TEXAS REGISTER

Volume 41 Number 38 *September 16, 2016* *Pages 7227 - 7290*

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Texas Register, **(ISSN 0362-4781, USPS 12-0090),** is published weekly (52 times per year) for $259.00 ($382.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P O Box 1710, Latham, NY 12110.

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

POSTMASTER: Send address changes to the *Texas Register,* 136 Carlin Rd., Conklin, N.Y. 13748-1531.

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 12887
Austin, TX 78711
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THE ATTORNEY GENERAL

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

An index to the full text of these documents is available from the Attorney General's Internet site http://www.oag.state.tx.us. Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

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

Requests for Opinions

RQ-0126-KP

Requestor:

The Honorable Wiley B. McAfee

District Attorney

33rd & 424th Judicial Districts

Post Office Box 725

Llano, Texas 78643

Re: Election questions related to ballot image storage, the production of tally lists by election judges, and remedies for the unauthorized exclusion of a poll watcher (RQ-0126-KP).

Briefs requested by September 20, 2016.

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

TRD-201604648
Amanda Crawford
General Counsel
Office of the Attorney General
Filed: September 6, 2016

♦ ♦ ♦

Opinions

Opinion No. KP-0112

The Honorable Jim Murphy

Chair, Committee on Corrections

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether the State is required to assume liability when a local retirement system created pursuant to title 109 of the Texas Civil Statutes is unable to meet its financial obligations (RQ-0112-KP)

SUMMARY

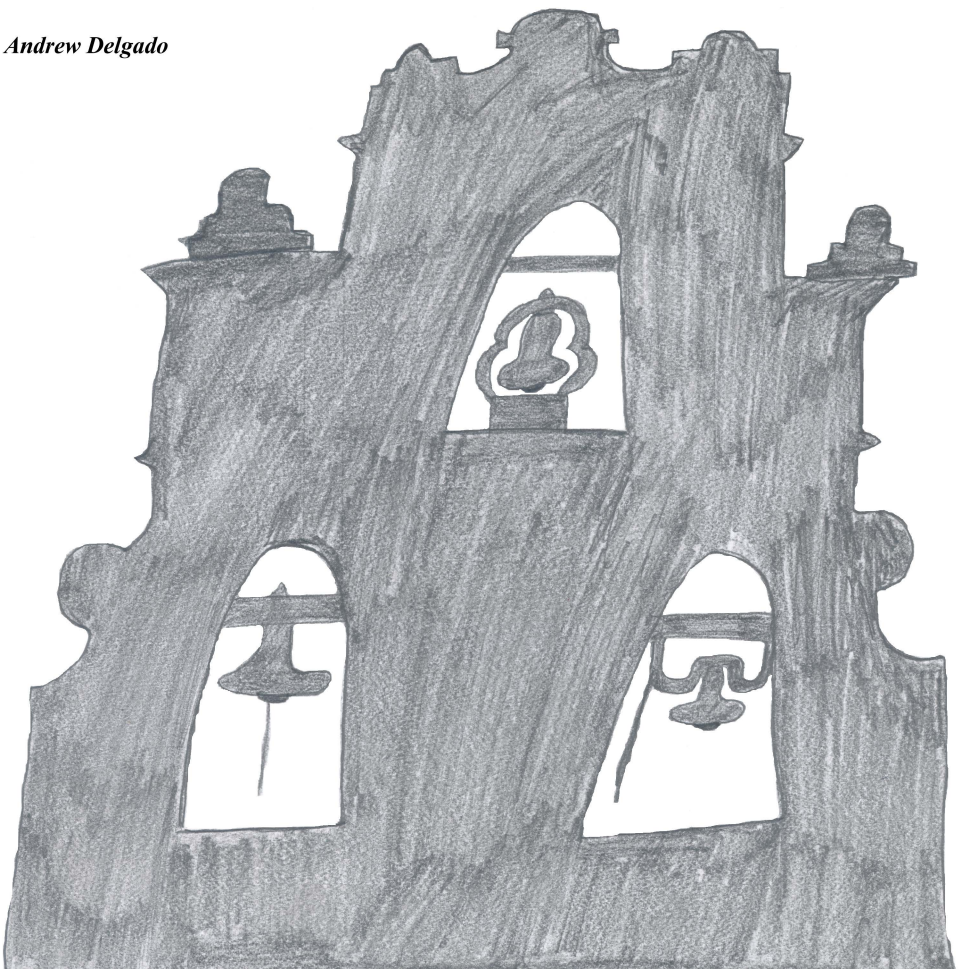
A court would likely conclude that the State is not required to assume liability when a municipal retirement system created under title 109 of the Texas Civil Statutes is unable to meet its financial obligations.

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

TRD-201604670
Amanda Crawford
General Counsel
Office of the Attorney General
Filed: September 7, 2016

♦ ♦ ♦

Andrew Delgado



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 1. OFFICE OF THE GOVERNOR

CHAPTER 5. GENERAL ADMINISTRATION

SUBCHAPTER B. ADMINISTRATIVE POLICIES

1 TAC §5.101

The Office of the Governor (OOG) proposes new 1 TAC §5.101, relating to identifying and escalating procurement contracts that require enhanced contract or performance monitoring.

