment of the people and to the greatest extent possible minimized disruption to the regulated community. As a result of that effort, the department on August 18, 2015, adopted emergency rules governing deer breeder permits (40 TexReg 5566), which were extended for an additional 60 days on December 1, 2015 (41 TexReg 9), and subsequently replaced by interim rules adopted by the commission on November 5, 2016, to be published in the February 5, 2016, issue of the *Texas Register,* and taking effect February 2, 2016.

Those rules (§§65.90 - 65.93 of this subchapter, or "CWD deer breeder rules") address CWD testing requirements and movement restrictions for white-tailed deer and mule deer held under the authority of deer breeder permits issued by the department. The rules set forth specific CWD test requirements for deer breeders, which would have to be satisfied in order to transfer deer to other deer breeders, DMP facilities, or for purposes of release. The CWD deer breeder rules also impose CWD test requirements on sites where certain breeder deer are liberated (release sites). The CWD deer breeder rules create a tiered system of testing requirements based on CWD monitoring and the performance of required testing, and thus represent a level of risk of transmission of CWD for each deer breeding facility and release site. The level of risk is also based on whether the facility contains or is connected to exposed animals.

Epidemiological science dictates that a population receiving individuals from a higher risk population is itself at greater risk. Therefore, the CWD deer breeder rules address transfers from higher risk to lower risk populations by requiring the receiving deer breeding facility to assume the status of the originating facility or release site to comply with the testing requirements associated with the status of the originating facility, if the status of the originating facility is lower than the status of the receiving facility. Because deer from deer breeding facilities and release sites may be introduced into a DMP facility and then either released or returned to a breeding facility, it is necessary to identify how DMP facilities are impacted by the status level of breeding facilities and release sites The level of risk is based on the degree of testing and exposure to CWD-positive or CWD-exposed animals.

The department notes for purposes of clarification that the provisions of §§65.90 - 65.93 of this subchapter also apply to the new rule. The applicable provisions would include, for example, the definitions in §65.90 of this subchapter and the required testing performance for the categories and classes of breeding facilities and release sites established in §§65.90 - 65.93 of this subchapter.

As noted previously, the new rule replace the emergency rule adopted on October 5, 2016, and extended for an additional 60 days on December 1, 2015 (41 TexReg 9). The new rule differs from the emergency rule as follows:

1. In subsection (a)(1) of the emergency rule, a DMP facility is described as "a property (including the pen in which deer are temporarily detained for breeding purposes and the high-fenced acreage to which the deer are released)." This is technically incorrect. In TWIMS (defined in §65.90 of this title as the "department's Texas Wildlife Information Management Services (TWIMS) online application"), each DMP property gets one facility identification for the enclosure (pen) in which deer are temporarily detained and one facility identification for surrounding acreage to which the deer are released. To avoid confusion, the new rule establishes that the word "facility" as used in the rule text means the DMP pen.

2. In subsection (b) of the emergency rule, the department set forth the various requirements and restrictions for Level 2 and Level 3 DMP facilities. Level 1 DMP facilities were not addressed because the Level 1 DMP category is a default value, consisting of all DMP facilities that either do not receive breeder deer at all or received breeder deer solely from TC 1 breeding facilities (and did not receive any deer from a Class II or Class III release site). As a result, the acreages to which deer are released from those facilities are Class I release sites and no CWD testing is required under §§65.90 - 65.93 of this subchapter. Therefore, to ensure clarity, subsection (b)(1) provides that a Level 1 DMP facility is a DMP facility that is not a Level 2 or 3 DMP facility.

3. Subsection (b)(4) of the emergency rule imposed tagging requirements for deer introduced to a Level 3 DMP facility or released on a Class III release site. The department has determined that because paragraphs (1) - (3), (5), and (6) address the assignment of DMP category designations, paragraph (4) interrupts that process, since it addresses a different topic; therefore, in the new rule the tagging requirements from subsection (b)(4) of the emergency rule are designated as subsection (b)(8).

New §65.94(a) sets forth two general provisions.

New §65.94(a)(1) identifies exactly what is meant by "DMP facility." A DMP facility is an enclosure in which deer are temporarily detained for breeding purposes permitted under the provisions of Parks and Wildlife Code, Subchapter R or R-1 and Subchapter D of this chapter (relating to Deer Management Permit (DMP)). The provision is necessary in order to prevent any ambiguity arising from the use of the term "DMP facility."

New §65.94(a)(2) defines "status" as "the level of testing required by this division for any facility registered in TWIMS (deer breeding facility, trap site, release site, or DMP facility)." The definition of "status" is necessary because the status of any given facility determines the testing and movement requirements that apply to the facility and because it is necessary to clarify that the term applies to all types of permits authorizing the possession of live deer. The new rule also establishes that the highest status for DMP facilities is Level 1 and the lowest status is Level 3, which is necessary to prevent potential misinterpretation. The designation of DMP facility status will also provide consistency with the provisions of §§65.90 - 65.93 of this subchapter, regarding Chronic Wasting Disease - Movement of Breeder Deer, which designate a Transfer Category (TC) status (TC 1, TC 2, TC 3) for deer breeding facilities and a status for release sites (Class I, II, III). Under §§65.90 - 65.93 of this subchapter, the lower number is the higher status. For example, for deer breeding facilities, a TC 1 is the highest status. For release sites, Class I is this highest status.

New §65.94(b) sets forth several provisions specific to the acquisition and transfer of deer for DMP purposes.

New §65.94(b)(1) - (8) set forth the status (and therefore, the testing requirements) for release sites for deer from DMP facilities based on the status of the source of deer obtained for DMP purposes.

New subsection (b)(1) stipulates that a DMP facility that is not a Level 2 or Level 3 DMP facility is a Level 1 DMP facility. Because the status of a deer breeding facility or a release site is not impacted by receiving deer from a Level 1 DMP facility, no additional provisions are needed to address the impact of deer being held in a Level 1 DMP facility.

New subsection (b)(2) stipulates that a DMP facility that receives deer from a Class II release site or TC 2 breeding facility is a Level 2 DMP facility, unless the DMP facility receives deer from a TC 3 breeding facility or Class III release site.

New subsection (b)(3) stipulates that a DMP facility receiving deer from a TC 3 breeding facility or Class III release site is a Level 3 DMP facility.

New subsection (b)(4) stipulates that if a breeder deer is transferred from a TC 3 breeding facility to a Level 1 or 2 DMP facility, the DMP facility immediately becomes a Level 3 DMP facility and the release site to which the deer are liberated from the DMP pen becomes a Class III release site beginning on the Saturday nearest to September 30 of the following year.

New subsection (b)(5) provides that if a breeder deer is transferred from a TC 2 breeding facility to a Level 1 DMP facility, the DMP facility immediately becomes a Level 2 DMP facility and the release site to which deer are liberated from the DMP facility becomes a Class II release site beginning on the Saturday nearest to September 30 of the following year (the first day of lawful deer hunting), unless the release site is or becomes a Class III release site pursuant to other provisions of this division.

New subsection (b)(6) provides that if a breeder deer is transferred to a deer breeding facility from a DMP facility of lower status, the breeding facility receiving the breeder deer automatically assumes the numeric status of the DMP facility. For example, if a breeder deer is transferred to a TC 2 breeding facility from a Level 3 DMP facility, the deer breeding facility becomes a TC 3 breeding facility.

New subsection (b)(7) provides that a DMP facility automatically becomes a Level 3 DMP facility if deer are introduced to the DMP facility from a Tier 1 facility (a Tier 1 facility is a facility that has a direct connection to a CWD-positive facility, and is defined in §65.90(21) of this subchapter).

New §65.94(b)(8) prohibits the introduction of a breeder deer into a Level 3 DMP facility unless the deer is tagged, prior to leaving the originating facility, by attaching a button-type RFID or NUES tag approved by the department to one ear. (RFID and NUES ear tags are defined in current §65.91.) New §65.94(b)(8) also

prohibits the release of a breeder deer onto a Class III release site unless the deer is tagged, prior to leaving the originating facility, by attaching a button-type RFID or NUES tag approved by the department to one ear. A Level 3 DMP facility is the highest risk DMP facility. Similarly, deer within a Class III release site are at a higher risk for CWD. Therefore, the department believes that breeder deer introduced into a Level 3 DMP facility or released onto a Class III site should be readily identifiable for purposes of subsequent CWD testing. Therefore, the proposed new rule requires such deer to be ear-tagged prior to release.

The department received three comments opposing adoption of the proposed rule. All three commenters provided a reason or rationale for opposing adoption. The comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that deer breeding should be prohibited. The department neither agrees nor disagrees with the comment and responds that the comment is not germane because the rule does not regulate deer breeders. To the extent that the commenter is referring to the relationship between deer breeding and DMP activities, the department disagrees and responds that deer breeding and DMP activities are both authorized by the Texas Parks and Wildlife Code. No changes were made as a result of the comment.

One commenter opposed adoption and stated opposition to deer ranching/farming. The department neither agrees nor disagrees with the comment and responds that the comment is not germane because the rule does not regulate deer breeders. To the extent that the commenter is referring to DMP activities, the department disagrees and responds that DMP activities are authorized by the Texas Parks and Wildlife Code. No changes were made as a result of the comment.

One commenter opposed adoption and stated that as a Class II release site owner, "the restrictions are detrimental," because they cause property values to decline and prevent the commenter from selling deer hunts profitably. The department neither agrees nor disagrees with the comment and responds that the comment is not germane because the rule does not regulate release sites other than those areas to which deer are released from a DMP pen. To the extent the commenter is referring to the release of deer following DMP activities, the department disagrees with the comment and responds that since a deer infected with CWD may not display symptoms of the disease for several years, the ability of the department to identify facilities directly impacted (i.e., facilities that received deer from the index facility, referred to as "Tier 1 facilities") does not eliminate the need to test deer at release sites that receive deer from a DMP facility that had received deer from a TC 2 breeding facility. A release site is designated as a Class II release site on the basis of increased risk of containing exposed deer, specifically, by receiving deer from a TC 2 breeding facility (under the interim CWD breeder rules) or from a Level 2 DMP facility under the rule as adopted. Under the rule as adopted, a DMP facility becomes a Level 2 DMP facility if it receives deer from a TC 2 breeding facility. TC 2 breeding facilities do not have a testing history that provides sufficient confidence that CWD does not exist in those facilities; therefore, testing of hunter harvested deer on Class II release sites is necessary in order to establish additional confidence that CWD was not introduced from a TC 2 deer breeding or Level 2 DMP facility.

The department received two comments supporting adoption of the rule as proposed.

No groups or associations commented on the proposed rule.

The new rule is adopted under the authority of Parks and Wildlife Code, Chapter 43, Subchapter R, which authorizes the commission to establish the conditions of a deer management permit, including the number, type, and length of time that white-tailed deer may be temporarily detained in an enclosure, and Subchapter R-1, which authorizes the commission to establish the conditions of a deer management permit, including the number, type, and length of time that mule deer may be temporarily detained in an enclosure (although the department has not yet established a DMP program for mule deer authorized by Subchapter R-1), and §61.021, which provides that no person may possess a game animal at any time or in any place except as permitted under a proclamation 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 February 1, 2016.

TRD-201600464
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Effective date: February 21, 2016
Proposal publication date: December 18, 2015
For further information, please call: (512) 389-4775

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PART 17. TEXAS STATE SOIL AND WATER CONSERVATION BOARD

CHAPTER 523. AGRICULTURAL AND SILVICULTURAL WATER QUALITY MANAGEMENT

31 TAC §523.5

The Texas State Soil and Water Conservation Board (State Board) adopts amendments to §523.5, Memorandum of Understanding between the Texas State Soil and Water Conservation Board and the Texas Commission on Environmental Quality. The amendments are adopted with changes to the proposed text as published in the December 18, 2015, issue of the *Texas Register* (40 TexReg 9099). New §523.5(b) concerns the agency's interaction and coordination with Texas Commission on Environmental Quality (TCEQ) in the form of a Memorandum of Understanding (MOU) as a rule. New §523.5(b) outlines the agency's administration of agricultural and silvicultural water quality and the agency's interaction and coordination with the Texas Commission on Environmental Quality (TCEQ) in the form of an MOU.

Section 523.5(a) is amended to show it will become a subsection (a) rather than being an implied (a). The language of subsection (a) continues to state the Texas State Soil and Water Conservation Board may enter into and maintain a Memorandum of Understanding with the Texas Commission on Environmental Quality which sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs.

A new subsection (b) was added to §523.5 to state it is the Adoption of Memoranda of Understanding between the Texas State Soil and Water Conservation Board and Texas Commission on Environmental Quality.

New subsection 523.5(b)(1) states this rule contains the memorandum of understanding ("MOU") between the Texas State Soil and Water Conservation Board and the Texas Commission on Environmental Quality, which sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs.

New subsection (b)(1)(A) states Whereas, the Texas State Soil and Water Conservation Board (the Board) is the lead agency in this state for planning, management, and abatement of agricultural and silvicultural nonpoint source pollution; and

New subsection (b)(1)(B) states Whereas, the Board shall represent the State before the United States Environmental Protection Agency (EPA), or other federal agencies on all matters relating to the planning, management, and abatement of agricultural and silvicultural nonpoint source pollution abatement; and

New subsection (b)(1)(C) states Whereas, for purposes of this MOU, the Board is responsible for nonpoint source pollution abatement and prevention activities on all agricultural and silvicultural land as required by Texas Water Code §26.1311; and

New subsection (b)(1)(D) states Whereas, the Board has established and implemented a water quality management plan (WQMP) certification program, in accordance with Texas Agriculture Code §201.026(g) for agricultural and silvicultural lands; and

New subsection (b)(1)(E) states Whereas, the Texas Commission on Environmental Quality (the Commission) is the state agency with primary responsibility for implementing the constitution and laws of the State related to the quality of water and air; and

New subsection (b)(1)(F) states Whereas, the Commission shall coordinate all its activities related to this MOU with the Board; and

New subsection (b)(1)(G) states Whereas, consistent with the intent of Federal Clean Water Act §319, the Board and the Commission are committed to coordinate and jointly administer the development and implementation of the Texas Nonpoint Source Management Program; and

New subsection (b)(1)(H) states Whereas the Board and the Commission are independently and directly awarded equal halves of the annual Federal Clean Water Act §319 grant program for nonpoint source pollution by the EPA, both agencies independently coordinate and administer the preparation of work projects under the grant; and

New subsection (b)(1)(I) states Whereas, for the purpose of this MOU, the Commission is responsible for the enforcement of all laws of the State related to water and air quality including point source and nonpoint source pollution regulations, including agricultural and silvicultural lands; and

New subsection (b)(1)(J) states Whereas, consistent with Texas law and public policy, the Board and Commission mutually desire to protect and maintain a high quality environment and the health of the people of the State; and

New subsection (b)(2) will begin the Memorandum of Agreement by stating Now, the Parties, agree as follows:

New subsection (b)(2)(A) is a statement that introduces a list of items the (TCEQ) Commission agrees to carry out.

New subsection (b)(2)(A)(i) states TCEQ will coordinate and administer the preparation of grant work projects for the Federal Clean Water Act §319 grant program that primarily target nonpoint source pollution from sources other than agriculture and silviculture.

New subsection (b)(2)(A)(ii) states TCEQ will execute cooperative agreements, associated amendments, grant awards, and contracts related to grant work projects coordinated and administered by the Commission. For those grant work projects, the Commission is independently responsible for monitoring, implementation, and providing EPA with the required financial and programmatic reporting information.

New subsection (b)(2)(A)(iii) states TCEQ will implement the provisions of the EPA approved Texas Nonpoint Source Management Program for non-agricultural/silvicultural surface and ground water nonpoint source pollution.

New subsection (b)(2)(A)(iv) states TCEQ will develop and maintain state guidance for all nonpoint source pollution abatement projects other than agricultural or silvicultural nonpoint source pollution projects as described by this MOU.

New subsection (b)(2)(A)(v) states TCEQ will coordinate with the Board those compliance and enforcement actions dealing with agricultural and silvicultural pollution.

New subsection (b)(2)(A)(vi) states that TCEQ will provide to the Board all current forms, timetables, procedural rules, and any policy documents of the Commission for addressing and processing citizen complaints related to agricultural and silvicultural pollution.

New subsection (b)(2)(A)(vii) states TCEQ will refer to the Board complaints concerning violations of a WQMP or violations of laws or rules relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the Board, except for any person referred to the Commission for enforcement action pursuant to subsection (b)(2)(A)(ix).

New subsection (b)(2)(A)(viii) states TCEQ will retain the responsibility for pursuing any enforcement action related to a violation of state environmental laws and regulations, inclusive of rules, orders, and nonpoint source pollution regulations (including those applied to agricultural and silvicultural lands).

New subsection (b)(2)(A)(ix) states TCEQ will pursue appropriate enforcement action in accordance with Commission rules against any person referred in accordance with subsection (b)(3) and (4).

New subsection (b)(2)(A)(x) states TCEQ will ensure that any operation that was previously referred to the Commission by the Board for environmental non-compliance and subsequent decertification of a WQMP has resolved any Commission enforcement issues prior to referring the operation to the Board for WQMP development or investigation. Any such referral shall be accompanied by a letter to the Board stating the operation has resolved its Commission regulated environmental compliance issues.

New subsection (b)(2)(B) is a statement that introduces a list of items the TSSWCB agrees to carry out.

New subsection (b)(2)(B)(i) states the TSSWCB will coordinate and administer the preparation of grant work projects for the Federal Clean Water Act §319 grant program that primarily tar-

get nonpoint source pollution from agricultural and silvicultural sources.

New subsection (b)(2)(B)(ii) states the TSSWCB will execute cooperative agreements and associated amendments; and grant awards and contracts relating to grant work projects coordinated and administered by the Board. For those grant work projects, the Board is independently responsible for monitoring, implementation, and providing EPA with the required financial and programmatic reporting information.

New subsection (b)(2)(B)(iii) states the TSSWCB will implement the provisions of the EPA approved Texas Nonpoint Source Management Program for agricultural/silvicultural surface and ground water nonpoint source pollution.

New subsection (b)(2)(B)(iv) states the TSSWCB will provide the EPA with required reports for all agricultural/silvicultural projects funded through the Board by the Federal Clean Water Act §319. Reports will be submitted in accordance with EPA requirements.

New subsection (b)(2)(B)(v) states the TSSWCB will develop and maintain state guidance for agricultural or silvicultural nonpoint source pollution as described by this MOU and 31 TAC §523.1.

New subsection (b)(2)(B)(vi) states the TSSWCB will provide to the Commission information about agricultural and silvicultural activities required for the annual evaluation of the state's implementation of the Texas Nonpoint Source Management Program.

New subsection (b)(2)(B)(vii) states the TSSWCB will process citizen complaints related to agricultural and silvicultural nonpoint source pollution in a manner that is consistent with the practices and standards of the Commission.

New subsection (b)(2)(B)(viii) states the TSSWCB will schedule and conduct management meetings with the EPA to review the status of agricultural and silvicultural nonpoint source pollution project activities as negotiated with EPA.

New subsection (b)(2)(B)(ix) states the TSSWCB will develop and maintain a current electronic database to track and document all WQMPs. Data recorded for each WQMP will include, but is not limited to, the name of the WQMP applicant(s), the facility address or location, date of the WQMP application request, the type of operation covered by each WQMP, and the approval date of each WQMP.

New subsection (b)(2)(B)(x) states the TSSWCB will provide the Commission with documentation Board rules, policies, guidance, etc. concerning the development, supervision, and monitoring of individual certified WQMPs.

New subsection (b)(2)(B)(xi) states the TSSWCB will investigate complaints concerning violations of a WQMP or violations of laws or rules relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the Board, except for any person referred to the Commission for enforcement action pursuant to subsection (b)(1)(I).

New subsection (b)(2)(B)(xii) states the TSSWCB will refer to the Commission violations of a WQMP or violations of laws or rules relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the Board, where the Board has determined that the necessary corrective action has not been taken. The Board, upon referral, shall provide the Commission documentation, including but not limited to, any original documents or Board certified copies of the original documents; and hard copies of all photographs, correspondence, records, and other documents relating to the violation.

New subsection (b)(2)(C) is a statement that introduces a list of items that both the (TCEQ) Commission and the State Board agree to carry out.

New subsection (b)(2)(C)(i) states that both will maintain each party's existing level of effort required by the EPA for the implementation of Federal Clean Water Act §319 projects.

New subsection (b)(2)(C)(ii) states that both will communicate and coordinate directly with each other and the EPA on matters relating to project planning and implementation of nonpoint source pollution projects funded by Federal Clean Water Act §319.

New subsection (b)(2)(C)(iii) states that both will provide required reports to the EPA on nonpoint source pollution project activities. Reports will include status of project implementation, summary of information/education activities, monitoring activities, and other outputs satisfactory to EPA.

New subsection (b)(2)(C)(iv) states that both will meet annually to review and discuss the state's nonpoint source water quality program and to refine agency coordination mechanisms.

New subsection (b)(2)(C)(v) states that both will work together to develop and implement water quality management programs that satisfy State water quality standards as established by the Commission.

New subsection (b)(2)(C)(vi) states that both will comply with all relevant state and federal rules and regulations; and grant conditions, including financial audits, data quality assurance, quality control, and progress reports.

New subsection (b)(2)(C)(vii) states that both will cooperate on activities related to the implementation of the "Texas State Management Plan for Prevention of Pesticide Contamination of Groundwater."

New subsection (b)(2)(C)(viii) states that both will coordinate on inspection and enforcement activities relating to animal feeding operations (AFOs) authorized under 30 TAC §321.47 or a WQMP certified by the Board in accordance with Texas Agriculture Code §201.026(g) for the protection of water quality in the State.

New subsection (b)(2)(C)(ix) states that both will coordinate on inspection and enforcement activities for the protection of water quality in the State relating to dry litter poultry concentrated animal feeding operations (CAFOs) authorized under 30 TAC Chapter 321 and a Board certified WQMP.

New subsection (b)(2)(C)(x) states that both will cooperate to establish protocols for the coordination of activities related to complaint response, compliance inspections, and enforcement of AFOs and CAFOs operating under a Board certified WQMP.

New subsection (b)(2)(C)(xi) states that both will conduct interagency meetings annually with regional office staff of both agencies to review and update the AFO and dry litter poultry CAFO complaint/referral process and to refine agency coordination procedures.

New subsection (b)(3) states the coordination on Dry Litter Poultry CAFOs:

New subsection (b)(3)(A) states the Board is the lead agency and has primary responsibility for complaint investigations and

compliance inspections to determine if a dry litter poultry CAFO meets the requirements of a Board certified WQMP and CAFO regulations.

New subsection (b)(3)(B) states the Board shall perform a number of dry litter poultry CAFO compliance inspections to be negotiated annually with the Commission. The Board will provide documentation of such activities to the Commission on a quarterly basis.

New subsection (b)(3)(C) states that for any dry litter poultry CAFO operating under a Board certified WQMP, the Board shall investigate in a timely manner all water quality complaints and the first odor complaint where none has been received by either the Commission or the Board within the previous twelve (12) months.

New subsection (b)(3)(D) states that the Commission shall investigate within eighteen (18) hours the second and all subsequent odor complaints for a rolling twelve (12) month period at any dry litter poultry CAFO operating under a Board certified WQMP.

New subsection (b)(3)(E) states the Board shall refer to the Commission for possible enforcement action violations at dry litter poultry CAFOs regardless of WQMP certification status if it involves:

New subsection (b)(3)(E)(i) lists that if it is a failure to obtain authorization under an individual or general permit if evidence of a discharge is observed; or

New subsection (b)(3)(E)(ii) lists that if it is an unauthorized discharge(s) into or adjacent to surface water in the State; or

New subsection (b)(3)(E)(iii) lists that if it is a failure to notify Commission of any discharge; or

New subsection (b)(3)(E)(iv) lists that if it is a failure to maintain water quality buffers; or

New subsection (b)(3)(E)(v) list that if it is a failure to completely implement nutrient management practices required by CAFO rules and the WQMP; or

New subsection (b)(3)(E)(vi) lists that if it is a failure to completely implement mortality management practices required by the WQMP; or

New subsection (b)(3)(E)(vii) lists that if it is operating a commercial poultry operation without the required WQMP; or

New subsection (b)(3)(E)(viii) lists that if it is a documented nuisance odor violation; or

New subsection (b)(3)(E)(ix) lists that if it is a chronic violations for failure to implement WQMP practices required to meet CAFO rules under 30 TAC Chapter 321, Subchapter B.

New subsection (b)(3)(F) states that the Board shall perform follow-up compliance inspections at dry litter poultry CAFOs found out of compliance with their WQMP to verify that the operation has returned to compliance with the Board-certified WQMP and CAFO regulations.

New subsection (b)(4) is about the coordination on AFOs:

New subsection (b)(4)(A) states that the Board is the lead agency and has primary responsibility for agricultural or silvicultural nonpoint source pollution abatement resulting from all AFOs, as defined under 30 TAC Chapter 321, Subchapter B (relating to concentrated animal feeding operations) that are not designated as CAFOs or otherwise required to operate under a water quality permit issued by the Commission.

New subsection (b)(4)(B) states that the Board shall investigate water quality complaints and monitor compliance of all AFOs regardless of their participation in the WQMP Program. The Board shall also investigate the first odor complaint, where none has been received by the Commission or the Board within the previous twelve (12) months, at any dry litter poultry AFO operating under a Board-certified WQMP.

New subsection (b)(4)(C) states that the Commission, upon receiving a general water quality complaint regarding an AFO, will determine if the AFO is required to obtain authorization pursuant to 30 TAC Chapter 321, Subchapter B (relating to Control of Certain Activities by Rule). If the determination by the Commission indicates the facility does not meet the definition of a CAFO or otherwise require a water quality permit, the complaint and any written documentation will be referred to the Board, except for any person referred to the Commission for enforcement action pursuant to subsection (b)(1)(I). Additionally, the Commission shall investigate within eighteen (18) hours the second and all subsequent odor complaints for a rolling twelve (12) month period at any dry litter poultry AFO.

New subsection (b)(4)(D) states that the Board, upon receiving a general complaint regarding an AFO, will investigate to determine whether such a facility will need to obtain authorization from the Commission or initiate corrective actions to avoid impacts to aquatic life or human health. Those facilities that are determined to require authorization from the Commission pursuant to 30 TAC Chapter 321, Subchapter B (relating Control of Certain Activities by Rule) will be referred to the Commission in writing within five working days from the date of the investigation.

New subsection (b)(4)(E) states that the Board shall refer an AFO to the Commission for possible enforcement action, if the complaint investigation determines that the potential for a water quality violation exists at a facility and the facility owner or operator does not submit a request for a Board certified WQMP to resolve the complaint within 45 days of notification of the investigation outcome or does not implement appropriate corrective action.

New subsection (b)(4)(F) states that when the owner or operator of an AFO fails to sign a WQMP that was developed to resolve a complaint involving a potential water quality violation within 90 days of signing a request for planning assistance, the Board shall refer the AFO to the Commission for possible enforcement action.

New subsection (b)(4)(G) states that the Board shall refer to the Commission for possible enforcement any AFO complaint received where there is evidence of a discharge.

New subsection (b)(4)(H) states that the Board shall refer to the Commission for possible enforcement action, regardless of WQMP status, any investigation and documentation by the Board of a complaint related to an AFO where there is a documented violation that causes a discharge of pollutants to the air, water, or land that causes serious impact to the environment; or affects human health and safety.

New subsection (b)(4)(I) states that the Board shall refer to the Commission for possible enforcement action, regardless of WQMP status, any violation related to an AFO that the Board has determined that the necessary corrective action has not been taken. The Board, upon referral, shall provide the Com-

mission documentation, including but not limited to, any original documents or Board certified copies of the original documents; and hard copies of all photographs, correspondence, records, and other documents relating to the complaint or violation.

New subsection (b)(5) begins the General conditions:

New subsection (b)(5)(A) establishes the term of MOU. The term of this MOU shall be from the effective date until termination.

New subsection (b)(5)(B) establishes the notice of Termination. Either party may terminate this MOU upon 90 day written notice to the other party. Only upon written concurrence of the other agency can this MOU be modified.

New subsection (b)(5)(C) establishes the cooperation of Parties. It is the intention of the Board and the Commission that the details of providing the services in support of this MOU shall be worked out, in good faith, by both agencies.

New subsection (b)(5)(D) establishes nondiscrimination. Activities conducted under this MOU will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987, and other nondiscrimination statutes, namely Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the Americans With Disabilities Act of 1992, which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

New subsection (b)(5)(E) addresses any other notices. Any notices required by this MOU shall be in writing and addressed to the respective agency as follows: Texas Commission on Environmental Quality, Attn: (Insert Name of Appropriate Individual), P.O. Box 13087, Austin, TX 78711-3087 and to the Texas State Soil and Water Conservation Board, Attn: (Insert Name of Appropriate Individual), P.O. Box 658, Temple, TX 76503-0658.

New subsection (b)(5)(F) establishes the Effective Date of MOU. This MOU is effective upon execution by both agencies. By signing this MOU, the signatories acknowledge that they are acting under proper authority from their governing bodies.

New subsection (b)(5)(F) ends with a line showing Adopted (insert date) and Effective (insert date) dates that will be inserted when the Memorandum of Understanding is approved by both the State Board and TCEQ.

No comments were received regarding the adoption of these amendments.

The amendments are adopted under the Agriculture Code of Texas, Title 7, Chapter 201, §201.020, which authorizes the State Board to adopt rules that are necessary for the performance of its functions under the Agriculture Code.

§523.5. Memorandum of Understanding between the Texas State Soil and Water Conservation Board and the Texas Commission on Environmental Quality.

(a) The Texas State Soil and Water Conservation Board may enter into and maintain a Memorandum of Understanding with the Texas Commission on Environmental Quality which sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs.

(b) Adoption of Memoranda of Understanding between the Texas State Soil and Water Conservation Board and Texas Commission on Environmental Quality.

(1) This rule contains the memorandum of understanding ("MOU") between the Texas State Soil and Water Conservation Board and the Texas Commission on Environmental Quality, which sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and nonpoint source pollution programs.

(A) Whereas, the Texas State Soil and Water Conservation Board (the Board) is the lead agency in this state for planning, management, and abatement of agricultural and silvicultural nonpoint source pollution; and

(B) Whereas, the Board shall represent the State before the United States Environmental Protection Agency (EPA), or other federal agencies on all matters relating to the planning, management, and abatement of agricultural and silvicultural nonpoint source pollution abatement; and

(C) Whereas, for purposes of this MOU, the Board is responsible for nonpoint source pollution abatement and prevention activities on all agricultural and silvicultural land as required by Texas Water Code §26.1311; and

(D) Whereas, the Board has established and implemented a water quality management plan (WQMP) certification program, in accordance with Texas Agriculture Code §201.026(g) for agricultural and silvicultural lands; and

(E) Whereas, the Texas Commission on Environmental Quality (the Commission) is the state agency with primary responsibility for implementing the constitution and laws of the State related to the quality of water and air; and

(F) Whereas, the Commission shall coordinate all its activities related to this MOU with the Board; and

(G) Whereas, consistent with the intent of Federal Clean Water Act §319, the Board and the Commission are committed to coordinate and jointly administer the development and implementation of the Texas Nonpoint Source Management Program; and

(H) Whereas the Board and the Commission are independently and directly awarded equal halves of the annual Federal Clean Water Act §319 grant program for nonpoint source pollution by the EPA, both agencies independently coordinate and administer the preparation of work projects under the grant; and

(I) Whereas, for the purpose of this MOU, the Commission is responsible for the enforcement of all laws of the State related to water and air quality including point source and nonpoint source pollution regulations, including agricultural and silvicultural lands; and

(J) Whereas, consistent with Texas law and public policy, the Board and Commission mutually desire to protect and maintain a high quality environment and the health of the people of the State; therefore

(2) Now the Parties agree as follows:

(A) The Commission agrees to:

(i) Coordinate and administer the preparation of grant work projects for the Federal Clean Water Act §319 grant program that primarily target nonpoint source pollution from sources other than agriculture and silviculture.

(ii) Execute cooperative agreements, associated amendments, grant awards, and contracts related to grant work

projects coordinated and administered by the Commission. For those grant work projects, the Commission is independently responsible for monitoring, implementation, and providing EPA with the required financial and programmatic reporting information.

(iii) Implement the provisions of the EPA approved Texas Nonpoint Source Management Program for non-agricultural/silvicultural surface and ground water nonpoint source pollution.

(iv) Develop and maintain state guidance for all nonpoint source pollution abatement projects other than agricultural or silvicultural nonpoint source pollution projects as described by this MOU.

(v) Coordinate with the Board those compliance and enforcement actions dealing with agricultural and silvicultural pollution.

(vi) Provide to the Board all current forms, timetables, procedural rules, and any policy documents of the Commission for addressing and processing citizen complaints related to agricultural and silvicultural pollution.

(vii) Refer to the Board complaints concerning violations of a WQMP or violations of laws or rules relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the Board, except for any person referred to the Commission for enforcement action pursuant to clause (ix) of this subparagraph.

(viii) Retain the responsibility for pursuing any enforcement action related to a violation of state environmental laws and regulations, inclusive of rules, orders, and nonpoint source pollution regulations (including those applied to agricultural and silvicultural lands).

(ix) Pursue appropriate enforcement action in accordance with Commission rules against any person referred in accordance with paragraphs (4) and (5) of this subsection.

(x) Ensure that any operation that was previously referred to the Commission by the Board for environmental non-compliance and subsequent decertification of a WQMP has resolved any Commission enforcement issues prior to referring the operation to the Board for WQMP development or investigation. Any such referral shall be accompanied by a letter to the Board stating the operation has resolved its Commission regulated environmental compliance issues.

(B) The Board agrees to:

(i) Coordinate and administer the preparation of grant work projects for the Federal Clean Water Act §319 grant program that primarily target nonpoint source pollution from agricultural and silvicultural sources.

(ii) Execute cooperative agreements and associated amendments; and grant awards and contracts relating to grant work projects coordinated and administered by the Board. For those grant work projects, the Board is independently responsible for monitoring, implementation, and providing EPA with the required financial and programmatic reporting information.

(iii) Implement the provisions of the EPA approved Texas Nonpoint Source Management Program for agricultural/silvicultural surface and ground water nonpoint source pollution.

(iv) Provide the EPA with required reports for all agricultural/silvicultural projects funded through the Board by the Federal Clean Water Act §319. Reports will be submitted in accordance with EPA requirements.

(v) Develop and maintain state guidance for agricultural or silvicultural nonpoint source pollution as described by this MOU and 31 TAC §523.1.

(vi) Provide to the Commission information about agricultural and silvicultural activities required for the annual evaluation of the state's implementation of the Texas Nonpoint Source Management Program.

(vii) Process citizen complaints related to agricultural and silvicultural nonpoint source pollution in a manner that is consistent with the practices and standards of the Commission.

(viii) Schedule and conduct management meetings with the EPA to review the status of agricultural and silvicultural nonpoint source pollution project activities as negotiated with EPA.

(ix) Develop and maintain a current electronic database to track and document all WQMPs. Data recorded for each WQMP will include, but is not limited to, the name of the WQMP applicant(s), the facility address or location, date of the WQMP application request, the type of operation covered by each WQMP, and the approval date of each WQMP.

(x) Provide the Commission with documentation Board rules, policies, guidance, etc. concerning the development, supervision, and monitoring of individual certified WQMPs.

(xi) Investigate complaints concerning violations of a WQMP or violations of laws or rules relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the Board, except for any person referred to the Commission for enforcement action pursuant to paragraph (1)(I) of this subsection.

(xii) Refer to the Commission violations of a WQMP or violations of laws or rules relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the Board, where the Board has determined that the necessary corrective action has not been taken. The Board, upon referral, shall provide the Commission documentation, including but not limited to, any original documents or Board certified copies of the original documents; and hard copies of all photographs, correspondence, records, and other documents relating to the violation.

(C) Both parties agree to:

(i) Maintain each party's existing level of effort required by the EPA for the implementation of Federal Clean Water Act §319 projects.

(ii) Communicate and coordinate directly with each other and the EPA on matters relating to project planning and implementation of nonpoint source pollution projects funded by Federal Clean Water Act §319.

(iii) Provide required reports to the EPA on nonpoint source pollution project activities. Reports will include status of project implementation, summary of information/education activities, monitoring activities, and other outputs satisfactory to EPA.

(iv) Meet annually to review and discuss the state's nonpoint source water quality program and to refine agency coordination mechanisms.

(v) Work together to develop and implement water quality management programs that satisfy State water quality standards as established by the Commission.

(vi) Comply with all relevant state and federal rules and regulations; and grant conditions, including financial audits, data quality assurance, quality control, and progress reports.

(vii) Cooperate on activities related to the implementation of the "Texas State Management Plan for Prevention of Pesticide Contamination of Groundwater."

(viii) Coordinate on inspection and enforcement activities relating to animal feeding operations (AFOs) authorized under 30 TAC §321.47 or a WQMP certified by the Board in accordance with Texas Agriculture Code §201.026(g) for the protection of water quality in the State.

(ix) Coordinate on inspection and enforcement activities for the protection of water quality in the State relating to dry litter poultry concentrated animal feeding operations (CAFOs) authorized under 30 TAC Chapter 321 and a Board certified WQMP.

(x) Cooperate to establish protocols for the coordination of activities related to complaint response, compliance inspections, and enforcement of AFOs and CAFOs operating under a Board certified WQMP.

(xi) Conduct interagency meetings annually with regional office staff of both agencies to review and update the AFO and dry litter poultry CAFO complaint/referral process and to refine agency coordination procedures.

(3) Coordination on Dry Litter Poultry CAFOs:

(A) The Board is the lead agency and has primary responsibility for complaint investigations and compliance inspections to determine if a dry litter poultry CAFO meets the requirements of a Board certified WQMP and CAFO regulations.

(B) The Board shall perform a number of dry litter poultry CAFO compliance inspections to be negotiated annually with the Commission. The Board will provide documentation of such activities to the Commission on a quarterly basis.

(C) For any dry litter poultry CAFO operating under a Board certified WQMP, the Board shall investigate in a timely manner all water quality complaints and the first odor complaint where none has been received by either the Commission or the Board within the previous twelve (12) months.

(D) The Commission shall investigate within eighteen (18) hours the second and all subsequent odor complaints for a rolling twelve (12) month period at any dry litter poultry CAFO operating under a Board certified WQMP.