Explanation of Proposed Rule

The purpose of the proposed rule is to implement changes made in the law regarding state contracting requirements by §2261.253(c), Texas Government Code. The new law requires a state agency, by rule to establish a procedure to identify contracts that require enhanced contract or performance monitoring; and submit information on these contracts to the agency's governing official. Additionally, the agency's contract management office or procurement director is required to immediately notify the agency's governing official of any serious issue or risk that is identified with respect to a contract monitored under §2261.253(c).

Fiscal Note

Ms. Jordan Hale, Director of Administration Division, Office of the Governor, has determined that for each of the first five years in which the proposed rule is in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed rule. Ms. Hale has also determined that there may be a positive fiscal impact on the state of Texas as a result of the increased contract management.

Public Benefit and Cost

Ms. Hale has also determined that for each year of the first five years in which the proposed rule is in effect, the public benefit anticipated as a result of the proposed rule will be to provide an effective and efficient means for the Office of the Governor to provide the appropriate level of contract management. There are no anticipated economic costs for persons required to comply with the proposed rule. There will be no adverse economic effect on small businesses or micro-businesses.

Written comments on the proposed rule may be submitted to Ms. Jordan Hale, Director of Administration Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, or to Jordan.Hale@gov.texas.gov. The deadline for receipt of comments is 5:00 p.m. CST on Monday, October 17, 2016.

The new section is proposed in accordance with Government Code, §2261.253(c), which requires the OOG to establish a procedure to identify each procurement contract that requires enhanced contract or performance monitoring.

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

§5.101. Identification and Escalation of Procurement Contracts that Require Enhanced Contract or Performance Monitoring.

(a) The OOG will complete a risk assessment to identify procurement contracts for goods or services from a private vendor that require enhanced contract or performance monitoring.

(b) The OOG will complete a risk assessment to evaluate whether enhanced contract or performance monitoring may be required for contracts with a value greater than $100,000. For contracts of a lesser value, the OOG may complete a risk assessment to evaluate whether enhanced contract or performance monitoring is indicated.

(c) The risk assessment may consider the following factors:

(1) total cost of the contract, including contract renewals;

(2) risk of loss to the agency under the contract;

(3) risk of fraud, waste or abuse;

(4) scope of the goods or services provided;

(5) availability of agency resources;

(6) complexity of the contract;

(7) business process impact of failure or delay;

(8) vendor past performance; and

(9) whether the vendor is a foreign or domestic person or entity.

(d) Information on these contracts will be reported to the Chief of Staff at least quarterly. The Chief of Staff will be notified immediately of any serious issue or risk that is identified with respect to such a contract.

(e) This section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

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

Filed with the Office of the Secretary of State on September 1, 2016.

TRD-201604612

Diane Morris
Deputy General Counsel
Office of the Governor
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 463-1955

♦ ♦ ♦

TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 129. STUDENT ATTENDANCE

SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §129.1025

The Texas Education Agency (TEA) proposes an amendment to §129.1025, concerning student attendance. The section adopts by reference the annual student attendance accounting handbook. The handbook provides student attendance accounting rules for school districts and charter schools. The proposed amendment would adopt by reference the *2016-2017 Student Attendance Accounting Handbook.*

The TEA has adopted its student attendance accounting handbook in rule since 2000. Attendance accounting evolves from year to year, so the intention is to annually update 19 TAC §129.1025 to refer to the most recently published student attendance accounting handbook.

Each annual student attendance accounting handbook provides school districts and charter schools with the Foundation School Program (FSP) eligibility requirements of all students, prescribes the minimum requirements of all student attendance accounting systems, lists the documentation requirements for attendance audit purposes, and details the responsibilities of all district personnel involved in student attendance accounting. The TEA distributes FSP resources under the procedures specified in each current student attendance accounting handbook. The final version of the student attendance accounting handbook is published on the TEA website. A supplement, if necessary, is also published on the TEA website.

The proposed amendment to 19 TAC §129.1025 would adopt by reference the student attendance accounting handbook for the 2016-2017 school year.

Significant changes to the *2016-2017 Student Attendance Accounting Handbook* from the *2015-2016 Student Attendance Accounting Handbook* include the following:

Section 2

The section on student detail reports would specify that campuses that offer multiple instructional tracks will have multiple student detail reports.

A requirement would be added that the student detail report contain the total eligible minutes present for a student in an Optional Flexible School Day Program or High School Equivalency Program.

The word *campus* would be changed to *track* in the student detail reports.

The campus summary report would be required to summarize all tracks on a campus.

Language would be added to specify that if a campus has multiple tracks, the earliest track beginning date and latest track ending date should be indicated in the campus and district summary reports.

The district summary report would be required to summarize all campuses in the school district or open-enrollment charter school.

Section 3

The attendance exception for an eligible transfer student would be removed from shared services arrangements (SSAs), including regional day school program for the deaf (RDSPD) SSAs.

Information would be added stating that a student is considered present for FSP funding purposes if the student is temporarily absent because of a documented appointment for the student or the student's child that is with a health care professional who is certified or registered by an appropriate agency of the State of Texas.

Language would be added to specify that the TEA will grant a maximum of six early release waivers per school year.