(E) The Board shall refer to the Commission for possible enforcement action violations at dry litter poultry CAFOs regardless of WQMP certification status if it involves:

(i) failure to obtain authorization under an individual or general permit if evidence of a discharge is observed; or

(ii) unauthorized discharge(s) into or adjacent to surface water in the State; or

(iii) failure to notify Commission of any discharge; or

(iv) failure to maintain water quality buffers; or

(v) failure to completely implement nutrient management practices required by CAFO rules and the WQMP; or

(vi) failure to completely implement mortality management practices required by the WQMP; or

(vii) operating a commercial poultry operation without the required WQMP; or

(viii) a documented nuisance odor violation; or

(ix) chronic violations for failure to implement WQMP practices required to meet CAFO rules under 30 TAC Chapter 321, Subchapter B.

(F) The Board shall perform follow-up compliance inspections at dry litter poultry CAFOs found out of compliance with their WQMP to verify that the operation has returned to compliance with the Board-certified WQMP and CAFO regulations.

(4) Coordination on AFOs:

(A) The Board is the lead agency and has primary responsibility for agricultural or silvicultural nonpoint source pollution abatement resulting from all AFOs, as defined under 30 TAC Chapter 321, Subchapter B (relating to concentrated animal feeding operations) that are not designated as CAFOs or otherwise required to operate under a water quality permit issued by the Commission.

(B) The Board shall investigate water quality complaints and monitor compliance of all AFOs regardless of their participation in the WQMP Program. The Board shall also investigate the first odor complaint, where none has been received by the Commission or the Board within the previous twelve (12) months, at any dry litter poultry AFO operating under a Board-certified WQMP.

(C) The Commission, upon receiving a general water quality complaint regarding an AFO, will determine if the AFO is required to obtain authorization pursuant to 30 TAC Chapter 321, Subchapter B (relating to Control of Certain Activities by Rule). If the determination by the Commission indicates the facility does not meet the definition of a CAFO or otherwise require a water quality permit, the complaint and any written documentation will be referred to the Board, except for any person referred to the Commission for enforcement action pursuant to paragraph (1)(I) of this subsection. Additionally, the Commission shall investigate within eighteen (18) hours the second and all subsequent odor complaints for a rolling twelve (12) month period at any dry litter poultry AFO.

(D) The Board, upon receiving a general complaint regarding an AFO, will investigate to determine whether such a facility will need to obtain authorization from the Commission or initiate corrective actions to avoid impacts to aquatic life or human health. Those facilities that are determined to require authorization from the Commission pursuant to 30 TAC Chapter 321, Subchapter B (relating Control of Certain Activities by Rule) will be referred to the Commission in writing within five working days from the date of the investigation.

(E) The Board shall refer an AFO to the Commission for possible enforcement action, if the complaint investigation determines that the potential for a water quality violation exists at a facility and the facility owner or operator does not submit a request for a Board certified WQMP to resolve the complaint within 45 days of notification of the investigation outcome or does not implement appropriate corrective action.

(F) When the owner or operator of an AFO fails to sign a WQMP that was developed to resolve a complaint involving a potential water quality violation within 90 days of signing a request for planning assistance, the Board shall refer the AFO to the Commission for possible enforcement action.

(G) The Board shall refer to the Commission for possible enforcement any AFO complaint received where there is evidence of a discharge.

(H) The Board shall refer to the Commission for possible enforcement action, regardless of WQMP status, any investigation and documentation by the Board of a complaint related to an AFO where there is a documented violation that causes a discharge of pol-

lutants to the air, water, or land that causes serious impact to the environment; or affects human health and safety.

(I) The Board shall refer to the Commission for possible enforcement action, regardless of WQMP status, any violation related to an AFO that the Board has determined that the necessary corrective action has not been taken. The Board, upon referral, shall provide the Commission documentation, including but not limited to, any original documents or Board certified copies of the original documents; and hard copies of all photographs, correspondence, records, and other documents relating to the complaint or violation.

(5) General conditions:

(A) Term of MOU. The term of this MOU shall be from the effective date until termination.

(B) Notice of Termination. Either party may terminate this MOU upon 90-day written notice to the other party. Only upon written concurrence of the other agency can this MOU be modified.

(C) Cooperation of Parties. It is the intention of the Board and the Commission that the details of providing the services in support of this MOU shall be worked out, in good faith, by both agencies.

(D) Nondiscrimination. Activities conducted under this MOU will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987, and other nondiscrimination statutes, namely Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the Americans With Disabilities Act of 1992, which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

(E) Notices. Any notices required by this MOU shall be in writing and addressed to the respective agency as follows: Texas Commission on Environmental Quality, Attn: _____, P.O. Box 13087, Austin, TX 78711-3087 and to the Texas State Soil and Water Conservation Board, Attn: _____, P.O. Box 658, Temple, TX 76503-0658.

(F) Effective Date of MOU. This MOU is effective upon execution by both agencies. By signing this MOU, the signatories acknowledge that they are acting under proper authority from their governing bodies. Adopted [insert date] Effective [insert date]

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

Filed with the Office of the Secretary of State on February 3, 2016.

TRD-201600546
Mel Davis
Special Projects Coordinator
Texas State Soil and Water Conservation Board
Effective date: February 23, 2016
Proposal publication date: December 18, 2015
For further information, please call: (254) 773-2250 x252

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION

SUBCHAPTER A. GENERAL RULES

34 TAC §3.2

The Comptroller of Public Accounts adopts amendments to §3.2, concerning offsets and application of credits and payments to liabilities; unjust enrichment, without changes to the proposed text as published in the December 25, 2015, issue of the *Texas Register* (40 TexReg 9604). This amendment memorializes longstanding policy of the comptroller regarding offsets for oil and gas severance tax.

Subsection (b)(2)(G)(i) has been removed to correctly reflect the comptroller policy allowing offsets for oil and gas severance tax. Subsequent clauses are renumbered to reflect the removal of the oil and gas severance tax category.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture) which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The section implements Tax Code, §111.104 (Refunds).

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

Filed with the Office of the Secretary of State on February 1, 2016.

TRD-201600466
Don Neal
Chief Deputy General Counsel
Comptroller of Public Accounts
Effective date: February 21, 2016
Proposal publication date: December 25, 2015
For further information, please call: (512) 475-0387

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CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER M. LOCAL GOVERNMENT RELIEF FOR DISABLED VETERANS EXEMPTION

34 TAC §§9.4321, 9.4323, 9.4325, 9.4327

The Comptroller of Public Accounts adopts new Chapter 9, Subchapter M, Local Government Relief for Disabled Veterans Exemption, §§9.4321, 9.4323, 9.4325, and 9.4327. New §9.4323 is adopted with changes to the proposed text as published in the December 25, 2015, issue of the *Texas Register* (40 TexReg 9606). The other rules are adopted without changes. The comptroller has revised §9.4323(c) (Application) from the initial proposed text to make a nonsubstantive grammatical change.

Subchapter M implements provisions of House Bill 7, Section 25, 84th Legislature, 2015 (codified in Local Government Code, §140.011) which provides for payments to qualified local governments to offset a portion of property tax revenue lost in providing property tax exemptions to disabled veterans under Tax Code, §11.131. Local governments that qualify for payments under the program are those municipalities adjacent to a United States military installation or counties in which a United States military installation is located, and whose lost property tax revenue (due to disabled veterans property tax exemptions being granted) for a fiscal year is equal to or greater than two percent of the jurisdiction's general fund revenue for that fiscal year. Payments to qualified local governments for a fiscal year will be in an amount calculated by subtracting one percent of the local government's general fund revenue from the local government's lost property tax revenue for that fiscal year. The new rules prescribe procedures to be used in administering Subchapter M, §9.4321, Definitions; §9.4323, Application; §9.4325, Review by Comptroller; and §9.4327, Payment to Qualified Local Government.

No comments were received regarding adoption of the new subchapter.

This subchapter is adopted pursuant to Local Government Code, §140.011(i), which requires the comptroller to adopt rules to implement Local Government Code, §140.011.

This subchapter implements Local Government Code, §140.011 (Local Governments Disproportionately Affected by Property Tax Relief for Disabled Veterans).

§9.4323. Application.

(a) In order to receive payment under this subchapter, an applicant must submit a completed application. The completed application must be received no earlier than February 1 nor later than April 1 of the year following the end of a fiscal year for which the applicant is seeking a payment under this subchapter.

(b) A completed application must include the following items:

(1) A map showing that:

(A) if the applicant is a municipality, the municipality is adjacent to a United States military installation; or

(B) if the applicant is a county, a United States military installation is wholly or partly located within that county.

(2) Documentation to substantiate the sources and amounts of general fund revenues listed on the application. That documentation must be:

(A) an independent audit covering the fiscal year for which the applicant is requesting payment; or

(B) a comprehensive annual financial report covering the fiscal year for which the applicant is requesting payment.

(3) If the documentation listed in paragraph (2)(A) or (B) of this subsection does not substantiate all of the sources and amounts of general fund revenues listed on the application, the applicant must submit additional documentation to substantiate the sources and amounts of general fund revenue which is certified by a city, county or independent auditor.

(4) Documentation to substantiate the exemption amount.

(5) Documentation to substantiate the property tax rate adopted by the applicant for the tax year in which the fiscal year for which the applicant is requesting payment begins.

(c) Documentation submitted with the application under subsection (b)(2) - (5) of this section must be highlighted for easy identification of the following values:

(1) the specific total for each general fund revenue source;

(2) the adopted property tax rate; and

(3) the total exemption amount.

(d) The application must be submitted on the comptroller prescribed form. The method in which the application is submitted must conform to the instructions in the comptroller prescribed form.

(e) The application must be signed by an official of the local government that is authorized to bind the local government. The local official must certify that all information in the application is true and correct.

(f) The applicant is responsible for verifying receipt by the comptroller of the completed application and any information requested under §9.4325 of this title (relating to Review by Comptroller).

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

Filed with the Office of the Secretary of State on February 2, 2016.

TRD-201600491
Don Neal
Chief Deputy General Counsel
Comptroller of Public Accounts
Effective date: February 22, 2016
Proposal publication date: December 25, 2015
For further information, please call: (512) 475-0387

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Tabitha Wells, 7th 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

Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) files this notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal the following chapter contained in Title 22, Part 11 of the Texas Administrative Code, pursuant to the 2015 rule review plan adopted by the Board at its July 2015 meeting.

Chapter 226. Patient Safety Pilot Programs on Nurse Reporting Systems, §§226.1 - 226.7

In conducting its review, the Board will assess whether the reasons for originally adopting this chapter continue to exist. Each section of this chapter will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations and current procedures and practices of the Board, and whether it is in compliance with Chapter 2001 of the Government Code (Administrative Procedure Act).

The public has thirty (30) days from the publication of this rule review in the *Texas Register* to comment and submit any response or suggestions. Written comments may be submitted to Dusty Johnston, General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, by email to dusty.johnston@bon.texas.gov, or by fax to Dusty Johnston at (512) 305-8101. Any proposed changes to this chapter as a result of this review will be published separately in the Proposed Rules section of the *Texas Register* and will be open for an additional comment period prior to the final adoption or repeal by the Board.

TRD-201600545
James W. Johnston
General Counsel
Texas Board of Nursing
Filed: February 3, 2016

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Adopted Rule Reviews

Texas Lottery Commission

Title 16, Part 9

The Texas Lottery Commission (Commission) has reviewed the Commission's rules at 16 TAC Chapter 401 (Administration of State Lottery Act) in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules) and hereby readopts the rules in Chapter 401. As a result of this review, and as discussed below, the Commission has determined some of the rules in Chapter 401 need to be amended and one lottery game rule should be repealed, actions which will be proposed in separate rulemaking proceedings.

Subchapter A (Procurement) includes the following rules:

§401.101 - Lottery Procurement Procedures

§401.102 - Protests of the Terms of a Formal Competitive Solicitation

§401.103 - Protests of Contract Award

§401.104 - Contract Monitoring Roles and Responsibilities

§401.105 - Major Procurement Approval Authority, Responsibilities and Reporting

Because the Commission contracts for certain lottery-related goods and services, the Subchapter A procurement rules are necessary for the administration and operation of the lottery; thus, the reasons for these rules continue to exist. Following the 84th Texas legislative session, Commission staff reviewed the Subchapter A rules, and in December 2015 the Commission adopted amendments to each of these rules to reflect current law, agency policy and agency procedures. No substantive amendment or repeal of these rules is recommended at this time.

Subchapter B (Licensing of Sales Agents) includes the following rules:

§401.152 - Application for License

§401.153 - Qualifications for License

§401.155 - Expiration of License

§401.156 - Renewal of License

§401.157 - Provisional License

§401.158 - Suspension or Revocation of License

§401.159 - Summary Suspension of License

§401.160 - Standard Penalty Chart

The Commission licenses over 17,000 lottery ticket sales agents in Texas. The Subchapter B rules set forth the license application and renewal process, qualification requirements, license terms, and disciplinary process applicable to lottery ticket sales agents. These rules are necessary for the administration of the Commission's lottery licensing program; thus, the reasons for adopting them continue to exist. No substantive amendment or repeal of these rules is recommended at this time.

Subchapter C (Practice and Procedure) includes the following rules:

§401.201 - Intent and Scope of Rules

§401.202 - Construction of Rules

§401.203 - Contested Cases

§401.205 - Initiation of a Hearing

§401.211 - Law Governing Contested Cases

§401.216 - Subpoenas, Depositions, and Orders to Allow Entry

§401.220 - Motion for Rehearing

§401.227 - Definitions

Subchapter C includes rules applicable to enforcement matters and other contested proceedings involving a lottery or bingo licensee or applicant under the State Lottery Act or the Bingo Enabling Act, respectively. In addition, the Texas Administrative Procedure Act, at §2001.004, requires state agencies to adopt such rules of practice. Thus, the reasons for adopting the Subchapter C rules continue to exist. No substantive amendment or repeal of these rules is recommended at this time.

Subchapter D (Lottery Game Rules) includes the following rules:

§401.301 - General Definitions

§401.302 - Instant Game Rules

§401.303 - Grand Prize Drawing Rule

§401.304 - On-Line Game Rules (General)

§401.305 - "Lotto Texas" On-Line Game Rule

§401.306 - Video Lottery Games

§401.307 - "Pick 3" On-Line Game Rule

§401.308 - "Cash Five" On-Line Game

§401.309 - Assignability of Prizes

§401.310 - Payment of Prize Payments Upon Death of Prize Winner

§401.312 - "Texas Two Step" On-Line Game

§401.313 - Promotional Drawings

§401.314 - Retailer Bonus Programs

§401.315 - "Mega Millions" On-Line Game Rule

§401.316 - "Daily 4" On-Line Game Rule

§401.317 - "Powerball®" On-Line Game Rule

§401.318 - Withholding of Delinquent Child-Support Payments from Lump-sum and Periodic Installment Payments of Lottery Winnings in Excess of Six Hundred Dollars

§401.319 - Withholding of Child-Support Payments from Periodic Installment Payments of Lottery Winnings

§401.320 - "All or Nothing" On-Line Game Rule

§401.321 - Instant Game Tickets Containing Non-English Words

§401.322 - "Texas Triple Chance" Lottery Game

§401.323 - "MONOPOLY MILLIONAIRES' CLUB™" Game Rule

Subchapter D includes the Commission's lottery game rules. These rules provide information regarding how Texas Lottery® scratch ticket and draw games are played, the prizes that can be won, the methods by which lottery tickets may be claimed and validated, as well as information relating to debt set-off for child-support payments, retailer bonus programs, payment of prize money to the estate of a deceased prize winner, and statements to be included in court orders involving assignments of prize payments. Because the Commission generates revenue for the state through the sale of lottery game tickets, the reasons for adopting each of these rules continue to exist, with one exception. Section 401.323 ("MONOPOLY MILLIONAIRES' CLUB™" Game Rule) should be repealed because this multi-jurisdiction draw game is no longer offered. Otherwise, no substantive amendment or repeal of these rules is recommended at this time.

Subchapter E (Retailer Rules) includes the following rules:

§401.351 - Proceeds from Ticket Sales

§401.352 - Settlement Procedures

§401.353 - Retailer Settlements, Financial Obligations, and Commissions

§401.355 - Restricted Sales

§401.357 - Texas Lottery as Retailer

§401.360 - Payment of Prizes

§401.361 - Required Purchases of Lottery Tickets

§401.362 - Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently Damaged or Rendered Unsaleable, for Winning Lottery Tickets Paid and for Lottery-Related Property

§401.363 - Retailer Record

§401.364 - Training

§401.366 - Compliance with All Applicable Laws

§401.368 - Instant Ticket Vending Machines

§401.370 - Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently Stolen or Lost

§401.371 - Collection of Delinquent Obligations for Lottery Retailer Related Accounts

§401.372 - Display of License

As noted above, the Commission licenses over 17,000 lottery ticket sales agents. The Subchapter E rules set forth the operational requirements, duties, and obligations of sales agents, including their financial responsibility to the state of Texas. These rules are necessary for the effective administration and oversight of Texas Lottery ticket sales; thus, the reasons for adopting these rules continue to exist. However, the Commission has determined amendments to §§401.361, 401.363, 401.370, and 401.372 are needed to conform rule language to current agency procedures; an amendment to §401.364 is needed to make a correction to the text; and an amendment to §401.371 is needed to update a reference to the Texas Comptroller's Accounting Policy Statement 28.

Subchapter F (ADA Requirements) includes the following rules:

§401.401 - Definitions

§401.402 - General Requirements

§401.403 - Readily Achievable Barrier Removal

§401.404 - Priority of ADA Compliance by Lottery Licensees

§401.405 - Alternatives to Barrier Removal

§401.406 - Future Alterations to a Lottery Licensed Facility

§401.407 - Complaints Relating to Non-accessibility

§401.408 - Requests for Hearings

The Subchapter F rules address the prohibition against discrimination imposed by the federal Americans with Disabilities Act (ADA), compliance by licensed lottery ticket sales agents with ADA accessibility requirements, and the procedure for the Commission to receive and to address complaints regarding discrimination or accessibility under

the ADA. Because the designated location of a Texas Lottery ticket sales agent license is subject to the ADA's requirements, the reasons for adopting each of these rules continue to exist. No substantive amendment or repeal of these rules is recommended at this time.

Subchapter G - Lottery Security includes the following rule:

§401.501 - Lottery Security

The reasons for adopting §401.501, regarding the Commission's statutory mandate to ensure the security and integrity of the Texas Lottery, and to maintain a security plan and other security procedures, continue to exist. However, this rule should be amended to update the reference to the "Texas Open Records law" to reflect the name of the "Texas Public Information Act". Otherwise, no substantive amendment or repeal of this rule is recommended at this time.

Finally, the Commission intends to make global amendments to applicable Chapter 401 rules to reflect current lottery game terminology, including replacing the terms "instant ticket" and "instant game" with "scratch ticket" and "scratch ticket game", respectively; and, replacing the terms "on-line ticket" and "on-line game" with "draw ticket" and "draw game", respectively.

The Commission intends to propose amendments to the rules requiring amendments, and the repeal of §401.323, in separate rulemaking actions.

This review and readoption has been conducted in accordance with Texas Government Code §2001.039. The Commission received no comments on the proposed review, which was published in the September 11, 2015, issue of the *Texas Register* (40 TexReg 6165).

This action concludes the Commission's review of 16 TAC Chapter 401.

TRD-201600572
Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 5, 2016

The Texas Lottery Commission (Commission) has reviewed the Commission's rules at 16 TAC Chapter 402 (Charitable Bingo Operations Division) in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules) and hereby readopts the rules in Chapter 402. As a result of this review, and as discussed below, the Commission has determined that some of the rules in Chapter 402 need to be amended and certain new rules should be adopted, actions which will be proposed in separate rulemaking proceedings. Further, the Commission notes that, in response to comments, in January 2016 the Charitable Bingo Operations Director scheduled and will convene several stakeholder meetings between Commission staff and representatives of the charitable bingo community to discuss the amendments and new rules identified herein and potential additional amendments to Chapter 402 rules proposed by commenters which may not be reflected in this readoption order. These meetings are ongoing as of the date of this readoption order. Any additional proposed rule amendments based on such discussions also would be proposed in separate rulemaking proceedings.