Information would be added to allow a school district or an open-enrollment charter school to add additional minutes to the instructional day to make up for closures due to bad weather or other issues of health or safety.

Section 4

A requirement would be added that a student with a disability cannot be reported with a special education instructional setting code in the Public Education Information Management System (PEIMS) before actual service begins.

Information would be added to clarify that the admission, review, and dismissal (ARD) committee may determine that services will begin on the same date as the ARD committee meeting with agreement from all parties.

Language would be added to specify that code 00 is used regardless of whether speech therapy is provided in the general education classroom or in a location other than a general education setting.

Language would be modified to specify that a teacher serving a student at home or hospital bedside while the student is in the special education homebound setting must be a certified special education teacher. Language relating to No Child Left Behind (NCLB) and the teacher's highly qualified status would be removed.

A requirement would be added to specify that if no special education services are being provided, the student should be dismissed from the special education program.

Clarification would be made regarding when to use instructional setting code 41 or 42.

A requirement would be added to clarify that personnel can be certified instead of being qualified when providing students with speech therapy or other services.

A requirement would be added that with the closing of speech therapy services, RDSPD SSAs must report students who reside in one district but receive educational services in another district as transfer students.

Section 5

Language would be added to specify that beginning with the 2016-2017 school year, schools and teachers will only need to meet state requirements for certification. The federal term *highly qualified teacher status* would no longer apply. Paraprofessionals would still be required to meet the highly qualified requirements of NCLB for the 2016-2017 school year.

A requirement would be added to state that teachers with less than a bachelor's degree are not eligible to teach Career and Technical Education courses that meet graduation requirements.

Section 6

The term *limited English proficient* would be changed to *English language learner* throughout the section.

Section 7

In the subsection on student eligibility for prekindergarten based on eligibility for the national school lunch program, information would be added relating to documentation of family income level.

Section 10

Language would be updated to align with statute that states that a juvenile justice alternative education program must operate at least 7 hours per day (420 minutes) and at least 180 days per year.

Section 12

An update would be added to state that a total of no more than three semester courses taken through the Texas Virtual School Network statewide course catalog may be used in determining a student's average daily attendance eligibility for any one semester with a maximum of six total semester courses in a school year. An exception would apply to a student who lacks just six semester courses to meet his or her graduation plan, is in the final semester of the school year, and did not generate FSP funding in the first semester of that school year.

Section 14

The definition of *school days* would be updated to state that the law requires that districts have 75,600 minutes unless a waiver has been issued to shorten the school year, that charter schools are required to have 75,600 minutes in the school year minus the number of minutes that are approved for waivers, and that maximum funding is based on 75,600 minutes.

The proposed amendment would place the specific procedures contained in the *2016-2017 Student Attendance Accounting Handbook* in the Texas Administrative Code. The TEA distributes FSP funds according to the procedures specified in each annual student attendance accounting handbook. Data reporting requirements are addressed through the PEIMS.

The handbook has long stated that school districts and open-enrollment charter schools must keep all student attendance documentation for five years from the end of the school year. Any new student attendance documentation required to be kept would correspond with the student attendance accounting requirement changes described previously.

FISCAL NOTE. Kara Belew, deputy commissioner for finance, has determined that for the first five-year period the amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment. There is no effect on local economy for the first five years that the proposed amendment is in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

PUBLIC BENEFIT/COST NOTE. Ms. Belew has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be to continue to inform the public of the existence of annual publications specifying attendance accounting procedures for school districts and charter schools. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND MICROBUSINESSES. There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

REQUEST FOR PUBLIC COMMENT. The public comment period on the proposal begins September 16, 2016, and ends October 17, 2016. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. Comments may also be submitted electronically to *rules@tea.texas.gov.* A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on September 16, 2016.

STATUTORY AUTHORITY. The amendment is proposed under the Texas Education Code (TEC), §25.081, which authorizes that each school year each school district and charter school provides for at least 75,600 minutes of instruction, including intermissions and recesses, for students. In addition, the commissioner may approve the instruction of students for fewer than 75,600 minutes if a calamity causes the school closing; TEC, §25.0812,which requires that school districts and charter schools may not schedule the last day of school for students before May 15; TEC, §30A.153, which requires the commissioner to adopt rules for the implementation of Foundation School Program (FSP) funding for the state virtual school network, including rules regarding attendance accounting; and TEC, §42.004, which authorizes the commissioner of education, in accordance with rules of the State Board of Education, to take such action and require such reports consistent with TEC, Chapter 42, as may be necessary to implement and administer the FSP.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §§25.081, 25.0812, 30A.153, and 42.004.

§129.1025. Adoption by Reference: Student Attendance Accounting Handbook.

(a) The student attendance accounting guidelines and procedures established by the commissioner of education under §129.21 of this title (relating to Requirements for Student Attendance Accounting for State Funding Purposes) and the Texas Education Code, §42.004, to be used by school districts and charter schools to maintain records and make reports on student attendance and student participation in special programs will be published annually.