The Chapter 402 rules consist of seven (7) subchapters with a total of sixty-nine (69) rules. Subchapter A (Administration) consists of the following rules:

§402.100 - Definitions

§402.101 - Advisory Opinions

§402.102 - Bingo Advisory Committee

§402.103 - Training Program

§402.104 - Delinquent Obligations

Subchapter A consists of rules addressing the Commission's administration of charitable bingo and the process for handling delinquent obligations owed to the Commission. Section 402.100 remains necessary, and the reasons for initially adopting the rule continue to exist, because this rule defines key terms used throughout the Chapter 402 rules. Section 402.101 remains necessary, and the reasons for initially adopting the rule continue to exist, because this rule provides details regarding the process for requesting and issuing bingo advisory opinions, which is a duty imposed upon the Commission under Texas Occupations Code §2001.059. Section 402.102 governs the operations of the bingo advisory committee, which may be appointed by the Commission under Texas Occupations Code §2001.057. The bingo advisory committee is not currently constituted, but should the Commission appoint a new committee, §402.102 would become necessary to govern the committee's operations. The Commission believes it more prudent to keep the rule active rather than repeal it and subsequently re-adopt it if a new committee is appointed. Therefore, the Commission believes that the reasons for initially adopting the rule continue to exist. Section 402.103 remains necessary, and the reasons for initially adopting the rule continue to exist, because the rule implements Texas Occupations Code §2001.107, which requires the Commission to establish by rule a training program for certain individuals associated with bingo conductors. However, the Commission intends to propose an amendment to §402.103(f)(1) removing a reference to the Bingo Bulletin, which is no longer published. Finally, §402.104 remains necessary, and the reasons for initially adopting the rule continue to exist, because this rule implements Texas Government Code §2107.002, which requires all state agencies to establish procedures by rule for collecting delinquent obligations. No other substantive amendment or repeal of these rules is recommended at this time.

Subchapter B (Conduct of Bingo) consists of the following rules:

§402.200 - General Restrictions on the Conduct of Bingo

§402.201 - Prohibited Bingo Occasion

§402.202 - Transfer of Funds

§402.203 - Unit Accounting

§402.204 - Prohibited Price Fixing

§402.205 - Unit Agreements

§402.210 - House Rules

§402.211 - Other Games of Chance

§402.212 - Promotional Bingo

Subchapter B consists of rules governing the conduct and operation of charitable bingo, the creation and operation of bingo units, the transfer of funds into an organization's bingo account, the prohibition on price fixing for bingo equipment, and the restrictions on other games of chance conducted during a bingo occasion. These rules remain necessary, and the reasons for initially adopting the rules continue to exist, because they help ensure that charitable bingo in Texas is conducted fairly and in accordance with article III, section 47 of the Texas Constitution and the Bingo Enabling Act. However, the Commission intends to propose amendments to: (1) §402.200(b)(6), requiring bingo conductors to make certain written procedures available to players upon request; (2) §402.200(i), removing obsolete language referencing a potential exception to the prohibition on reserving bingo cards; (3) §402.203(h)(1), adding a reference to Schedule A; (4) §402.205(g)(7),

clarifying that unit agreements must include the method by which charitable purpose donations are apportioned among unit members; (5) §402.205(i), clarifying that the reporting requirements encompass both instant and event pull-tab tickets; and (6) §402.210(e), requiring that an organization's house rules be posted in a conspicuous place at the bingo premises. No other substantive amendment or repeal of these rules is recommended at this time.

Subchapter C (Bingo Games and Equipment) consists of the following rules:

§402.300 - Pull-Tab Bingo

§402.301 - Bingo Card/Paper

§402.303 - Pull-tab or Instant Bingo Dispensers

§402.321 - Card-Minding Systems--Definitions

§402.322 - Card-Minding Systems--Site System Standards

§402.323 - Card-Minding Systems--Device Standards

§402.324 - Card-Minding Systems--Approval of Card-Minding Systems

§402.325 - Card-Minding Systems--Licensed Authorized Organizations Requirements

§402.326 - Card-Minding Systems--Distributor Requirements

§402.327 - Card-Minding Systems--Security Standards

§402.328 - Card-Minding Systems--Inspections and Restrictions

Subchapter C consists of rules governing bingo equipment, including pull-tab tickets, bingo cards and paper, ticket dispensers, and card-minding systems. The rules remain necessary, and the reasons for initially adopting the rules continue to exist, because they help ensure that charitable bingo games are conducted in accordance with, and bingo equipment is created in compliance with, the Bingo Enabling Act. However, the Commission intends to propose amendments to: (1) §402.300(a)(14), requiring that bingo merchandise prizes be valued in accordance with §402.200(f); (2) §402.300(e)(4), removing language allowing pull-tab tickets to be sold during certain intermissions between bingo occasions; (3) §402.300(g), clarifying that records must be kept in accordance with §402.511; (4) §402.301(e)(3), clarifying that records must be kept in accordance with §402.511; and (5) §402.325(k), repealing the prohibition on reserving card-minding devices for players. No other substantive amendment or repeal of these rules is recommended at this time.

Subchapter D (Licensing Requirements) consists of the following rules:

§402.400 - General Licensing Provisions

§402.401 - Temporary License

§402.402 - Registry of Bingo Workers

§402.403 - Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises

§402.404 - License and Registry Fees

§402.405 - Temporary Authorization

§402.406 - Bingo Chairperson

§402.407 - Unit Manager

§402.408 - Designation of Members

§402.409 - Amendment for Change of Premises or Occasions Due to Lease Termination or Abandonment

§402.410 - Amendment of a License - General Provisions

§402.411 - License Renewal

§402.412 - Signature Requirements

§402.420 - Qualifications and Requirements for Conductor's License

§402.422 - Amendment to a Regular License to Conduct Charitable Bingo

§402.424 - Amendment of a License by Telephone or Facsimile

§402.442 - Amendment to a Commercial Lessor License

§402.450 - Request for Waiver

§402.451 - Operating Capital

§402.452 - Net Proceeds

§402.453 - Request for Operating Capital Increase

The Commission currently licenses over one thousand three hundred (1,300) charitable bingo conductors, commercial lessors, manufacturers and distributors, and has approved over eleven thousand (11,000) individuals to be listed on the bingo worker registry in Texas. Subchapter D includes rules governing the application, renewal and amendment process for Commission-issued licenses and listing on the bingo worker registry. These rules are necessary for the proper administration of the Commission's charitable bingo licensing and worker registry program. Therefore, the Commission believes that the reasons for initially adopting these rules continue to exist. Subchapter D also includes rules that implement Bingo Enabling Act provisions that govern the amount of operating capital a bingo conductor may maintain, the net proceeds a bingo conductor must produce, and the process by which licensees may request a waiver of these requirements. These rules are necessary to help ensure that bingo proceeds are directed to statutorily authorized purposes. Therefore, the Commission believes that the reasons for initially adopting these rules continue to exist. However, the Commission intends to propose amendments to §402.404 removing obsolete language that references licenses issued prior to September 1, 2013. The Commission also intends to propose new rules related to the licensing and/or registration of military service members, military veterans, and military spouses. Chapter 55 of the Texas Occupations Code requires state licensing agencies to adopt such rules. No other substantive amendment or repeal of these rules is recommended at this time.

Subchapter E (Books and Records) consists of the following rules:

§402.500 - General Records Requirements

§402.501 - Charitable Use of Net Proceeds

§402.502 - Charitable Use of Net Proceeds Recordkeeping

§402.503 - Bingo Gift Certificates

§402.504 - Debit Card Transactions

§402.505 - Permissible Expense

§402.506 - Disbursement Records Requirements

§402.511 - Required Inventory Records

§402.514 - Electronic Fund Transfers

Subchapter E consists of rules governing the record-keeping and reporting requirements related to the conduct of charitable bingo and the standards for determining the propriety of certain expenses. These rules remain necessary, and the reasons for initially adopting the rules continue to exist, because the rules help ensure that bingo proceeds are only used for statutorily-authorized purposes. However, the Commission intends to propose an amendment to §402.500(c) to clarify that

records covered by that rule must be provided to the Commission upon request. No other substantive amendments are recommended at this time.

Subchapter F (Payment of Taxes, Prize Fees and Bonds) consists of the following:

§402.600 - Bingo Reports and Payments

§402.601 - Interest on Delinquent Tax

§402.602 - Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest

§402.603 - Bond or Other Security

§402.604 - Delinquent Purchaser

Subchapter F consists of rules governing the payment of requisite fees, the submission of bonds or other security, and the delinquent payment of the costs for bingo equipment. Section 402.600 governs the payment of bingo-related fees and the filing of quarterly reports, which are required by statute and used by the Commission to track its licensees' bingo-related finances. This rule remains necessary, and the reasons for initially adopting the rule continue to exist, because the rule helps ensure that licensees are remitting fees in the proper amount and that bingo proceeds are only used for statutorily-authorized purposes. Furthermore, the Commission is required by Texas Occupations Code §2001.504 to adopt rules governing the payment of fees. Section 402.601 governs the payment of interest on delinquent fees, refunds and credit, while §402.602 governs the Commission's settlement of penalties and fees due. These rules remain necessary, and the reasons for initially adopting the rules continue to exist, because they implement Texas Tax Code §111.060 (Interest on Delinquent Tax), §111.064 (Interest on Refund or Credit), §111.101 (Settlement) and §111.103 (Settlement of Penalty and Interest Only), which are made applicable to the Commission through Texas Occupations Code §2001.508 and §2001.512. Section 402.603 governs the submission of a bond or other security by a licensee, which is required under Texas Occupations Code §2001.514. The rule remains necessary, and the reasons for initially adopting the rule continue to exist, because the rule helps secure the payment of statutorily-authorized fees by licensees. Finally, §402.604 imposes requirements when a purchaser of bingo equipment is delinquent in its payment of the amount due for the equipment. The rule implements Texas Occupations Code §2001.218, and it remains necessary to help ensure that transactions for bingo equipment comply with that statute. Therefore, the Commission believes that the reasons for initially adopting the rule continue to exist. However, the Commission intends to propose rule amendments that recognize that commercial lessors are no longer required to pay a tax on gross rent receipts occurring on or after September 1, 2015, or to obtain a bond to secure the payment of such taxes. No other substantive amendments are recommended at this time.

Subchapter G (Compliance and Enforcement) consists of the following rules:

§402.700 - Denials; Suspensions; Revocations; Hearings

§402.701 - Investigation of Applicants for Licenses

§402.702 - Disqualifying Convictions

§402.703 - Audit Policy

§402.705 - Inspection of Premises

§402.706 - Standard Administrative Penalty Guideline

§402.707 - Expedited Administrative Penalty Guideline

§402.708 - Dispute Resolution

§402.709 - Corrective Action

Subchapter G includes rules governing the Commission's disciplinary, inspection, and audit processes. These rules are necessary, and the reasons for initially adopting the rules continue to exist, because they help ensure that licensees and other persons abide by all applicable statutes and rules. Subchapter G also includes rules governing the conduct of criminal background checks on applicants and criminal convictions which may disqualify a license or bingo worker registry applicant. These rules are necessary, and the reasons for initially adopting the rules continue to exist, because they help implement Texas Occupations Code §2001.541, which requires the Commission to adopt rules regarding the use of criminal history record information in the licensing process. However, the Commission intends to propose amendments to §402.706 and §402.707 to implement the Sunset Advisory Commission's recommendation, codified in Texas Occupations Code §2001.358, that the Texas Lottery Commission include in its penalty guidelines a description of what violations could warrant license revocation or suspension.

This review and readoption has been conducted in accordance with Texas Government Code §2001.039. The Commission received comments on the proposed review, which was published in the September 11, 2015, issue of the *Texas Register* (40 TexReg 6166). Comments were submitted by representatives of the National Association of Fundraising Ticket Manufacturers (NAFTM), the Veterans of Foreign Wars - Department of Texas, the Texas Charity Advocates, and the Bingo Interest Group. The comments submitted by the NAFTM representative only propose changes to §402.300 that relate to a manufacturer's submission of pull-tab tickets to the Commission for review and approval, and the sale of multiple part pull-tab tickets. The remaining comments consist of proposed changes to thirty four (34) rules; however, no explanatory comments were included with the proposed changes. As previously noted, in response to comments the Charitable Bingo Operations Director has scheduled and will convene several stakeholder meetings between Commission staff and representatives of the charitable bingo community early in 2016 to discuss the amendments and new rules identified herein and potential additional amendments proposed by the commenters which may not be reflected in this readoption order. Representatives of each of the four organizations that provided comments to this rule review have been invited to attend one or more of those meetings. The Commission intends for the commenters' proposed changes to be discussed in depth at those meetings. A final decision regarding those proposed changes will be made after the meetings have concluded. Any additional proposed rule amendments resulting from the stakeholder meetings would be proposed in separate rulemaking proceedings.

This action concludes the Commission's review of 16 TAC Chapter 402.

TRD-201600571
Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 5, 2016

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State Securities Board

Title 7, Part 7

Chapter 109 - Transactions Exempt from Registration

Chapter 111 - Securities Exempt from Registration

Chapter 139 - Exemptions by Rule or Order

Chapter 133 - Forms

Pursuant to the notice of proposed rule review published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5805), the State Securities Board (Board) has reviewed and considered for readoption, revision, or repeal all sections of the following chapters of Title 7, Part 7, of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039: Chapter 109, Transactions Exempt from Registration; Chapter 111, Securities Exempt from Registration; and Chapter 139, Exemptions by Rule or Order.

Pursuant to the notice of proposed rule review published in the December 4, 2015, issue of the *Texas Register* (40 TexReg 8814), the Board has reviewed and considered for readoption, revision, or repeal all sections of the following chapter of Title 7, Part 7, of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039: Chapter 133, Forms.

The Board considered, among other things, whether the reasons for adoption of these rules continue to exist. After its review, the Board finds that the reasons for adopting these rules continue to exist and readopts these chapters, without changes, pursuant to the requirements of the Texas Government Code.

No comments were received regarding the readoption of Chapters 109, 111, 139, and 133.

This concludes the review of 7 TAC Chapters 109, 111, 139, and 133.

TRD-201600559
John Morgan
Securities Commissioner
State Securities Board
Filed: February 4, 2016

IN ADDITION

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

Office of the Attorney General

Request for Applications

Request for Applications (RFA) for the Domestic Violence High Risk Teams Grant Program; Planning Grant to a State Domestic Violence Coalition Grant Program

The Crime Victim Services Division (CVSD) of the Office of the Attorney General (OAG) is soliciting applications from State Domestic Violence Coalitions to utilize funds to prevent domestic violence and domestic violence homicide in Texas. The successful applicant will assist the OAG in implementing the Domestic Violence High-Risk Teams grant program established by House Bill 3327 (84th Regular Session).

The funds for the project will be awarded to the successful applicant to assist the OAG in implementing the Domestic Violence High-Risk Teams grant program and to facilitate collaborative efforts to (1) identify pilot sites in local communities that have the capacity to expand existing domestic violence high risk teams; (2) evaluate funded pilot site results; (3) identify best practice models that may be implemented in other communities; (4) provide technical assistance to grantees and other communities interested in implementing domestic violence high risk teams; and (5) make recommendations to improve the grant program or the implementation of the high risk teams.

Applicable Funding Source: The source of funding is through an appropriation by the Texas Legislature. All funding is contingent upon an appropriation to the OAG by the Texas Legislature. The OAG makes no commitment that an application, once submitted, or a grant, once funded, will receive subsequent funding.

Eligibility Requirements:

Eligible Applicants: State Domestic Violence Coalition - a statewide nonprofit organization that has been identified as a domestic violence coalition by a state or federal agency authorized to make that designation.

Eligibility: The OAG will initially screen each application for eligibility. Applications will be deemed ineligible if the application is submitted by an ineligible applicant; the application is not filed in the manner and form required by the Application Kit; the application is filed after the deadline established in the Application Kit; or the application does not meet other requirements as stated in the RFA and the Application Kit.

How to Obtain Application Kit: The OAG will post the Application Kit on the OAG's website at *https://www.texasattorneygeneral.gov/cvs/grants-and-contracts.* Updates and other helpful reminders about the application process will also be posted at this location. Potential applicants are encouraged to refer to the site regularly.

Deadlines and Filing Instructions for the Grant Application:

Registration Deadline: Online registration is required to apply for a grant. The deadline to register will be stated in the Application Kit. If registration is not completed by the deadline, then an Application will not be accepted and is not eligible for funding. To register go to: *https://www.texasattorneygeneral.gov/cvs/grants-and-contracts.*

Application Deadline: The applicant must submit its application, including all required attachments to the OAG. The OAG must receive the submitted application and all required attachments by the deadline established in the Application Kit.

Filing Instructions: Strict compliance with the filing instructions, as provided in the Application Kit, is required.

The OAG will **not** consider an Application if it is not filed by the due date as stated in the Application Kit.

Minimum and Maximum Amounts of Funding Available: The minimum amount of funding is $10,000 per fiscal year. The maximum amount of funding is $30,000 per fiscal year.

The award amount is determined solely by the OAG. The OAG may award grants at amounts above or below the established funding levels and is not obligated to fund a grant at the amount requested.

Start Date and Length of Grant Contract Period: This grant period will start on or after March 1, 2016. A one year contract(s) of up to one year will be awarded. It is anticipated that one grant will be awarded through this solicitation.

No Match Requirements: There are no match requirements.

Award Criteria:

The OAG will make funding decisions that support the efficient and effective use of public funds. Scoring components may include, but are not limited to: information provided by the applicant on the organization's capacity, infrastructure, current knowledge, efforts, expertise and experience, and on the proposed project activities and budget.

Grant Purpose Area:

The purpose of the Planning Grant to a State Domestic Violence Coalition is to assist the OAG in developing a plan to identify, assess, develop, and sustain Domestic Violence High Risk Teams (DVHRT) in Texas. The successful Applicant will facilitate a collaborative process to:

• Identify pilot sites in local communities that have the capacity to expand existing domestic violence high risk teams;

• Evaluate funded pilot site results;

• Identify best practice models that may be implemented in other communities;

• Provide technical assistance to communities interested in implementing domestic violence high risk teams; and

• Make recommendations to improve the implementation and/or the expansion of DVHRTs in Texas.

Ineligible Activities: Ineligible activities include, but are not limited to:

• Activities solely for research purposes

• Activities solely for the prosecution of an offender, such as witness coordination, expert witness fees, or prosecutor salaries

• Activities solely for law enforcement purposes, such as investigators or patrol officers

• Probation activities that assist an offender

• Offender-related activities, such as mediation or alcohol/drug abuse counseling

• Activities solely to prevent crime

• **NEW:** Public Awareness Campaigns

Prohibitions on Use of Grant Funds: OAG grant funds may not be used to support or pay the costs of overtime, dues, or lobbying; any portion of the salary or any other compensation for an elected government official; the purchase of food and beverages except as allowed under Texas State Travel Guidelines; the purchase or lease of vehicles; the purchase of promotional items or recreational activities; costs of travel that are unrelated to the direct delivery of services that support the OAG grant-funded program; the costs for consultants or vendors who participate directly in writing a grant application; payment of bad debt, fines or penalties; medical costs, such as Sexual Assault Nurse Examiner (SANE) fees or salaries, or items paid for by the Crime Victims Compensation (CVC) fund, or for any unallowable costs set forth in applicable state or federal law, rules, regulations, guidelines, policies, procedures or cost principles. Grant funds may not be used to purchase any other products or services the OAG identifies as inappropriate or unallowable within this RFA or the Application Kit.