(b) The standard procedures that school districts and charter schools must use to maintain records and make reports on student attendance and student participation in special programs for school year 2016-2017 [~~2015-2016~~] are described in the official Texas Ed-

ucation Agency (TEA) publication *2016-2017 [~~2015-2016~~] Student Attendance Accounting Handbook,* dated August [~~May~~] 2016, which is adopted by this reference as the agency's official rule. A copy of the *2016-2017 [~~2015-2016~~] Student Attendance Accounting Handbook,* dated August [~~May~~] 2016, is available for examination during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. In addition, the publication can be accessed from the TEA official website. The commissioner will amend the *2016-2017 [~~2015-2016~~] Student Attendance Accounting Handbook,* dated August [~~May~~] 2016, and this subsection adopting it by reference, as needed.

(c) Data from previous school years will continue to be subject to the student attendance accounting handbook as the handbook existed in those years.

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 September 2, 2016.

TRD-201604621
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 475-1497

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING TRUANCY PREVENTION MEASURES AND SANCTIONS

19 TAC §§129.1041, 129.1043, 129.1045, 129.1047

The Texas Education Agency (TEA) proposes new §§129.1041, 129.1043, 129.1045, and 129.1047, concerning truancy prevention measures and sanctions. The proposed new sections would outline minimum standards, best practices, and sanctions related to truancy prevention measures in accordance with Texas Education Code (TEC), §25.0915, as amended by House Bill (HB) 2398, 84th Texas Legislature, 2015.

HB 2398, 84th Texas Legislature, 2015, amended the TEC, §25.0915, requiring school districts to adopt truancy prevention measures designed to address student conduct related to truancy in the school setting and minimize the need for referrals to truancy court.

Beginning with the 2015-2016 school year, the TEC, §25.0915, requires that if a student fails to attend school without excuse on three or more days or parts of days within a four-week period, the school district must initiate truancy prevention measures. In addition, schools are required to employ a truancy prevention facilitator or juvenile case manager or designate an existing district employee or juvenile case manager to implement the truancy prevention measures.

Finally, the TEC, §25.0915, requires that the TEA adopt rules to create minimum standards for truancy prevention measures, establish a set of best practices, and provide for sanctions for a school district found to be not in compliance with the statute.

Proposed new 19 TAC Chapter 129, Subchapter BB, would reflect the requirements in the TEC, §25.0915, as follows.

Section 129.1041, Definitions, would specify that, for the purposes of the subchapter, the definition of a school district includes an open-enrollment charter school. Although TEC, §25.0915, does not specifically reference charter schools, the entire statutory scheme of compulsory attendance enforcement is applicable to charter schools since they have their own attendance officers pursuant to either TEC, §25.088 or §25.090. All attendance officers are required under TEC, §25.091, to implement truancy prevention measures under TEC, §25.0915.

Section 129.1043, Minimum Standards, would identify the minimum standards for a district's truancy prevention measures.

Section 129.1045, Best Practices, would outline the TEA's suggested best practices for truancy prevention measures.

Section 129.1047, Sanctions, would specify which sanctions the commissioner could impose for districts found to be not in compliance with TEC, §25.0915, and proposed new Chapter 129, Subchapter BB.

The proposed new sections would have no procedural or reporting implications.

The proposed new sections would have no locally maintained paperwork requirements.

FISCAL NOTE. A.J. Crabill, deputy commissioner for governance, has determined that for the first five-year period the new sections are in effect, there will be no fiscal impact to state or local government beyond what the statute requires. There is no effect on local economy for the first five years that the proposed new sections are in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

PUBLIC BENEFIT/COST NOTE. Mr. Crabill has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be to minimize the need for referrals to truancy court and address student conduct related to truancy in the school setting. There is no anticipated economic cost to persons who are required to comply with the proposed new sections.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND MICROBUSINESSES. There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

REQUEST FOR PUBLIC COMMENT. The public comment period on the proposal begins September 16, 2016, and ends October 17, 2016. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. Comments may also be submitted electronically to *rules@tea.texas.gov.* A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on September 16, 2016.

STATUTORY AUTHORITY. The new sections are proposed under the Texas Education Code (TEC), §25.0915, which requires school districts to adopt truancy prevention measures to address student conduct related to truancy; TEC, §25.0915(f), which re-

quires the commissioner of education to adopt rules to create minimum standards for truancy prevention measures adopted by school districts and establish a set of best practices for truancy prevention measures; and TEC, §25.0915(g), which requires the commissioner to adopt rules to provide for sanctions for a district found to be not in compliance with truancy prevention measures.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §25.0915.

§129.1041. Definitions.

For the purposes of this subchapter, the definition of a school district includes an open-enrollment charter school.

§129.1043. Minimum Standards.

The minimum standards for the truancy prevention measure(s) implemented by a school district under Texas Education Code, §25.0915, include:

(1) identifying the root cause of the student's unexcused absences and actions to address each cause;

(2) maintaining ongoing communication with students and parents on the actions to be taken to improve attendance; and

(3) establishing reasonable timelines for completion of the truancy prevention measure.

§129.1045. Best Practices.

(a) A school district shall consider the following best practices for truancy prevention measures:

(1) develop an attendance policy that clearly outlines requirements related to truancy in accordance with Texas Education Code (TEC), Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the school year;

(2) create a culture of attendance that includes training staff to talk meaningfully with students and parents about the attendance policy and the root causes of unexcused absences;

(3) create incentives for perfect attendance and improved attendance;

(4) educate families on the positive impact of school attendance on performance;

(5) provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support;

(6) develop collaborative partnerships between appropriate school staff, program-related liaisons, and external partners such as law enforcement, court representatives, and community organizations to assist students;

(7) determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance; and

(8) use existing school programs such as Communities In Schools, 21st Century Community Learning Centers, Restorative Discipline, and Positive Behavior Interventions and Supports (PBIS) to provide students and their parents with services.

(b) In determining services offered to students identified in TEC, §25.0915(a-3), a school district shall consider:

(1) offering evening and online alternatives; and

(2) working with businesses that employ students to help students coordinate job and school responsibilities.

§129.1047. Sanctions.

The commissioner of education may impose any sanction otherwise authorized under Texas Education Code (TEC), Chapter 39, and Chapter 97, Subchapter EE, of this title (relating to Accreditation Status, Standards, and Sanctions) against a school district that is found to be not in compliance with TEC, §25.0915, or this subchapter.

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 September 2, 2016.

TRD-201604620
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 100. GENERAL PROVISIONS

22 TAC §100.9

The State Board of Dental Examiners (Board) proposes an amendment to §100.9, concerning advisory committees and workgroups established by the board. The proposed amendment identifies the creation of the blue ribbon panel on dental sedation/anesthesia safety established by proposed new §100.12, which is published concurrently in this issue of the *Texas Register.*

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

Kelly Parker has also determined that for the first five-year period the proposed rules are in effect, the public benefit anticipated as a result of administering this section will be to clarify the board's internal processes concerning processing of complaints and investigations. Ms. Parker has determined that for the first five-year period the proposed rules are in effect, costs to persons or small businesses will be minimal. There is no foreseeable impact on employment in any regional area where the rules are enforced or administered.

Comments on the proposed amendment may be submitted to Tyler Vance, General Counsel, 333 Guadalupe, Suite 3-800, Austin, Texas 78732, Fax (512) 475-0977, rulecomments@tsbde.texas.gov no later than 30 days from the date that the proposed rule is published in the *Texas Register.*

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

No statutes are affected by these proposed amendment.

§100.9. Advisory Committees and Workgroups Established by the Board.

(a) In addition to any specific statutory authority to establish particular advisory committees, the board may authorize advisory committees from outside the board's membership to advise the board on rulemaking, pursuant to §2001.031 of the Texas Government Code and subject to chapter 2110 of the Texas Government Code, State Agency Advisory Committees.

(b) Creation and dissolution. The board, in a regularly scheduled meeting, may vote to establish advisory committees and workgroups from outside the board's membership to address specific subjects, purposes, or ends. Unless continued by a vote of the board, advisory committees and workgroups outside the board's membership are abolished the sooner of one year from the date of creation or when the specific subject, purpose, or end for which the advisory committee or workgroup was established, have been served.

(c) Chair. Each advisory committee or workgroup shall select from among its members a chairperson who shall preside over the advisory committee or workgroup and shall report to the board or agency as needed.

(d) Membership. The presiding officer shall determine the method by which members are designated to the advisory committee or workgroup. The membership of an advisory committee must provide a balanced representation between members of the dental industry and consumers of the dental industry. Advisory committee and workgroup members shall serve terms as determined by the board.

(e) Board member liaisons. The presiding officer may appoint board member or board members to serve as a liaison(s) to an advisory committee or workgroup and report to the board the recommendations of the advisory committee or workgroup for consideration by the board. The role of a board member liaison is limited to clarifying the board's charge and intent to the advisory committee or workgroup.

(f) Agency staff liaisons. The executive director of the agency may assign agency staff to assist the advisory committee and workgroup.

(g) Meetings and participation. All meetings shall be open to the public and noticed on the Secretary of State's website to allow the public an opportunity to participate.

(h) Purpose. The board rule establishing the advisory committee or workgroup shall state the purpose and tasks of the committee and describe the manner in which the committee will report to the board.

(i) Committee actions. The actions of advisory committees are recommendations only.

(j) The following are advisory committees and workgroups [~~is an advisory committee and workgroup~~] established by the board or established by statute:

(1) Dental Hygiene Advisory Committee, established by Subchapter B of Chapter 262 of the Texas Occupations Code; and[~~.~~]

(2) Advisory Committee- Blue Ribbon Panel on Dental Sedation/Anesthesia Safety, established by board rule 100.12.

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 September 1, 2016.

TRD-201604614
Kelly Parker
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 475-0977

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22 TAC §100.12

The State Board of Dental Examiners (Board) proposes new rule §100.12, concerning the blue ribbon panel on dental sedation/anesthesia safety. The rule establishes the panel and sets out its procedures and limitations.

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

Kelly Parker has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of administering this section will be to clarify the procedures relating to creating ad hoc committees. Ms. Parker has determined that for the first five-year period the proposed rule is in effect, costs to persons or small businesses will be minimal. There is no foreseeable impact on employment in any regional area where the rule is enforced or administered.

Comments on the proposed new rule may be submitted to Tyler Vance, General Counsel, 333 Guadalupe, Suite 3-800, Austin, Texas 78732, Fax (512) 463-7452, rulecomments@tsbde.texas.gov no later than 30 days from the date that the proposed rule is published in the *Texas Register.*

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

No statutes are affected by this proposed rule.