OAG Contact Person: If additional information is needed, contact Lyndsay Ysla at *Grants@texasattorneygeneral.gov* or (512) 936-1278.

TRD-201600593
Amanda Crawford
General Counsel
Office of the Attorney General
Filed: February 8, 2016

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Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - January 2016

The Comptroller of Public Accounts, administering agency for the collection of the Crude Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of crude oil for reporting period January 2016 is $32.53 per barrel for the three-month period beginning on October 1, 2015, and ending December 31, 2015. Therefore, pursuant to Tax Code, §202.058, crude oil produced during the month of January 2016 from a qualified low-producing oil lease is not eligible for a credit on the crude oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period January 2016 is $1.37 per mcf for the three-month period beginning on October 1, 2015, and ending December 31, 2015. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of January 2016 from a qualified low-producing well is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of January 2016 is $31.78 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from oil produced during the month of January 2016 from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of January 2016 is $2.23 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of January 2016 from a qualified low-producing gas well.

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

TRD-201600560
Don Neal
Chief Deputy General Counsel
Comptroller of Public Accounts
Filed: February 4, 2016

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Notice of Contract Awards

The Texas Comptroller of Public Accounts, State Energy Conservation Office ("SECO") announces the following contract awards under RFP 210b.

The notice of request for proposals was published in the June 6, 2014, issue of the *Texas Register* (39 TexReg 4509).

The contractors perform services in support of the Clean Energy Incubator Emerging Technology Program.

Three contracts for clean energy incubators were awarded as follows:

1. The University of Texas at El Paso, 500 West University Avenue, El Paso, Texas 79968. The total amount of the contract is not to exceed $172,500.00. The term of the contract is September 26, 2014 through August 31, 2016, with option to renew for one (1) additional one-year term;

2. The University of Texas at Austin, 101 E. 27th Street, Stop A9000, Austin, Texas 78712-1532. The total amount of the contract is not to exceed $235,000.00. The term of the contract is November 4, 2014 through August 31, 2016, with option to renew for one (1) additional one-year term; and

3. Texas A&M University, 400 Harvey Mitchell Parkway, College Station, Texas 77845. The total amount of this contract is not to exceed $161,500.00. The term of the contract is August 13, 2015 through August 31, 2016, with option to renew for one (1) additional one-year term.

TRD-201600544
Jason C. Frizzell
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: February 3, 2016

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Notice of Request for Proposals

Pursuant to Chapter 403, Texas Government Code; §1201.027, Texas Government Code; Chapter 2254, Subchapter A, Texas Government Code; and Chapter 404, Subchapter H, Texas Government Code, the Texas Comptroller of Public Accounts ("Comptroller") announces its Request for Proposals No. 215b ("RFP") from qualified, independent attorneys and law firms, who specialize in public finance law, to serve as bond counsel and disclosure counsel to Comptroller. Comptroller

desires to obtain legal services in connection with the issuance, sale, and delivery of Tax and Revenue Anticipation Notes, including Commercial Paper Notes ("Notes").

Contracts: Comptroller anticipates that two contracts will be awarded from this RFP: one for bond counsel services and one for disclosure counsel services. However, the number of contracts resulting from this RFP and all procedures relating to such contracts are within the discretion of Comptroller. The successful respondent or respondents will be expected to begin performance of the contract on or after April 15, 2016.

Contact: Parties interested in submitting a proposal should contact Jason C. Frizzell, Assistant General Counsel, Contracts, Texas Comptroller of Public Accounts, 111 E. 17th St., Room 201, Austin, Texas 78774 ("Issuing Office"), telephone number: (512) 305-8673. Comptroller will make the entire RFP available electronically on the *Electronic State Business Daily* ("ESBD") at *http://esbd.state.tx.us* on Friday, February 29, 2016, after 10:00 a.m. Central Time ("CT").

Questions: All written questions must be received at the above-referenced address not later than 2:00 p.m. CT on Friday, February 26, 2016. Prospective respondents are encouraged to e-mail Questions to *contracts@cpa.texas.gov* to ensure timely receipt. On or about Friday, March 4, 2016, Comptroller expects to post responses to questions as a revision to the *Electronic State Business Daily* notice on the issuance of the RFP. **Respondents shall be solely responsible for verifying timely receipt of Questions in the Issuing Office.**

Closing Date: Proposals must be delivered to the Issuing Office no later than 2:00 p.m. CT, on **Friday, March 18, 2016. Late Proposals will not be considered under any circumstances. Respondents shall be solely responsible for verifying timely receipt of proposals in the Issuing Office.**

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. Comptroller shall make the final decision on any contract award or awards resulting from the RFP. Comptroller reserves the right, in its sole discretion, to accept or reject any or all proposals submitted. Comptroller is not obligated to award or execute any contracts on the basis of this notice or the distribution of any RFP. Comptroller shall not pay for any costs incurred by any entity in responding to this notice or the RFP.

The anticipated schedule of events is as follows: Issuance of RFP - February 19, 2016, 10:00 a.m. CT; Questions Due - February 26, 2016, 2:00 p.m. CT; Official Responses to Questions posted - March 4, 2016, or as soon thereafter as practical; Proposals Due - **March 18, 2016, 2:00 p.m. CT,** Contract Execution - April 15, 2016, or as soon thereafter as practical; and Commencement of Project Activities - on or after April 15, 2016.

TRD-201600624
Jason C. Frizzell
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: February 10, 2016

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Concho Valley Workforce Development Board

Public Notice

Request for Qualifications

The Concho Valley Workforce Development Board is issuing a Request for Qualifications (RFQ) for Evaluators of a Request for Proposal (RFP) for Workforce and Child Care Services. If interested, a copy of the RFQ is available at *http://www.cvworkforce.org/Bids.aspx?CatID=17.*

TRD-201600592
Mike Buck
Executive Director
Concho Valley Workforce Development Board
Filed: February 8, 2016

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Office of Consumer Credit Commissioner

Notice of Rate Bracket Adjustment

The Consumer Credit Commissioner of Texas has ascertained the following brackets and ceilings by use of the formula and method described in Texas Finance Code §341.203.[1]

The amounts of brackets in Texas Finance Code §342.201(a) are changed to $2,010.00 and $16,750.00, respectively.

The amounts of brackets in Texas Finance Code §342.201(e) are changed to $3,350.00, $7,035.00, and $16,750.00, respectively.

The ceiling amount in Texas Finance Code §342.251 and §342.259 are changed to $670.00 and $1,340.00, respectively.

The amounts of the brackets in Texas Finance Code §345.055 are changed to $3,350.00 and $6,700.00, respectively.

The amounts of the bracket in Texas Finance Code §345.103 is changed to $3,350.00.

The ceiling amount of Texas Finance Code §371.158 is changed to $16,750.00.

The amounts of the brackets in Texas Finance Code §371.159 are changed to $201.00, $1,340.00, and $2,010.00, respectively.

The above dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 2016, and extending through June 30, 2017.

[1] Computation method: The Reference Base Index (the Index for December 1967) = 101.6. The December 2015 Index = 687.456. The percentage of change is 676.62%. This equates to an increase of 670% after disregarding the percentage of change in excess of multiples of 10%.

TRD-201600608
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: February 9, 2016

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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 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/15/16 - 02/21/16 is 18% for Consumer[1]/Agricultural/Commercial[2] credit through $250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/15/16 - 02/21/16 is 18% for Commercial over $250,000.

[1] Credit for personal, family or household use.

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

TRD-201600605
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: February 9, 2016

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Texas Education Agency

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

Filing Date. February 10, 2016

Purpose and Scope of the Part B Federal Fiscal Year (FFY) 2016 State Application and its Relation to Part B of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA Part B). The Texas Education Agency (TEA) is inviting public comment on its Proposed State Application under IDEA Part B. The annual grant application provides assurances that the state's policies and procedures in effect are consistent with the federal requirements to ensure that a free appropriate public education is made available to all children with a disability from 3 to 21 years of age, including children who have been suspended or expelled from school. 34 Code of Federal Regulations §300.165 requires that states conduct public hearings, ensure adequate notice of those hearings, and provide an opportunity for public comment, including comment from individuals with disabilities and parents of children with disabilities, before adopting policies and procedures.

Availability of the State Application. The Proposed State Application is available on the TEA website at http://tea.texas.gov/index2.aspx?id=2147493812. Instructions for submitting public comments are available from the same site. The Proposed State Application will also be available at the 20 regional education service centers and at the TEA Library (Ground Floor, Room G-102), William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Parties interested in reviewing the Proposed State Application at the William B. Travis location should contact the TEA Division of Federal and State Education Policy at (512) 463-9414.

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

Timetable for Submitting the State Application. After review and consideration of all public comments, the TEA will make necessary or appropriate modifications and will submit the State Application to the U.S. Department of Education on or before May 12, 2016.

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

TRD-201600632
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: February 10, 2016

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is March 21, 2016. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on March 21, 2016. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission 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: 7-ELEVEN, INCORPORATED; DOCKET NUMBER: 2015-1500-MLM-E; IDENTIFIER: RN101500031; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(f)(2), (3)(A)(i)(II) and (ii)(II), (B)(iv) and (D)(i), by failing to properly maintain water works operation and maintenance records and make them available for review to commission personnel during the investigation; 30 TAC §290.110(c)(4)(B), by failing to monitor the disinfectant residual at representative locations in the distribution system at least once per day; 30 TAC §290.39(j), by failing to notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; 30 TAC §§290.41(c)(3)(O), 290.42(m) and 290.43(e), by failing to provide the well and water treatment and pressure maintenance facilities with an intruder-resistant fence with a lockable gate or a locked and ventilated well house; 30 TAC §290.110(e)(4)(B), by failing to complete a Disinfection Level Quarterly Operating Report each quarter and provide a copy if requested by the executive director; 30 TAC §290.39(l)(4), by failing to meet the conditions for an issued exception; 30 TAC §290.45(d)(2)(B)(ii) and Texas Health and Safety Code, §341.0315(c), by failing to provide a ground storage capacity which is equal to 50% of the maximum daily demand; and failing to provide at least one service pump with a capacity of three times the maximum daily demand, if the maximum daily demand is less than 15 gallons per minute; 30 TAC §290.43(d)(2), by failing to provide the facility's two pressure tanks with a pressure release device and an easily readable pressure gauge; 30 TAC §290.41(c)(3)(K), by failing to ensure that wellheads and pump bases are sealed by a gasket or sealing compound and properly vented to prevent the possibility of contaminating the well water; 30 TAC §290.46(s), by

failing to ensure that accurate testing equipment or some other means of monitoring the effectiveness of any chemical treatment process is used by the system; 30 TAC §290.109(c)(1)(A), by failing to collect distribution coliform samples at active service connections which are representative of water quality throughout the distribution system; 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing a well into service as a public water system; and 30 TAC §290.42(i) and §305.42(a) and TWC, §26.121(a), by failing to obtain authorization from the executive director prior to any discharge of wastewater; PENALTY: $7,304; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(2) COMPANY: Air Liquide Large Industries U.S. LP; DOCKET NUMBER: 2015-1459-AIR-E; IDENTIFIER: RN100233998; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: cogeneration plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O1735, Special Terms and Conditions (STC) Number 9, and New Source Review (NSR) Permit Number 73110, Special Conditions (SC) Number 1, by failing to comply with maximum allowable emissions rates; 30 TAC §116.115(c) and §122.143(4), THSC, §382.085(b), FOP Number O1735, STC Number 9, and NSR Permit Number 73110, SC Number 8.D., by failing to comply with the NH_3 concentration limit of 10 parts per million by volume, dry at three percent oxygen over a one-hour block averaging period; and 30 TAC §116.115(c) and §122.143(4), THSC, §382.085(b), FOP Number O1735, STC Number 9, and NSR Permit Number 56212, SC Number 2.A., by failing to limit nitrogen oxide emissions to 0.06 pound per million British thermal units on a one hour average; PENALTY: $107,100; Supplemental Environmental Project offset amount of $42,840; ENFORCEMENT COORDINATOR: Jessica Schildwachter, (512) 239-2617; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Aqua Development, Incorporated; DOCKET NUMBER: 2015-1225-MWD-E; IDENTIFIER: RN102343035; LOCATION: Manor, Travis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.0301(a), 30 TAC §30.350(d) and §305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014061001, Other Requirements Number 1, by failing to employ or contract with one or more licensed wastewater treatment facility operators holding the appropriate level of license or a wastewater system operations company holding a valid registration and employing licensed wastewater treatment facility operators holding the appropriate level of license for the facility; and TWC, §26.121(a)(1), and 30 TAC §305.125(1) and (5), and TPDES Permit Number WQ0014061001, Permit Conditions Number 2.g and Operational Requirements Number 1, by failing to prevent an unauthorized discharge of sewage into or adjacent to water in the state; PENALTY: $3,501; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(4) COMPANY: Belco Manufacturing Company, Incorporated; DOCKET NUMBER: 2015-1460-AIR-E; IDENTIFIER: RN100215524; LOCATION: Belton, Bell County; TYPE OF FACILITY: fiberglass reinforced plastic manufacturing plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(1) and (2), Texas Health and Safety Code (THSC), §382.085(b), and Federal Operating Permit (FOP) Number O2192, Special Terms and Conditions (STC) Number 8, by failing to submit the Permit Compliance Certification no later than 30 days after the end of the certification period; and 30 TAC §§101.20(2), 113.1060, and 122.143(4), 40 Code of Federal Regulations §63.5910(a), THSC, §382.085(b), and FOP Number O2192, STC Number (1)(D), by failing to submit a semiannual compliance report no later than 31 days after the end of the reporting period; PENALTY: $7,988; Supplemental Environmental Project offset amount of $3,195; ENFORCEMENT COORDINATOR: Eduardo Heras, (512) 239-2422; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(5) COMPANY: Car-Ron Construction, Incorporated; DOCKET NUMBER: 2016-0117-WQ-E; IDENTIFIER: RN108854431; LOCATION: Tuscola, Taylor County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a Construction General Permit; PENALTY: $875; ENFORCEMENT COORDINATOR: Jill Russell, (512) 239-4564; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(6) COMPANY: City of Big Lake; DOCKET NUMBER: 2015-1385-MSW-E; IDENTIFIER: RN102328176; LOCATION: Big Lake, Reagan County; TYPE OF FACILITY: municipal solid waste (MSW) landfill; RULES VIOLATED: AO Docket Number 2014-0825-MSW-E, Ordering Provision Number 2.a.i. and 2.b., 30 TAC §330.139, MSW Permit Number 86B and Site Operating Plan (SOP) Section IV.4.10 Control of Windblown Waste and Litter, by failing to maintain and operate the working face in a manner to control windblown solid waste; 30 TAC §330.165(a) and (b), MSW Permit Number 86B and SOP Section IV.4.23 Landfill Cover, by failing to provide adequate daily cover; 30 TAC §330.305(b) and (c), MSW Permit Number 86B and SOP Section IV.4.23 Landfill cover, by failing to design, construct and maintain a run-on control system and a run-off management system capable of preventing flow onto or from the active portions of the landfill; 30 TAC §330.153(a), MSW Permit Number 86B and SOP Section IV.4.17 Site Access Roads, by failing to provide all-weather roads from the facility to access public roads and within the facility to the unloading area(s) designated for wet-weather operation; 30 TAC §330.15(e)(4), MSW Permit Number 86B and SOP Section IV.4.3 Prohibited Waste, by failing to not cause, suffer, allow, or permit the collection and disposal of whole used or scrap tires at a MSW landfill that had not been processed prior to disposal in a manner acceptable to the executive director; 30 TAC §330.151, MSW Permit Number 86B and SOP Section IV.4.16 Disease Vector Control, by failing to control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods; 30 TAC §330.133(b), MSW Permit Number 86B and SOP Section IV.4.7.1 Unloading Areas, by failing to prevent the unloading of waste in unauthorized areas at the facility; 30 TAC §330.163, MSW Permit Number 86B and SOP Section IV.4.22 Compaction, by failing to spread and compact solid waste at the facility with repeated passages of compaction equipment such that each layer of solid waste is thoroughly compacted; 30 TAC §330.167, MSW Permit Number 86B and SOP Section IV.4.24 Ponded Water, by failing to prevent the ponding of water over waste at the facility; 30 TAC §330.121(a), MSW Permit Number 86B and SOP Section IV.2.3 Landfill Supervisor, by failing to follow the facility's SOP; 30 TAC §330.121(a), MSW Permit Number 86B and SOP Section IV.2.4 Gate Attendant, by failing to follow the facility's SOP; 30 TAC §330.121(a), MSW Permit Number 86B and SOP Section IV.2.5 and Section IV.4.15 Odor Management Plan, by failing to conduct management procedures and failing to place cover materials to control odors at the facility; and 30 TAC §330.165(h), MSW Permit Number 86B and SOP IV.4.23 Landfill Cover, by failing to maintain a cover application record on site readily available for inspection upon request by agency personnel; PENALTY: $32,550; ENFORCEMENT COORDINATOR: Margarita

Dennis, (817) 588-592; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(7) COMPANY: City of Eastland; DOCKET NUMBER: 2015-1157-MWD-E; IDENTIFIER: RN101919314; LOCATION: Eastland, Eastland County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), (4), and (5), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010637001, Effluent Limitations and Monitoring Requirements Numbers 1 and 4, by failing to prevent the discharge of solids or visible foam other than trace amounts and failing to ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained and failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (9)(A), and TPDES Permit Number WQ0010637001, Monitoring and Reporting Requirements Number 7(a) and (b)(i), by failing to notify the TCEQ of any noncompliance which may endanger human health or safety or the environment within 24 hours of becoming aware of the noncompliance, orally or by facsimile transmission, and failing to provide written notification within five working days of becoming aware of the noncompliance; and TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0010637001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: $14,062; Supplemental Environmental Project offset amount of $14,062; ENFORCEMENT COORDINATOR: Ross Luedtke, (512) 239-2545; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 655-9479.

(8) COMPANY: City of Howardwick; DOCKET NUMBER: 2015-1718-MSW-E; IDENTIFIER: RN102644747; LOCATION: Howardwick, Donley County; TYPE OF FACILITY: maintenance yard; RULES VIOLATED: 30 TAC §324.4(1) and §328.23(a), by failing to not store, discharge, or dispose of used oil and used oil filters in a manner that resulted in the discharge of oil into the soil; PENALTY: $225; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(9) COMPANY: City of Rollingwood; DOCKET NUMBER: 2015-1397-WQ-E; IDENTIFIER: RN105490478; LOCATION: Austin, Travis County; TYPE OF FACILITY: small municipal separate storm sewer system; RULES VIOLATED: 30 TAC §281.25(a)(4), 40 Code of Federal Regulations §122.26(a)(9)(i)(A), and Texas Pollutant Discharge Elimination System General Permit Number TXR040085, Part IV, Section B, Number 2 and Part V, Number A, by failing to timely submit a concise annual report to the executive director within 90 days of the end of each reporting year; PENALTY: $200; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(10) COMPANY: City of Sansom Park; DOCKET NUMBER: 2015-1720-PWS-E; IDENTIFIER: RN101414480; LOCATION: Sansom Park, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes, based on the locational running annual average; PENALTY: $321; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: City of Wake Village; DOCKET NUMBER: 2015-1172-WQ-E; IDENTIFIER: RN105872386; LOCATION: Wake Village, Bowie County; TYPE OF FACILITY: municipal separate storm sewer system (MS4); RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(a)(9)(i)(A), by failing to maintain authorization to discharge stormwater under a Texas Pollutant Discharge Elimination System General Permit associated with small MS4; PENALTY: $17,500; Supplemental Environmental Project offset amount of $14,000; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(12) COMPANY: City of Wichita Falls; DOCKET NUMBER: 2015-1224-MWD-E; IDENTIFIER: RN101611051; LOCATION: Wichita Falls, Wichita County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit Number WQ0010509005, Effluent Limitations and Monitoring Requirements Number 3, by failing to comply with permitted effluent limitations; PENALTY: $21,250; Supplemental Environmental Project offset amount of $21,250; ENFORCEMENT COORDINATOR: Melissa Castro, (512) 239-0855; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(13) COMPANY: Conecsus LLC; DOCKET NUMBER: 2015-1321-IHW-E; IDENTIFIER: RN100804467 and RN108661307; LOCATION: Forney (Facility 1) and Terrell (Facility 2), Kaufman County; TYPE OF FACILITY: storage facility and a pyrometallurgical recycling facility; RULES VIOLATED: 30 TAC §335.2(a), by failing to not cause, suffer, allow, or permit the unauthorized storage, processing, or disposal of hazardous waste (Facility 1 and 2); 30 TAC §335.6(c), by failing to update the Notice of Registration for any changes or additional information within 90 days of the occurrence of such change or of becoming aware of additional information (Facility 2); 30 TAC §335.69(a)(2) and (3) and 40 Code of Federal Regulations (CFR) §262.34(a)(2) and (3), by failing to clearly label all hazardous waste containers with the words "Hazardous Waste" (Facility 2); and 30 TAC §335.69(a)(1)(A) and §335.112(a) and 40 CFR §265.173(a), by failing to keep containers of hazardous waste closed except when adding or removing waste (Facility 2); PENALTY: $9,688; ENFORCEMENT COORDINATOR: Holly Kneisley, (817) 588-5856; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(14) COMPANY: Darryl Wheeler dba Magnolia Lake RV Park; DOCKET NUMBER: 2015-1440-PWS-E; IDENTIFIER: RN101237154; LOCATION: Goodrich, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(c)(2)(A) 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 at an approved laboratory, and submit the results to the executive director by the tenth day of the month following the end of the monitoring period and failing to provide public notification and submit a copy of the notification to the executive director; 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 executive director regarding the failure to provide public notification regarding the failure to submit Disinfectant Level Quarterly Operating Reports, the failure to conduct triggered source monitoring for the month of November 2011, and the failure to conduct routine coliform monitoring; PENALTY: $1,482; ENFORCEMENT COORDINATOR: Jessica Schildwachter, (512) 239-2617; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(15) COMPANY: Duval County Conservation and Reclamation District; DOCKET NUMBER: 2015-1573-MWD-E; IDENTIFIER: RN104498597; LOCATION: Realitos, Duval County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: TWC,

§26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010067002, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; 30 TAC §§305.125(1) and (17), 319.1, and 319.5(b), and TPDES Permit Number WQ0010067002, Monitoring and Reporting Requirements Number 1, by failing to submit effluent monitoring results at the intervals specified in the permit; and 30 TAC §305.125(1) and TPDES Permit Number WQ0010067002, Sludge Provisions, by failing to submit the annual sludge report for the monitoring period ending July 31, 2014, by September 30, 2014; PENALTY: $7,500; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (512) 239-2601; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(16) COMPANY: EAST TEXAS PRECAST COMPANY, LIMITED; DOCKET NUMBER: 2015-1481-MLM-E; IDENTIFIER: RN100889872; LOCATION: Hempstead, Waller County; TYPE OF FACILITY: pre-cast concrete manufacturing facility; RULES VIOLATED: 30 TAC §§335.62, 335.503(a), and 335.504 and 40 Code of Federal Regulations (CFR) §262.11, by failing to conduct hazardous waste determinations and waste classifications; 30 TAC §328.56(d)(4), by failing to monitor for vector control and apply appropriate vector control measures at least once every two weeks; 30 TAC §328.58(a), by failing to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility; 30 TAC §335.4, by failing to not cause, suffer, allow, or permit the unauthorized disposal of industrial solid waste; 30 TAC §324.6 and 40 CFR §279.22(c)(1), by failing to mark or clearly label used oil storage containers with the words "Used Oil"; and 30 TAC §324.4(1) and 40 CFR §279.22(d), by failing to prevent the disposal of used oil on the ground; PENALTY: $14,335; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(17) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2015-1232-AIR-E; IDENTIFIER: RN100542844; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: chemical plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O2292, Special Terms and Conditions Number 25, and New Source Review Permit Numbers 83702, PSDTX843, PSDTX860, and PAL15, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: $50,000; Supplemental Environmental Project offset amount of $25,000; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(18) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2015-1439-AIR-E; IDENTIFIER: RN100542844; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: chemical plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O2292, Special Terms and Conditions Number 25, and New Source Review Permit Numbers 83702, PSDTX843, PSDTX860, and PAL15, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: $10,875; Supplemental Environmental Project offset amount of $4,350; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(19) COMPANY: HNM ENTERPRISES, INCORPORATED dba Wimberley Quick Mart; DOCKET NUMBER: 2015-1665-PST-E; IDENTIFIER: RN103185120; LOCATION: Wimberley, Hays 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: $4,500; ENFORCEMENT COORDINATOR: Tiffany Maurer, (512) 239-2696; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(20) COMPANY: Judge Corporation dba Xpress Travel Center; DOCKET NUMBER: 2015-1745-PST-E; IDENTIFIER: RN104004049; LOCATION: Forney, Kaufman County; TYPE OF FACILITY: a 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: Catherine Grutsch, (512) 239-2607; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: Leo J. Leo, Jr. dba Leo's Drive In 6; DOCKET NUMBER: 2015-1678-PST-E; IDENTIFIER: RN104605761; LOCATION: McAllen, Hidalgo 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 tank (UST) for releases at a frequency of at least once every month; and 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; 30 TAC §334.602(a)(4), by failing to have at least one certified operator (either a Class A, Class B, or Class C operator) present at the UST facility during hours of operation; PENALTY: $12,663; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(22) COMPANY: Linde Gas North America LLC; DOCKET NUMBER: 2015-0685-AIR-E; IDENTIFIER: RN103080487; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: industrial gas manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O1329, Special Terms and Conditions Number 12, and New Source Review Permit Number 4056, Special Conditions Number 1, by failing to comply with annual emissions rates; PENALTY: $31,200; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23) COMPANY: Marathon Oil EF LLC; DOCKET NUMBER: 2015-1378-AIR-E; IDENTIFIER: RN106168206; LOCATION: Three Rivers, Live Oak County; TYPE OF FACILITY: oil and gas plant; RULES VIOLATED: 30 TAC §§101.20(1), 116.615(10), and 122.143(4), Texas Health and Safety Code (THSC), §382.085(b), 40 Code of Federal Regulations §60.8, Federal Operating Permit (FOP) Number O3649/Oil and Gas General Operating Permit (GOP) Number 514, Site-wide Requirements (b)(2) and (15)(B), and Standard Permit Registration Number 107703, Requirement (a)(3), by failing to conduct a performance test; and 30 TAC §116.615(2) and §122.143(4), THSC, §382.085(b), FOP Number O3649/Oil and Gas GOP Number 514, Site-wide Requirements (b)(2), and Standard Permit Registration Number 107703, by failing to comply with representations in a standard permit registration; PENALTY: $9,150; Supplemental Environmental Project offset amount of $3,660; ENFORCEMENT COORDINATOR: Jennifer Nguyen, (512) 239-6160; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(24) COMPANY: Masco Cabinetry LLC; DOCKET NUMBER: 2015-1513-AIR-E; IDENTIFIER: RN102593894; LOCATION: Dun-

canville, Dallas County; TYPE OF FACILITY: cabinet component manufacturing plant; RULES VIOLATED: 30 TAC §106.6(b) and §122.143(4), Permit by Rule Registration Number 111045, Federal Operating Permit (FOP) Number O1127, Special Terms and Conditions Number 8, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the permitted emissions rate; and 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O1127, General Terms and Conditions, and THSC, §382.085(b), by failing to submit deviation reports no later than 30 days after the end of each reporting period; PENALTY: $29,838; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(25) COMPANY: Military Highway Water Supply Corporation; DOCKET NUMBER: 2015-1452-PWS-E; IDENTIFIER: RN101258515; LOCATION: Los Indios, Cameron County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average; PENALTY: $417; ENFORCEMENT COORDINATOR: Holly Kneisley, (817) 588-5856; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(26) COMPANY: MOORE STATION WATER SUPPLY CORPORATION; DOCKET NUMBER: 2015-1608-PWS-E; IDENTIFIER: RN101231256; LOCATION: Moore Station, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(iv), Texas Health and Safety Code, §341.0315(c) and TCEQ AO Docket Number 2009-2061-PWS-E, Ordering Provision Number 2.c., by failing to provide a minimum elevated storage capacity; PENALTY: $4,400; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(27) COMPANY: Ozona Retail, Incorporated dba Circle Bar Truck Corral; DOCKET NUMBER: 2015-1252-PST-E; IDENTIFIER: RN102010519; LOCATION: Ozona, Crockett 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: $9,000; ENFORCEMENT COORDINATOR: John Duncan, (512) 239-2720; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 698-9674.

(28) COMPANY: PINE KNOB ESTATE WATER, INCORPORATED; DOCKET NUMBER: 2015-1701-PWS-E; IDENTIFIER: RN101221877; LOCATION: Cleveland, Montgomery County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(c)(2)(A) and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the executive director by the tenth day of the month following the end of the monitoring period; 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 locations that were sampled and failing to timely submit to the TCEQ a copy of the consumer notification and certification that the consumer notification has been distributed to the persons served at the locations in a manner consistent with TCEQ requirements for the January 1, 2015 - June 30, 2015 monitoring period; and 30 TAC §290.117(i)(5) and (k), by failing to timely deliver the public education materials in the event of an exceedance of the lead action level and to continue the delivery of the public education materials for as long as the lead action level was not met; PENALTY: $2,292; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(29) COMPANY: PM Country Store LLC dba Circle M Country Store; DOCKET NUMBER: 2015-1388-PST-E; IDENTIFIER: RN103027017; LOCATION: Marshall, Harrison County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tanks (USTs); and 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; PENALTY: $6,123; ENFORCEMENT COORDINATOR: John Duncan, (512) 239-2720; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(30) COMPANY: Ryan R. Mounger; DOCKET NUMBER: 2015-1705-LII-E; IDENTIFIER: RN103332441; LOCATION: Crowley, Tarrant County; TYPE OF FACILITY: landscape irrigation; RULE VIOLATED: 30 TAC §344.70(b), by failing to include in all advertisements for irrigation services, the irrigator's license number in the form of "LI_____"; PENALTY: $262; ENFORCEMENT COORDINATOR: Kingsley Coppinger, (512) 239-6581; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(31) COMPANY: SAHAR ENTERPRISES, INCORPORATED dba Amber Food Mart; DOCKET NUMBER: 2015-1622-PST-E; IDENTIFIER: RN102965191; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; 30 TAC §334.50(d)(1)(B)(ii) and (b)(2) and TWC, §26.3475(a) and (c)(1), by failing to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: $24,330; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(32) COMPANY: Targa Midstream Services LLC; DOCKET NUMBER: 2015-1568-AIR-E; IDENTIFIER: RN100238716; LOCATION: Chico, Wise County; TYPE OF FACILITY: oil and gas plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O3181, Special Terms and Conditions (STC) Number 2.F., by failing to submit an initial notification for a reportable emissions event, within 24 hours of the discovery; and 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), THSC, §382.085(b), FOP Number O3181, STC Number 12, and New Source Review Permit Number 84108, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: $8,990; ENFORCEMENT COORDINATOR: Eduardo Heras, (512) 239-2422; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(33) COMPANY: TPC Group LLC and John Edward Frantz; DOCKET NUMBER: 2015-1074-IWD-E; IDENTIFIER: RN103872503; LOCATION: Houston, Harris County; TYPE OF FACILITY: organic chemicals manufacturing plant; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0000587000, Effluent Limitations and Monitoring Requirements Number 1, Outfall Number 002, by failing to comply with permitted effluent limits; PENALTY: $63,250; Supplemental Environmental Project offset amount of $31,625; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(34) COMPANY: VM and AM Holdings Incorporated dba Otto's 14; DOCKET NUMBER: 2015-1479-PST-E; IDENTIFIER: RN101823284; LOCATION: Marshall, Harrison County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; 30 TAC §334.49(a)(2) and (c)(2)(C), and TWC, §26.3475(d), by failing to ensure that the corrosion protection system at the facility was designed, installed, operated, and maintained in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system and failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly; 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month and failing to provide release detection for the pressurized piping associated with the UST system; and 30 TAC §334.602(a), by failing to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C; PENALTY: $15,934; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-201600598
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: February 9, 2016

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Enforcement Orders

An agreed order was entered regarding Enterprise Products Operating LLC, Docket No. 2011-1356-AIR-E on February 4, 2016 assessing $596,465 in administrative penalties with $119,292 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Horseshoe Village MHC, LLC, Docket No. 2013-1708-MWD-E on February 4, 2016 assessing $8,126 in administrative penalties with $1,625 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Devon Gas Services, L.P., Docket No. 2013-1755-AIR-E on February 4, 2016 assessing $52,486 in administrative penalties with $10,497 deferred.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (210) 403-4063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gulf Coast Waste Disposal Authority, Docket No. 2014-0052-MWD-E on February 4, 2016 assessing $98,764 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Crystal City, Docket No. 2014-0729-MWD-E on February 4, 2016 assessing $8,688 in administrative penalties with $1,737 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tristar Aggregates 1, LLC, Docket No. 2014-0752-WQ-E on February 4, 2016 assessing $8,750 in administrative penalties with $1,750 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2520, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Savoy, Docket No. 2014-0891-MWD-E on February 4, 2016 assessing $41,250 in administrative penalties with $8,250 deferred.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (817) 588-5892, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Samsung Austin Semiconductor, LLC, Docket No. 2014-1332-AIR-E on February 4, 2016 assessing $9,145 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Eduardo Heras, Enforcement Coordinator at (512) 239-2422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hydril Company, Docket No. 2014-1389-AIR-E on February 4, 2016 assessing $15,002 in administrative penalties with $2,999 deferred.

Information concerning any aspect of this order may be obtained by contacting Farhaud Abbaszadeh, Enforcement Coordinator at (512) 239-0779, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ellinger Materials, LLC, Docket No. 2014-1538-WQ-E on February 4, 2016 assessing $19,500 in administrative penalties with $3,900 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2520,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Mullin, Docket No. 2014-1647-MWD-E on February 4, 2016 assessing $4,175 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2547, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SANTA ANITA RECLAMATION PROJECT, LLC, Docket No. 2014-1698-MLM-E on February 4, 2016 assessing $14,782 in administrative penalties with $2,956 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CEN-TEX PLATING CO., INC., Docket No. 2015-0022-MLM-E on February 4, 2016 assessing $68,938 in administrative penalties with $65,338 deferred.

Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Enterprise Products Operating LLC, Docket No. 2015-0034-AIR-E on February 4, 2016 assessing $82,125 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (713) 767-3567, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Martin Operating Partnership L.P., Docket No. 2015-0090-IWD-E on February 4, 2016 assessing $10,500 in administrative penalties with $2,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Christopher Bost, Enforcement Coordinator at (512) 239-4575, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Baird, Docket No. 2015-0177-MWD-E on February 4, 2016 assessing $28,621 in administrative penalties with $5,724 deferred.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2520, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Total Petrochemicals & Refining USA, Inc., Docket No. 2015-0324-AIR-E on February 4, 2016 assessing $54,564 in administrative penalties with $10,912 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Houston Refining LP, Docket No. 2015-0454-AIR-E on February 4, 2016 assessing $118,127 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rentech Nitrogen Pasadena, LLC, Docket No. 2015-0493-AIR-E on February 4, 2016 assessing $65,250 in administrative penalties with $13,050 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TERRA TEXAS LAND COMPANY, LLC, Docket No. 2015-0588-MSW-E on February 4, 2016 assessing $1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (817) 588-5892, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. I. du Pont de Nemours and Company, Docket No. 2015-0595-AIR-E on February 4, 2016 assessing $159,597 in administrative penalties with $31,919 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Lubbock, Docket No. 2015-0599-MWD-E on February 4, 2016 assessing $38,587 in administrative penalties with $7,717 deferred.

Information concerning any aspect of this order may be obtained by contacting Austin Henck, Enforcement Coordinator at (512) 239-6155, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Richards Independent School District, Docket No. 2015-0615-MWD-E on February 4, 2016 assessing $9,489 in administrative penalties with $1,897 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SPECIALIZED WASTE SYSTEMS, INC., Docket No. 2015-0621-IHW-E on February 4, 2016 assessing $20,920 in administrative penalties with $4,184 deferred.

Information concerning any aspect of this order may be obtained by contacting Tiffany Maurer, Enforcement Coordinator at (512) 239-2696, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Plainview BioEnergy, LLC, Docket No. 2015-0624-IWD-E on February 4, 2016 assessing $15,960 in administrative penalties with $3,192 deferred.

Information concerning any aspect of this order may be obtained by contacting Jason Fraley, Enforcement Coordinator at (512) 239-2552, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Total Petrochemicals & Refining USA, Inc., Docket No. 2015-0645-IWD-E on February 4, 2016 assessing $37,500 in administrative penalties with $7,500 deferred.

Information concerning any aspect of this order may be obtained by contacting Christopher Bost, Enforcement Coordinator at (512) 239-4575, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Michelle Keane dba Keanes Quickmart, Docket No. 2015-0658-PST-E on February 4, 2016 assessing $11,750 in administrative penalties with $2,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Holly Kneisley, Enforcement Coordinator at (817) 588-5856, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chevron Phillips Chemical Company LP, Docket No. 2015-0678-AIR-E on February 4, 2016 assessing $13,125 in administrative penalties with $2,625 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Dickinson, Docket No. 2015-0680-WQ-E on February 4, 2016 assessing $12,375 in administrative penalties with $2,475 deferred.

Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Regency Field Services LLC, Docket No. 2015-0707-AIR-E on February 4, 2016 assessing $11,475 in administrative penalties with $2,295 deferred.

Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (713) 767-3567, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CECIL THOMPSON TREE SERVICE, INC., Docket No. 2015-0717-MSW-E on February 4, 2016 assessing $7,689 in administrative penalties with $1,537 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Boyett, Enforcement Coordinator at (512) 239-2503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Lubrizol Corporation, Docket No. 2015-0765-AIR-E on February 4, 2016 assessing $30,000 in administrative penalties with $6,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Eduardo Heras, Enforcement Coordinator at (512) 239-2422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding R. R. Donnelley & Sons Company, Docket No. 2015-0780-AIR-E on February 4, 2016 assessing $12,563 in administrative penalties with $2,512 deferred.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (210) 403-4063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding San Felipe Stone, Inc., Docket No. 2015-0789-WQ-E on February 4, 2016 assessing $10,000 in administrative penalties with $2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Austin Presidio Residential, LLC, Docket No. 2015-0798-EAQ-E on February 4, 2016 assessing $18,750 in administrative penalties with $3,750 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Haskell, Docket No. 2015-0814-PWS-E on February 4, 2016 assessing $762 in administrative penalties with $762 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MOTIVA ENTERPRISES LLC, Docket No. 2015-0860-PWS-E on February 4, 2016 assessing $1,006 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding APAC-TEXAS, Inc., Docket No. 2015-0896-EAQ-E on February 4, 2016 assessing $11,438 in administrative penalties with $2,287 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ranger Ready Mix, LLC, Docket No. 2015-0906-MLM-E on February 4, 2016 assessing $29,506 in administrative penalties with $5,900 deferred.

Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2547, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Bogata, Docket No. 2015-0952-MWD-E on February 4, 2016 assessing $9,062 in administrative penalties with $1,812 deferred.

Information concerning any aspect of this order may be obtained by contacting Farhaud Abbaszadeh, Enforcement Coordinator at (512) 239-0779, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Moran, Docket No. 2015-0972-PWS-E on February 4, 2016 assessing $315 in administrative penalties with $315 deferred.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tom Van Nguyen dba Lisa Food Mart, Docket No. 2015-0976-PST-E on February 4, 2016 assessing $50,725 in administrative penalties with $10,145 deferred.

Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (817) 588-5892, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Avery, Docket No. 2015-1038-PWS-E on February 4, 2016 assessing $157 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2601, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Dupre Logistics LLC, Docket No. 2015-1050-PST-E on February 4, 2016 assessing $7,608 in administrative penalties with $1,521 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Stanton, Docket No. 2015-1052-PWS-E on February 4, 2016 assessing $195 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ROWENA WATER SUPPLY CORPORATION, Docket No. 2015-1053-PWS-E on February 4, 2016 assessing $225 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katy Montgomery, Enforcement Coordinator at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Goree, Docket No. 2015-1113-PWS-E on February 4, 2016 assessing $157 in administrative penalties with $157 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of San Augustine, Docket No. 2015-1136-PWS-E on February 4, 2016 assessing $345 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Henrietta, Docket No. 2015-1211-PWS-E on February 4, 2016 assessing $2,015 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (210) 403-4076, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201600631

Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 10, 2016

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Notice of Receipt of Application and Intent to Obtain New Municipal Solid Waste Permit Proposed Permit Number 2387

APPLICATION. City of Huntsville, 1212 Avenue M, Huntsville, Walker County, Texas 77320, a municipality and owner/operator of the City of Huntsville transfer station, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit to operate a New MSW Type V transfer station processing facility. The proposed permit would authorize the construction of a new transfer station building and infrastructure to replace the current facility's transfer station. The facility is located 590 Interstate 45 N, Huntsville, Walker County, Texas 77320. The TCEQ received this application on October 20, 2015. The permit application is available for viewing and copying at City of Huntsville, City Hall, 1212 Avenue M, Huntsville, Texas, Walker County, Texas 77340 and may be viewed online at http://www.ftwweaverboos.com. The following web page 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: http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=30.74425&lng=-95.5956&zoom=13&type=r. For exact location, refer to application.

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

CHANGE IN LAW. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in law.

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 City of Huntsville at the address stated above or by calling Mr. Matt Benoit, City Manager, at (936) 291-5401.

TRD-201600625
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 10, 2016

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Notice of Receipt of Application and Intent to Obtain New Municipal Solid Waste Permit Proposed Permit Number 2388

APPLICATION. SouthWaste Disposal, LLC, 9575 Katy Freeway, Suite 130, Houston, Harris County, Texas 77024, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new municipal solid waste composting permit to compost grease trap waste/septic/sewage sludge (GSS), dairy/food including meat and fish, and bulking material such as chipped and shredded wood and vegetation. The Sealy Composting Facility is proposed to be located at the intersection of Bartlett Road and Brazos 10 Lane, Sealy, Austin County, Texas 77474. The TCEQ received this application on November 16, 2015. The permit application is available for viewing and copying at the Bellville Public Library, 12 West Palm Street, Bellville, Austin County, Texas 77418 and may be viewed online at http://dbsa-client-access.com/application/file_access.html. The following web page 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: http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.77749&lng=-96.075268&zoom=12&type=r. For exact location, refer to application.

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

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

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

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period, and the statement "(I/we) request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and

explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

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

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted either electronically at www.tceq.texas.gov/about/comments.html or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from SouthWaste Disposal, LLC, at the address stated above or by calling Mr. Tim Cox, Vice President of Operations at (866) 413-9494.

TRD-201600627
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 10, 2016

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Notice of Water Rights Applications

Notices issued February 1, 2016 through February 4, 2016.

INFORMATION SECTION

APPLICATION NO. 14-1492A RAINS FAMILY LIMITED PARTNERSHIP, 7141 Club Drive, Odessa, Texas 79762, has applied to amend Certificate of Adjudication No. 14-1492 to authorize an existing reservoir on Maynard Creek, Colorado River Basin for recreational purposes in Kimble County. More information on the application and how to participate in the permitting process is given below.

The application was received on January 31, 2014. Additional information and fees were received on March 11, March 17, June 3, June 26 and October 1, 2014. The application was declared administratively complete and filed with the Office of the Chief Clerk on October 23, 2014.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would contain special conditions including, but not limited to streamflow restrictions. The application, technical memoranda, and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, Texas 78753.

Written public comments and requests for a public meeting should be received in the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

APPLICATION NO. 18-3863C GUADALUPE-BLANCO RIVER AUTHORITY seeks an amendment to Certificate of Adjudication No. 18-3863 to add mining and domestic use to its authorized water; to add an additional place of use for the authorized water in DeWitt, Gonzales, Guadalupe, and Comal counties; to add an exempt interbasin transfer to those portions of Gonzales, DeWitt, Guadalupe, and Comal counties in the San Antonio and Lavaca River Basins and the Lavaca-Guadalupe Coastal Basin; and to add a 247-mile diversion segment on the Guadalupe River, Guadalupe River Basin. More information on the application and how to participate in the permitting process is given below.

The application and required fees were received on February 21, 2011. Additional information was received on May 20, 2011, April 25, 2012, August 13 and December 16, 2013, and April 25, June 30, and October 8, 2014. The application was declared administratively complete and filed with the Office of the Chief Clerk on July 5, 2012.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, streamflow restrictions. The application, technical memoranda, and Executive Director's draft amendment are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Bldg. F, Austin, Texas 78753.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk at the address provided in the information section below by February 22, 2016.

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

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any: (2) applicant's name and permit number; (3) the statement (I/we) request a contested case hearing; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For infor-

mation concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201600630
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 10, 2016

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Texas Facilities Commission

Request for Proposals #303-6-20544

The Texas Facilities Commission (TFC), on behalf of the Health and Human Services Commission (HHSC) and the Department of Aging and Disability Services (DADS), announces the issuance of Request for Proposals (RFP) #303-6-20544. TFC seeks a five (5) or ten (10) year lease of approximately 7,194 square feet of office space in Cleburne, Texas.

The deadline for questions is March 1, 2016, and the deadline for proposals is March 15, 2016, at 3:00 p.m. The award date is April 20, 2016. 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=122653.*

TRD-201600599
Kay Molina
General Counsel
Texas Facilities Commission
Filed: February 9, 2016

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Request for Proposals #303-6-20545

The Texas Facilities Commission (TFC), on behalf of the Department of Public Safety (DPS), announces the issuance of Request for Proposals (RFP) #303-6-20545. TFC seeks a five (5) or ten (10) year lease of approximately 2,655 square feet of usable space that consists of 2,461 square feet of office space and 194 square feet of outdoor employee lounge area space in Copperas Cove, Texas.

The deadline for questions is March 2, 2016, and the deadline for proposals is March 16, 2016, at 3:00 p.m. The award date is April 20, 2016, 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=122654.*

TRD-201600601
Kay Molina
General Counsel
Texas Facilities Commission
Filed: February 9, 2016

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Texas Department of Insurance

Company Licensing

Application for admission to the State of Texas by EDUCATORS HEALTH PLANS LIFE, ACCIDENT AND HEALTH, INC., a foreign life, accident and/or health company. The home office is in Murray, Utah.

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 Godwin Ohaechesi, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201600640
Norma Garcia
General Counsel
Texas Department of Insurance
Filed: February 10, 2016

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Public Notice

To comply with 28 Texas Administrative Code §7.68(s), the Texas Department of Insurance is providing notice of the annual, quarterly, and supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms, and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. These checklists may be found at *http://www.tdi.texas.gov/financial/indexsmart.html.*

TRD-201600641
Norma Garcia
General Counsel
Texas Department of Insurance
Filed: February 10, 2016

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Texas Lottery Commission

Scratch Ticket Game Number 1765 "Gas Monkey Garage™"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1765 is "GAS MONKEY GARAGE™". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1765 shall be $2.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1765.

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, 2X SYMBOL, $2.00, $4.00, $5.00, $10.00, $20.00, $50.00, $100, $500 and $25,000.

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. 1765 - 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
2X SYMBOL	DBL
$2.00	TWO$
$4.00	FOUR$
$5.00	FIVE$
$10.00	TEN$
$20.00	TWENTY
$50.00	FIFTY
$100	ONE HUN
$500	FIV HUN
$25,000	25 THOU

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. Low-Tier Prize - A prize of $2.00, $4.00, $5.00, $10.00 or $20.00.

G. Mid-Tier Prize - A prize of $50.00, $100 or $500.

H. High-Tier Prize - A prize of $25,000.

I. 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.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1765), 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: 1765-0000001-001.

K. Pack - A Pack of "GAS MONKEY GARAGE™" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of two (2). One Ticket will be folded over to expose the front and back of one Ticket on each Pack. Please note the books be in an A, B, C and D configurations.

L. 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.

M. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "GAS MONKEY GARAGE™" Scratch Ticket Game No. 1765 Ticket.

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 "GAS MONKEY GARAGE™" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 23 (twenty-three) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If a player reveals a "2X" Play Symbol, the player wins DOUBLE the PRIZE for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly 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-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. A Ticket can win up to ten (10) 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 Symbols 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 three (3) different "WINNING NUMBERS" Play Symbols.

E. Non-winning "YOUR NUMBERS" Play Symbols will all be different.

F. Non-winning Prize Symbols will never appear more than two (2) times.

G. The "2X" (DBL) Play Symbol will never appear in the "WINNING NUMBERS" Play Symbol spots.

H. The "2X" (DBL) Play Symbol will only 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" Play Symbol (i.e., 5 and $5).

2.3 Procedure for Claiming Prizes.

A. To claim a "GAS MONKEY GARAGE™" Scratch Ticket Game prize of $2.00, $4.00, $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 "GAS MONKEY GARAGE™" Scratch Ticket Game prize of $25,000, 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 "GAS MONKEY GARAGE™" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 30 days of notification or the prize will be awarded to an Alternate.

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 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 "GAS MONKEY GARAGE™" 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 "GAS MONKEY GARAGE™" 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "GAS MONKEY GARAGE™" Scratch Ticket may be entered into one of four promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,200,000 Scratch Tickets in the Scratch Ticket Game No. 1765. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1765 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
$2	691,200	10.42
$4	691,200	10.42
$5	115,200	62.50
$10	115,200	62.50
$20	57,600	125.00
$50	19,920	361.45
$100	3,000	2,400.00
$500	90	80,000.00
$25,000	5	1,440,000.00

*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 4.25. 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. 1765 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 Game No. 1765, 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-201600626
Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 10, 2016

♦ ♦ ♦

Scratch Ticket Game Number 1796 "Super Loteria"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1796 is "SUPER LOTERIA". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1796 shall be $5.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1796.

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: THE MOCKINGBIRD SYMBOL, THE CACTUS SYMBOL, THE

BOWL SYMBOL, THE ROADRUNNER SYMBOL, THE BAT SYMBOL, THE PIÑATA SYMBOL, THE COWBOY SYMBOL, THE NEWSPAPER SYMBOL, THE SUNSET SYMBOL, THE COWBOY HAT SYMBOL, THE COVERED WAGON SYMBOL, THE MARACAS SYMBOL, THE LONE STAR SYMBOL, THE CORN SYMBOL, THE HEN SYMBOL, THE SPEAR SYMBOL, THE GUITAR SYMBOL, THE FIRE SYMBOL, THE MORTAR PESTLE SYMBOL, THE WHEEL SYMBOL, THE PECAN TREE SYMBOL, THE JACKRABBIT SYMBOL, THE BOAR SYMBOL, THE ARMADILLO SYMBOL, THE LIZARD SYMBOL, THE CHILE PEPPER SYMBOL, THE HORSESHOE SYMBOL, THE HORSE SYMBOL, THE SHOES SYMBOL, THE BLUEBONNET SYMBOL, THE CHERRIES SYMBOL, THE OIL RIG SYMBOL, THE MOONRISE SYMBOL, THE RATTLESNAKE SYMBOL, THE WINDMILL SYMBOL, THE SPUR SYMBOL, THE SADDLE SYMBOL, $5.00, $10.00, $15.00, $20.00, $50.00, $100, $200, $500, $5,000 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: Game No. 1796 - 1.2D

PLAY SYMBOL	CAPTION
THE MOCKINGBIRD SYMBOL	THEMOCKINGBIRD
THE CACTUS SYMBOL	THE CACTUS
THE BOWL SYMBOL	THE BOWL
THE ROADRUNNER SYMBOL	THEROADRUNNER
THE BAT SYMBOL	THE BAT
THE PIÑATA SYMBOL	THE PIÑATA
THE COWBOY SYMBOL	THECOWBOY
THE NEWSPAPER SYMBOL	THENEWSPAPER
THE SUNSET SYMBOL	THE SUNSET
THE COWBOY HAT SYMBOL	THECOWBOYHAT
THE COVERED WAGON SYMBOL	THECOVEREDWAGON
THE MARACAS SYMBOL	THE MARACAS
THE LONE STAR SYMBOL	THE LONE STAR
THE CORN SYMBOL	THE CORN
THE HEN SYMBOL	THE HEN
THE SPEAR SYMBOL	THE SPEAR
THE GUITAR SYMBOL	THE GUITAR
THE FIRE SYMBOL	THE FIRE
THE MORTAR PESTLE SYMBOL	THEMORTARPESTLE
THE WHEEL SYMBOL	THE WHEEL
THE PECAN TREE SYMBOL	THEPECANTREE
THE JACKRABBIT SYMBOL	THEJACKRABBIT
THE BOAR SYMBOL	THE BOAR
THE ARMADILLO SYMBOL	THEARMADILLO
THE LIZARD SYMBOL	THELIZARD
THE CHILE PEPPER SYMBOL	THECHILEPEPPER
THE HORSESHOE SYMBOL	THEHORSESHOE
THE HORSE SYMBOL	THE HORSE
THE SHOES SYMBOL	THE SHOES
THE BLUEBONNET SYMBOL	THEBLUEBONNET
THE CHERRIES SYMBOL	THECHERRIES
THE OIL RIG SYMBOL	THE OIL RIG
THE MOONRISE SYMBOL	THE MOONRISE
THE RATTLESNAKE SYMBOL	THERATTLESNAKE
THE WINDMILL SYMBOL	THEWINDMILL
THE SPUR SYMBOL	THE SPUR
THE SADDLE SYMBOL	THESADDLE

$5.00	FIVE$
$10.00	TEN$
$15.00	FIFTN
$20.00	TWENTY
$50.00	FIFTY
$100	ONE HUN
$200	TWO HUN
$500	FIV HUN
$5,000	FIV THOU
$100,000	100 THOU

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. Low-Tier Prize - A prize of $5.00, $10.00, $15.00 or $20.00.

G. Mid-Tier Prize - A prize of $50.00, $100, $200 or $500.

H. High-Tier Prize - A prize of $5,000 or $100,000.

I. 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.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1796), 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: 1796-0000001-001.

K. Pack - A Pack of the "SUPER LOTERIA" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Scratch Ticket 001 and back of 075 while the other fold will show the back of Scratch Ticket 001 and front of 075.

L. 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.

M. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "SUPER LOTERIA" Scratch Ticket Game No. 1796.

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 "SUPER LOTERIA" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 52 (fifty-two) Play Symbols. The player scratches the CALLER'S CARD area to reveal 21 symbols. The player scratches ONLY the symbols on the PLAY BOARD that match the symbols revealed on the CALLER'S CARD. If the player reveals a complete row, column, or diagonal line, the player wins the prize for that line. BONUS GAMES: The player scratches ONLY the symbols on the LOTERIA BONUS GAMES that match the symbols revealed on the CALLER'S CARD. If a player reveals all 4 symbols in any one GAME, the player wins the PRIZE for that GAME. El jugador raspa las CARTAS DEL GRITON para revelar 21 símbolos. El jugador raspa SOLAMENTE los símbolos en la TABLA DE JUEGO que son iguales a los símbolos revelados en las CARTAS DEL GRITON para revelar una línea completa horizontal, vertical, o diagonal para ganar el premio para esa línea. JUEGOS DE BONO: El jugador raspa SOLAMENTE los símbolos de los JUEGOS DE BONO DE LA LOTERIA que son iguales a los símbolos revelados de la CARTA DEL GRITÓN. Si el jugador revela todos los 4 símbolos en cualquier JUEGO, el jugador gana el PREMIO para ese JUEGO. 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 52 (fifty-two) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut and have exactly 52 (fifty-two) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 52 (fifty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 52 (fifty-two) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

A. A Ticket can win up to six (6) times in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play Symbol patterns. Two (2) Tickets have matching Play Symbol patterns if they have the same Play Symbols in the same positions.

C. No matching Play Symbols in the CALLER'S CARD play area.

D. At least eight (8), but no more than twelve (12), CALLER'S CARD Play Symbols will match a symbol on the PLAY BOARD play area on a Ticket.

E. CALLER'S CARD Play Symbols will have a random distribution on the Ticket unless restricted by other parameters, play action or prize structure.

F. No matching Play Symbols are allowed on the PLAY BOARD play area.

G. BONUS GAMES: Every Bonus Game Grid will match at least one (1) Play Symbol to the CALLER'S CARD.

2.3 Procedure for Claiming Prizes.

A. To claim a "SUPER LOTERIA" Scratch Ticket Game prize of $5.00, $10.00, $15.00, $20.00, $50.00, $100, $200 or $500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a $50.00, $100, $200 or $500 Scratch Ticket Game. 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 "SUPER LOTERIA" Scratch Ticket Game prize of $5,000 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 "SUPER LOTERIA" 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 "SUPER LOTERIA" 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 "SUPER LOTERIA" 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 30,000,000 Scratch Tickets in Scratch Ticket Game No. 1796. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1796 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
$5	3,600,000	8.33
$10	3,000,000	10.00
$15	400,000	75.00
$20	400,000	75.00
$50	400,000	75.00
$100	125,250	239.52
$200	20,500	1,463.41
$500	3,000	10,000.00
$5,000	75	400,000.00
$100,000	15	2,000,000.00

*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 3.77. 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. 1796 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. 1796, 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-201600628
Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 10, 2016

♦ ♦ ♦

Scratch Ticket Game Number 1798 "Bonus Cashword"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1798 is "BONUS CASHWORD". The play style is "crossword".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1798 shall be $3.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1798.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z and the BLACKENED SQUARE SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. Crossword and Bingo style games do not typically have Play Symbol Captions. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1798 - 1.2D

PLAY SYMBOL	CAPTION
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	
N	
O	
P	
Q	
R	
S	
T	
U	
V	
W	
X	
Y	
Z	
▒ SYMBOL	

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. Low-Tier Prize - A prize of $3.00, $5.00, $10.00 or $20.00.