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

(a) Pursuant to board rule 100.9, chapter 2110 of the Texas Government Code, and the management direction of the Sunset Commission issued on August 22, 2016, the board establishes an independent advisory committee: the Blue Ribbon Panel on Dental Sedation/Anesthesia Safety. The advisory committee shall make recommendations to the Sunset Commission and the Texas Legislature at or before the meeting of the Sunset Commission scheduled for January 11, 2017.

(b) Purpose. The purpose of the advisory committee is to review, study, and report to the Legislature and the Sunset Commission findings and recommendations on the use and misuse of sedation/anesthesia in dentistry. Specifically, the advisory committee shall review de-identified data compiled during board investigations in fiscal years 2012 through 2016 involving patient mortalities and patient harm during or following dental treatment at which sedation/anesthesia was administered and evaluate the appropriate substance and application of emergency protocols related to the administration of sedation/anesthesia.

(c) Tasks. The advisory committee shall review de-identified investigative data; report on trends and commonalities in the de-identified investigative data, including whether or not the patient mortali-

ties or harms were related to the administration of sedation/anesthesia, related to another aspect of the dental treatments, or unrelated to the administration of sedation/anesthesia or another aspect of the dental treatments; review anesthesia laws, regulations, and studies from other jurisdictions; and review relevant published scientific literature. In its written report, the advisory committee shall opine on whether present laws, regulations, and board policies are sufficient to protect patients and recommend appropriate change to the laws, regulations, and board policies related to the administration of sedation/anesthesia to dental patients.

(d) Creation, dissolution, and membership. The board or its presiding officer shall appoint five to ten Texas-licensed dentists to serve as members of the advisory committee. The members shall be selected from active participants of the board's Dental Review Panel. The members of the Dental Review Panel who participate in the advisory committee shall not evaluate pending investigations and provide written expert reports as Dental Review Panel members during their period of service on the advisory committee. The advisory committee is dissolved upon presentation of its final written report to the Sunset Commission on January 11, 2017. Upon the dissolution of the advisory committee, the members of the advisory committee may resume their roles on the Dental Review Panel.

(e) Chair. The advisory committee shall select from among its members a chairperson who shall preside over the advisory committee, report to the board as needed, and facilitate presentation of the final written report to the Sunset Commission.

(f) Reporting to the board. The advisory committee shall provide at least four status updates to the Executive Director of the board on or before October 12, 2016; November 11, 2016; November 23, 2016; and December 7, 2016.

(g) Final report. The chair of the advisory committee shall present the final written report at or before the meeting of the Sunset Commission scheduled for January 11, 2017.

(h) Meetings and Relationship to the Board. While the advisory committee is intellectually independent, it is a governmental body pursuant to paragraph 551.001(3)(A) of the Texas Government Code, as it is a committee in the executive branch of state government that is affiliated with and directed by the board. All meetings of the advisory committee shall be open to the public and noticed on the Secretary of State's website.

(i) Confidential information. The board may require the members of the advisory committee to execute confidentiality agreements related to their membership on the advisory committee. The board shall provide confidential de-identified data to the members of the advisory committee as directed in the management recommendation of the Sunset Commission.

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

(k) Commencement. The advisory committee may convene and commence its work prior to the effective date of this rule, as directed by the board.

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

Filed with the Office of the Secretary of State on September 1, 2016.

TRD-201604615

Kelly Parker
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 475-0977

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PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

The Texas Board of Professional Engineers (Board) proposes amendments to §131.1, concerning Purpose and Duties; §131.3, concerning Headquarters of the Board; §131.7, concerning Organization of the Board; §131.81, concerning Definitions, and §131.85, concerning Board Rules Procedures.

The proposed rule changes are clean up changes to make some minor corrections and updates. These changes clarify, correct or simplify existing rules to make them more consistent with the current statute and procedures and update the Board's physical address.

David Howell, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendments are in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the sections as amended. There is no additional cost to licensees or other individuals. There is no adverse fiscal impact to the estimated 1,000 small or 6,400 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Howell also has determined that for the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the proposed amendments is an improvement in the flexibility of the licensure processes and the ability to issue international temporary licenses to qualified engineers.

Any comments or request for a public hearing may be submitted no later than 30 days after the publication of this notice to David Howell, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@engineers.texas.gov.

SUBCHAPTER A. ORGANIZATION OF THE BOARD

22 TAC §§131.1, 131.3, 131.7

The amendments are proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendments.

§131.1. Purpose and Duties.

(a) The board is statutorily empowered to regulate the practice of engineering in Texas.

(b) The board shall promulgate and adopt rules as authorized and required by statute, which are necessary for the performance of its duties. Such rules shall establish standards of conduct and ethics for engineers, ensure strict compliance with and enforcement of the provisions of the Act, ensure uniform standards of practice and procedure, [~~including fees for services,~~] and provide for public participation, notice of the agency actions, and a fair and expeditious determination of causes before the board.

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

§131.3. Headquarters of the Board.

The headquarters and administrative office [~~offices~~] of the Texas Board of Professional Engineers (board) is [~~shall be~~] located at 1917 South Interstate 35 [~~IH 35 South~~], Austin, Texas 78741-3702.