G. Mid-Tier Prize - A prize of $100 or $500.

H. High-Tier Prize - A prize of $5,000 or $50,000.

I. 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.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1798), 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: 1798-0000001-001.

K. Pack - A Pack of the "BONUS CASHWORD" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Tickets 001 will be shown on the front of the Pack; the back of Ticket 125 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between

the Tickets in a Pack. Every other book will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 125 will be shown on the back of the Pack.

L. 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.

M. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BONUS CASHWORD" Scratch Ticket Game No. 1798.

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 "BONUS CASHWORD" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 141 (one hundred forty-one) possible Play Symbols. The player must scratch all of the 18 YOUR LETTERS and the 2 BONUS letters. The player then scratches all the letters found in the BONUS CASHWORD puzzle that exactly match the YOUR LETTERS and the BONUS letters. If the player has scratched at least 3 complete "WORDS", the player wins the prize found in the PRIZE LEGEND. Only one prize will be paid per Ticket. Only letters within the BONUS CASHWORD puzzle that are matched with the YOUR LETTERS and BONUS letters can be used to form a complete "WORD". In the BONUS CASHWORD puzzle, every lettered square within an unbroken horizontal (left to right) or vertical (top to bottom) sequence must be matched with the YOUR LETTERS or BONUS letters to be considered a complete "WORD". "WORDS" revealed in a diagonal sequence are not considered "WORDS". "WORDS" within "WORDS" are not eligible for a prize. A complete "WORD" must contain at least three letters. 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 141 (one hundred forty-one) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption; Crossword and Bingo games do not typically have Play Symbol captions;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut and have exactly 141 (one hundred forty-one) 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 141 (one hundred forty-one) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 141 (one hundred forty-one) 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. Each Ticket consists of a YOUR LETTERS play area, a BONUS letters play area and one Bonus Cashword Puzzle Grid.

D. Each word will appear only once per Ticket on the Bonus Cashword Puzzle Grid.

E. Each letter will only appear once per Ticket in the YOUR LETTERS play area and BONUS letters play area.

F. Each Bonus Cashword Puzzle Grid will contain the following: (a) 4 sets of 3 - letter words, (b) 5 sets of 4 - letter words, (c) 3 sets of 5 - letter words, (d) 3 sets of 6 - letter words, (e) 1 set of 7 - letter words, (f) 2 sets of 8 - letter words and (g) 1 set of 9 - letter words.

G. All Bonus Cashword Puzzle Grids will have an equal chance of winning a prize.

H. There will be a minimum of three (3) vowels in the YOUR LETTERS play area and BONUS letters play area combined.

I. The length of words found in the Bonus Cashword Puzzle Grid will range from three (3) to nine (9) letters.

J. Only words from the approved word list will appear in the Bonus Cashword Puzzle Grid. (Texas_Bonus_v2_2July2015.doc)

K. None of the prohibited words (Texas_Prohibited_v3_2July2015.doc) will appear horizontally (in either direction), vertically (in either direction) or diagonally (in either direction) in the YOUR LETTERS play area (including the BONUS letters play area). In addition, when all rows of the YOUR LETTERS (including the BONUS letters play area) are joined together into a single continuous row of letters (first row, followed by second row, etc.), none of the prohibited words will appear in either the forward or reverse direction.

L. A player will never find a word horizontally (in either direction), vertically (in either direction) or diagonally (in either direction) in the YOUR LETTERS play area that matches a word in the Bonus Cashword Puzzle Grid.

M. Each letter, with the exception of vowels, will appear no more than nine (9) times in the Bonus Cashword Puzzle grid.

N. No Ticket will match eleven (11) words or more.

O. Only one (1) prize paid per Ticket.

P. Three (3) to ten (10) completed words will be revealed as per the prize structure.

Q. Sixteen (16) to eighteen (18) YOUR LETTERS will open at least one (1) letter in the Bonus Cashword Puzzle Grid. At least one (1) of the two (2) BONUS letters will open one (1) or more positions on the Bonus Cashword Puzzle Grid.

2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS CASHWORD" Scratch Ticket Game prize of $3.00, $5.00, $10.00, $20.00, $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 $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 "BONUS CASHWORD" Scratch Ticket Game prize of $5,000 or $50,000, 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 "BONUS CASHWORD" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under $600 from the "BONUS CASHWORD" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of $600 or more from the "BONUS CASHWORD" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket 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 35,040,000 Scratch Tickets in Scratch Ticket Game No. 1798. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1798 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
$3	3,363,840	10.42
$5	5,045,760	6.94
$10	700,800	50.00
$20	420,480	83.33
$100	73,876	474.31
$500	18,104	1,935.48
$5,000	90	389,333.33
$50,000	35	1,001,142.86

*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 3.64. 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. 1798 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. 1798, 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-201600629

Bob Biard
General Counsel
Texas Lottery Commission
Filed: February 10, 2016

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Texas Parks and Wildlife Department

Notice of Proposed Real Estate Transactions

Request for Recreational Trail Easement - Tarrant County

Inland Fisheries District Office

In a meeting on March 24, 2016, the Texas Parks and Wildlife Commission (the Commission) will consider a request from the City of Fort Worth Parks Department for a Recreational Trail Easement across land associated with the Inland Fisheries District Office in Tarrant County. At this meeting, the public will have an opportunity

to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Corky Kuhlmann, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at corky.kuhlmann@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Grant of an Easement - Floyd County

Approximately .2 Acres at Caprock Canyons State Park Trailway

In a meeting on March 24, 2016, the Texas Parks and Wildlife Commission (the Commission) will consider granting an easement of approximately .2 acres to accommodate one or more power transmission lines to be bored under the Caprock Canyons State Park Trailway in Floyd County. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Grant of an Easement - Brazoria County

Approximately 37 Acres at Justin Hurst Wildlife Management Area

In a meeting on March 24, 2016, the Texas Parks and Wildlife Commission (the Commission) will consider granting an easement of approximately 37 acres to cover an overhead transmission line installed in 1994 on the Justin Hurst Wildlife Management Area in Brazoria County for which an easement has not been previously executed. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Acceptance of Land Donation - Cameron County

Miscellaneous Tracts at Boca Chica

In a meeting on March 24, 2016, the Texas Parks and Wildlife Commission (the Commission) will consider accepting the donation of small tracts of land near Boca Chica in southeast Cameron County. These tracts would become part of the former Boca Chica State Park which is now leased to and managed by U.S. Fish and Wildlife Service as part of the Lower Rio Grande National Wildlife Refuge. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

Acquisition of Land - Stevens and Palo Pinto Counties

Approximately 970 Acres at Palo Pinto Mountains State Park

In a meeting on March 24, 2016, the Texas Parks and Wildlife Commission (the Commission) will consider the acquisition of approximately 970 acres in Palo Pinto and Stevens counties for addition to Palo Pinto Mountains State Park. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.texas.gov or through the TPWD web site at tpwd.texas.gov.

TRD-201600642
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: February 10, 2016

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Public Utility Commission of Texas

Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on February 1, 2016, pursuant to the Public Utility Regulatory Act, Texas Utilities Code Ann. §39.154 and §39.158 (West 2008 & Supp. 2015) (PURA).

Docket Style and Number: Application of Calpine Corporation for Approval Pursuant to §39.158 of the Public Utility Regulatory Act, Docket Number 45561.

The Application: Calpine Corporation (Calpine) has filed an application for approval of a proposed acquisition by Calpine's wholly-owned subsidiary, Pasadena Cogeneration, L.P., of fifty percent undivided ownership interest in a 750-megawatt dispatchable, combined cycle natural gas-fired generating facility. The total combined generation ownership of Calpine and MetLife Capital Credit, L.P., and their respective affiliates, after the proposed sale may exceed one percent of the total electricity offered for sale in the Electric Reliability Council of Texas.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the Commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 45561.

TRD-201600569
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 4, 2016

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Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on February 4, 2016, pursuant to the Texas Water Code.

Docket Style and Number: Application of the Estate of Patetreen Petty and DJM Enterprises for Sale, Transfer, or Merger of Facilities and Certificate Rights in Wood County (Big Wood Springs Water System), Docket Number 45581.

The Application: The Estate of Patetreen Petty (Petty Estate) and DJM Enterprises (DJM) filed an application for approval of a sale transfer or merger in which DJM will acquire all of the Petty Estate's water utility facilities and certificated service area under water Certificate of Convenience and Necessity No. 12367 in Wood County. The total area being requested includes approximately 300 acres and 83 current customers.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 45581.

TRD-201600620
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 9, 2016

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Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on February 5, 2016, pursuant to the Public Utility Regulatory Act, Texas Utilities Code Ann. §39.154 and §39.158 (West 2008 & Supp. 2015) (PURA).

Docket Style and Number: Application of Javelina Wind Energy Holdings, LLC for Approval Pursuant to §39.158 of the Public Utility Regulatory Act, Docket Number 45585.

The Application: Javelina Wind Energy Holdings, LLC (Javelina Holdings) has filed an application for approval of the issuance of passive Class B interests to JPM Capital Corporation and Bankers Commercial Corporation (collectively, Investors). The total combined generation ownership of Javelina Holdings, Investors, and their respective affiliates exceeds 1% of the total electricity offered for sale in the Electric Reliability Council of Texas.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 45585.

TRD-201600637
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 10, 2016

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Notice of Application to Amend a Service Provider Certificate of Operating Authority

On February 2, 2016, ExteNet Systems, Inc. and Odyssey Acquisition, LLC filed an application with the Public Utility Commission of Texas (commission) to amend service provider certificate of operating authority (SPCOA) Number 60769. Applicants request approval of a corporate restructuring.

Docket Style and Number: Application of ExteNet Systems, Inc. and Odyssey Acquisition, LLC to amend a Service Provider Certificate of Operating Authority, Docket Number 45567.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at 1-888-782-8477 no later than February 26, 2016. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45567.

TRD-201600583
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 5, 2016

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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 water and sewer certificates of convenience and necessity (CCN) in Montgomery County.

Docket Style and Number: Application of Aqua Texas, Inc. dba Aqua Texas to Amend its Certificates of Convenience and Necessity in Montgomery County (Enclave at Dobbin), Docket Number 45587.

The Application: Aqua Texas, Inc. dba Aqua Texas filed with the commission an application to amend water CCN No. 13203 and sewer CCN No. 21065 in Montgomery County, Texas.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. 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 45587.

TRD-201600639
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 10, 2016

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Notice of Application to Refund Remaining Gain-On-Sale Amounts

Notice is given to the public of an application filed on January 29, 2016, with the Public Utility Commission of Texas (commission) for authority to refund remaining gain-on-sale amounts.

Docket Title and Number: Application of Southwestern Public Service Company for Authority to Refund Remaining Gain-On-Sale Amounts

Associated with Docket Nos. 41430 and 44671; Docket Number 45560.

The Application: Southwestern Public Service Company (SPS) filed an application for approval of its proposed method for refunding to Texas Retail customers their share of the remaining portion of the final pre-tax gain on sale associated with SPS's sales of certain transmission assets to Sharyland Utilities, L.P. and Sharyland Distribution & Transmission Services, L.L.C. (Sharyland D&T Services) and to Oncor Electric Delivery Company LLC (Oncor). The application is filed in compliance with the final Order in Docket No. 44671. SPS proposes to make a refund of $2,566,918 to SPS's Texas retail customers. The refund amount reflects the remaining portion of the final pre-tax gain on sale owed to SPS's Texas retail customers resulting from the sale of certain transmission assets to Oncor and to Sharyland D&T Services. SPS has proposed that the refund be credited to its Texas retail customers in bills rendered for usage for calendar month May 2016. SPS is also proposing to true-up the credit amounts to ensure that the appropriate amount is credited to Texas retail customers.

Persons who wish to intervene or comment upon these proceedings should notify the commission as soon as possible, as an intervention deadline will be imposed. Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Docket Number 45560.

TRD-201600591
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 8, 2016

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Notice of Intent to Implement a Minor Rate Change Pursuant to 16 TAC §26.171

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on February 5, 2016, to implement a minor rate change pursuant to 16 TAC §26.171.

Tariff Control Title and Number: Notice of La Ward Telephone Company, Inc. for Approval of a Minor Rate Change Pursuant to16 Tex. Admin. Code §26.171 and PURA Section 53, Subchapter G, Tariff Control Number 45584.

The Application: La Ward Telephone Company, Inc. (La Ward) filed an application with the commission for revisions to its General Exchange Tariff. La Ward proposed an effective date of March 1, 2016. The estimated revenue increase to be recognized by La Ward is $13,192.00 in gross annual intrastate revenues. La Ward has 689 access lines in service in the state of Texas.

If the commission receives a complaint(s) relating to this application signed by 5% of the affected local service customers to which this application applies by February 29, 2016, the application will be docketed. The 5% limitation will be calculated based upon the total number of customers of record as of the calendar month preceding the commission's receipt of the complaint(s).

Persons wishing to comment on this application should contact the Public Utility Commission of Texas by February 29, 2016. Requests to intervene should be filed with the commission's Filing Clerk at P.O. Box 13326, Austin, Texas 78711-3326 or you may call the commission at (512) 936-7120 or toll-free 1-800-735-2989. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Tariff Control Number 45584.

TRD-201600621
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: February 9, 2016

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Texas Department of Transportation

Aviation Division - Request for Qualifications for Professional Services

The City of Georgetown, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a qualified firm for professional services. This solicitation is subject to 49 U.S.C. §47107(a)(17) and will be administered in the same manner as a solicitation conducted under Chapter 2254, Subchapter A of the Texas Government Code. TxDOT Aviation Division will solicit and receive qualifications for professional services as described below:

Airport Sponsor: City of Georgetown; Georgetown Municipal Airport, TxDOT CSJ No. 16MPGRGTN. Scope: Prepare an Airport Master Plan which includes, but is not limited to, information regarding existing and future conditions, proposed facility development to meet existing and future demand, constraints to development, anticipated capital needs, financial considerations, management structure and options, as well as an updated Airport Layout Plan. The Airport Master Plan should be tailored to the individual needs of the airport.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that any contract entered into pursuant to this advertisement, that disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises.

The DBE goal is set at 0%. TxDOT Project Manager is Michelle Hannah.

Interested firms shall utilize the Form AVN-551, titled "Qualifications for Aviation Planning 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. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-551 template. The AVN-551 format consists of eight 8 1/2" x 11" pages of data plus one optional illustration page. The optional illustration page shall be no larger than 11" x 17" and may be folded to an 8 1/2" x 11" size. A prime provider may only submit one AVN-551. If a prime provider submits more than one AVN-551, that provider will be disqualified. AVN-551s shall be stapled but not bound or folded in any other fashion. AVN-551s WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-551, firms are encouraged to download Form AVN-551 from the Tx-

DOT website as addressed above. Utilization of Form AVN-551 from a previous download may not be the exact same format. Form AVN-551 is a PDF Template.

Please note:

SEVEN completed copies of Form AVN-551 **must be received** by TxDOT, Aviation Division no later than March 29, 2016, 4:00 p.m. (CDST). Electronic facsimiles or forms sent by email will not be accepted. Please mark the envelope of the forms to the attention of Beverly Longfellow, using one of the delivery methods below:

Overnight Delivery

TxDOT - Aviation

200 East Riverside Drive

Austin, Texas 78704

Hand Delivery or Courier

TxDOT - Aviation

150 East Riverside Drive

5th Floor, South Tower

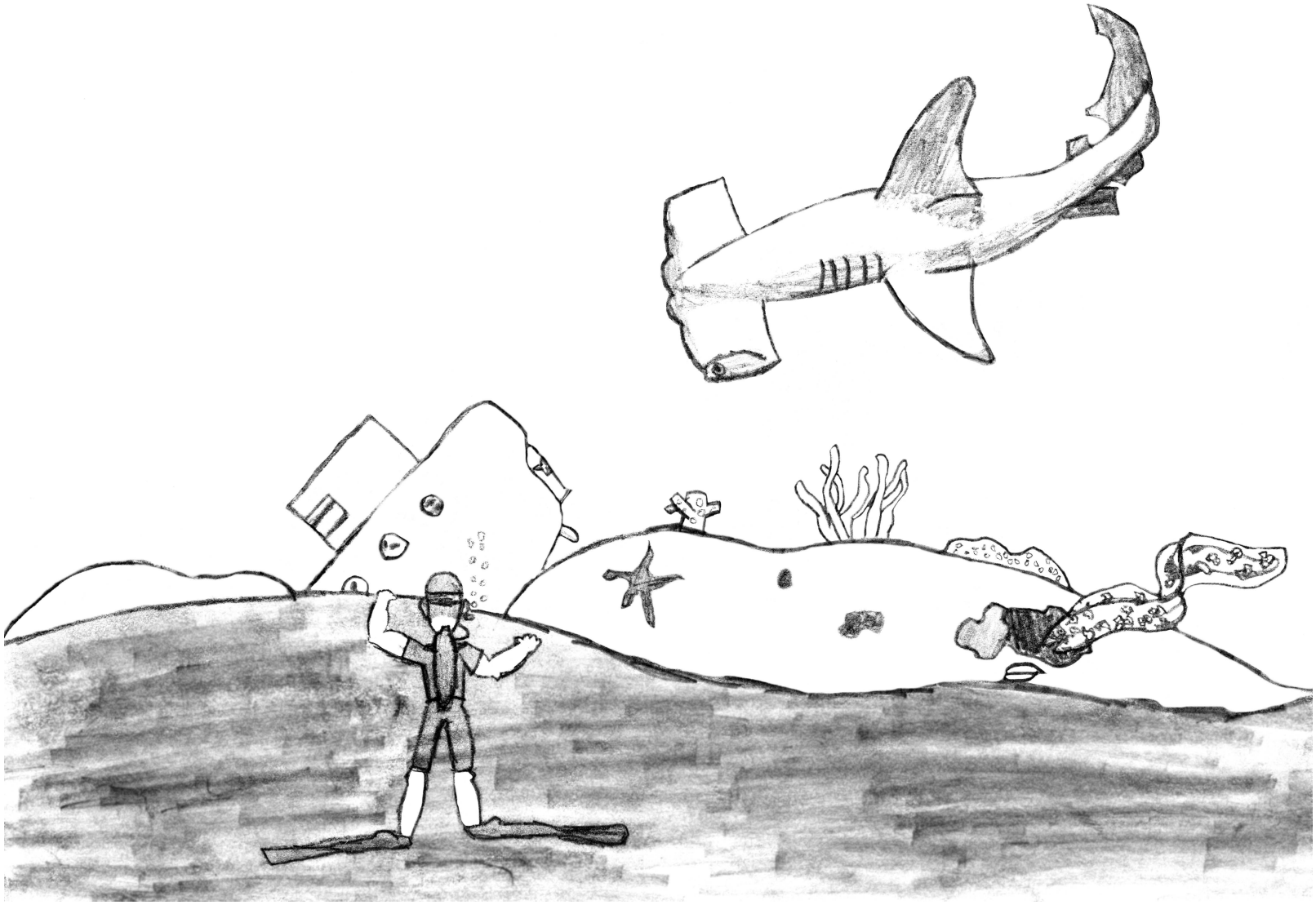
Austin, Texas 78704

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-551s. The committee will review all AVN-551s and rate and rank each. The evaluation criteria for airport planning projects 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. 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 Beverly Longfellow, Grant Manager. For technical questions, please contact Michelle Hannah, Project Manager.

TRD-201600607
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: February 9, 2016

♦ ♦ ♦



How to Use the Texas Register

Information Available: The 14 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.

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.

Review of Agency Rules - notices of state agency rules review.

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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