§131.7. Organization of the Board.

(a) In accordance with Texas Occupations Code, Chapter 1001 [~~§§1001.101 through 1001.112~~], the board shall consist of members appointed by the Governor with the advice and consent of the Senate.

(b) - (g) (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 August 31, 2016.

TRD-201604601
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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SUBCHAPTER F. ADMINISTRATION

22 TAC §131.81, §131.85

The amendments are proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendments.

§131.81. Definitions.

In applying the Texas Engineering Practice Act and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a particular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

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

(6) Application--The forms, information, and fees necessary to obtain a license as a professional engineer, certification as an engineer-in-training, or a certificate of registration for a firm.

(7) - (33) (No change.)

(34) Recognized institution of higher education--An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Association of Schools and Colleges, the North Central Association Commission on Accreditation and School Improvement, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.

(35) Respondent--The person or party that is the subject of a [~~Any party against whom any~~] complaint [~~has been~~] filed with the board.

(36) - (39) (No change.)

§131.85. Board Rules Procedures.

(a) [~~Amendments, Deletions, and Additions of Rules.~~] Proposed amendments, deletions, or additions to the board rules of practice and procedure may be submitted by the staff or any board member. Board action to accept or amend the proposal shall require a majority vote when a quorum is present at a meeting. A proposal or amended proposal, as accepted by the board, can be promulgated as an amendment, deletion, or addition to board rules by following the procedures set out in Chapters 2001 and 2002[~~,~~] of the Texas Government Code.

(b) [~~Petition for Adoption of Rules.~~] The board shall accept a petition from an interested person as defined in Texas Government Code, Chapter 2001, submitted by at least 25 persons or by an association having at least 25 members to adopt, delete, or amend a rule. For a petition under this section, at least 51 percent of the total number of signatures required must be of residents of this state. The petition must be filed with the executive director at least 30 days and not more than 60 days prior to a regular board meeting at which board action will be taken. Such a petition must [~~will~~] include, but need not be limited to, the following requirements:[~~.~~]

(1) [~~Identity information.~~] Full name and complete mailing address and telephone number of the petitioner on whose behalf the petition is filed.

(2) [~~Reference.~~] Reference to the rule which it is proposed to make, change or amend, or delete, so that it may be identified and prepared in a manner to indicate the word, phrase, or sentence to be added, changed, or deleted from the current text, if any. The proposed rule should be presented in the exact form in which it is to be published, adopted, or promulgated.

(3) [~~A suggested effective date.~~] The desired effective date should be stated.

(4) [~~Justification.~~] Justification for the proposed action in narrative form with sufficient particularity to fully inform the board and any interested party of the facts upon which the petitioner relies, including the statutory authority for the promulgation of the proposed rule.

(5) [~~Desired effect of proposal.~~] Include a brief statement detailing the desired effect to be achieved by the proposed rule, change, or amendment or deletion.

(6) [~~Summary.~~] A concise summary of the proposed rule, change, or amendment.

(7) [~~Signatures.~~] Signatures on the petition of the petitioners and/or the attorney or representative of the petitioners.

(8) [~~Fee.~~] Any fee required by statute or board rules.

(c) [~~Petition Decision by Board.~~] Within 60 days after submission of a petition requesting the adoption of a rule, the board either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rule making proceedings in accordance with subsection (a) of this section and by law.

(d) [~~Suspension of Rules.~~] In any case in which a public emergency or imperative public necessity so requires, the board may suspend the operation of these sections to the extent authorized by law.

(e) Invalid Portions and Saving Provisions: [~~.~~]

(1) If any subcategory, rule, section, subsection, sentence, clause, or phrase of these rules is for any reason held invalid, such decision shall not affect the validity of the remaining portions of these sections. The board hereby declares that it would have adopted these sections and such subcategories, rules, sections, subsections, sentences, clauses, or phrases thereof irrespective of the fact that any one or more of the subcategories, rules, sections, subsections, sentences, clauses, or phrases be declared invalid.

(2) Since individual board rules are adopted, changed, or deleted periodically, each rule herein will apply only to acts occurring on or after the effective date of the rule. An act occurring before the effective date of one or more of these rules will be governed by the rules existing before the effective date, which rules are continued in effect for this purpose as if these rules were not in force. Any proceeding pending before the board on the effective date of one or more of these rules is governed by the rules existing before the effective date of these rules, which rules are continued in effect for this purpose as if these rules were not in force.

(3) If there is any conflict between the agency's rules and statutory provisions, and the rules cannot be harmonized with the statute in a timely manner, the statutory provisions shall control. The board shall issue a statement describing the irregularity, expected schedule for correction, and necessary action by an effected party.

(f) [~~Effective Date.~~] The effective date of each rule or subdivision of each rule shall be that date published as the effective date of the rule or subdivision of the rule in the Texas Register as a result of the rule making procedures set out in Chapters 2001 and 2002, Texas Government Code.

(g) [~~Rules Identification and Format.~~] The board reserves the right to revise the format of these rules of practice and procedure to comply with statutory requirements, and such required revision shall not invalidate any portion or change the effective date of the rules of practice and procedure as adopted by the board.

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

Filed with the Office of the Secretary of State on August 31, 2016.

TRD-201604602
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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CHAPTER 133. LICENSING

The Texas Board of Professional Engineers (Board) proposes amendments to §133.35, concerning Proof of Educational Qualifications--Accredited/Approved Programs and §133.67, concerning Examination on the Principles and Practice of Engineering.

The proposed rule change to §133.35 extends the acceptance of transcripts from the National Council of Examiners for Engineering and Surveying (NCEES) and board approved commercial evaluation services provided the transcripts were forwarded directly from the registrar of the institution from which the applicant graduated.

The proposed rule changes to §133.67 clarifies the time frame when an applicant may re-apply for approval to register for the principles and practice of engineering (PE) exam after exhausting the approved exam attempts or having the approval period expire.

David Howell, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendments are in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the sections as amended. There is no additional cost to licensees or other individuals. There is no adverse fiscal impact to the estimated 1,000 small or 6,400 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Howell also has determined that for the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the proposed amendments is an improvement in the flexibility of the licensure processes and the ability to issue international temporary licenses to qualified engineers.

Any comments or request for a public hearing may be submitted no later than 30 days after the publication of this notice to David Howell, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417, or sent by email to rules@engineers.texas.gov.

SUBCHAPTER D. EDUCATION

22 TAC §133.35

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendment.

§133.35. Proof of Educational Qualifications--Accredited/Approved Programs.

(a) An applicant for licensure who has graduated from a degree program in which the undergraduate or graduate degree in the same discipline has been accredited or approved by any of the organizations identified in §133.31(a)(1)(A) or (a)(2)(A) of this chapter (relating to Educational Requirements for Applicants) shall provide to the board an official transcript for each degree to be relied upon to meet the educational requirements for certification or licensure.

(b) Transcript(s) shall include either grades or mark sheets and proof that the degree was conferred.

(c) To ensure security of transcripts, each transcript must be received directly from:

(1) the registrar of the institution from which the applicant graduated; or

(2) the National Council of Examiners for Engineering and Surveying (NCEES) or board approved commercial evaluation service provided the transcripts were forwarded directly from the registrar of the institution from which the applicant graduated.

(d) Copies of transcripts of all other engineering or mathematical, physical, or engineering science degrees shall be submitted to the board; these transcripts can be copies of the original transcript and can be forwarded to the board by the applicant.

(e) The applicant is responsible for ordering and paying for all transcripts.

(f) Additional academic information, including but not limited to grades and transfer credit, shall be submitted to the board at the request of the executive director.

[~~An applicant for licensure who has graduated from a degree program in which the undergraduate or graduate degree in the same discipline has been accredited or approved by any of the organizations identified in §133.31(a)(1)(A) or (a)(2)(A) of this chapter (relating to Educational Requirements for Applicants) shall provide to the board an official transcript for each degree to be relied upon to meet the educational requirements for certification or licensure. Such transcript(s) shall include either grades or mark sheets and proof that the degree was conferred and must be forwarded directly to the board by the registrar of the institution from which the applicant graduated. In addition, copies of transcripts of all other engineering or mathematical, physical, or engineering science degrees shall be submitted to the board; these transcripts can be copies of the original transcript and can be forwarded to the board by the applicant. The applicant is responsible for ordering and paying for all such transcripts. Additional academic information, including but not limited to grades and transfer credit, shall be submitted to the board at the request of the executive director.~~]

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 August 31, 2016.

TRD-201604603
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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SUBCHAPTER G. EXAMINATIONS

22 TAC §133.67

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendment.

§133.67. Examination on the Principles and Practice of Engineering.

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

(d) An applicant who does not pass the examination on the principles and practice of engineering within the approved examination period described in subsection (b) of this section is considered not approved and may not re-apply for approval until he or she has obtained at least one (1) year of additional engineering experience as described in Subchapter E of this chapter (relating to Experience) [~~of this chapter~~] or until the applicant has completed at least six (6) additional semester hours of formal college level classroom courses relevant to the applicant's dominant branch or discipline of experience. The time period to obtain additional engineering experience or enroll in additional college courses commences on the date of the last exam attempt or when the approved examination period expired. Applicants meeting the additional experience or education requirements must apply in accordance with §133.21 of this chapter (relating to Application for Standard License) and receive approval for additional exam attempts.

(e) (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 August 31, 2016.

TRD-201604604
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

The Texas Board of Professional Engineers (Board) proposes amendments to §137.5, concerning License Holder Notification Requirements, §137.17, concerning Continuing Education Program, §137.31, concerning Seal Specifications, §137.33, concerning Sealing Procedures, §137.37, concerning Sealing Misconduct, and §137.63, concerning Engineers' Responsibility to the Profession.

The proposed rule changes are clean up changes to make some minor corrections and updates. These changes clarify, correct or simplify existing rules to make them more consistent with the current statute and procedures.

David Howell, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendments are in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the sections as amended. There is no additional cost to licensees or other individuals. There is no adverse fiscal impact to the estimated 1,000 small or 6,400 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Howell also has determined that for the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the proposed amendments is an improvement in the flexibility of the licensure processes and the

ability to issue international temporary licenses to qualified engineers.

Any comments or request for a public hearing may be submitted no later than 30 days after the publication of this notice to David Howell, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to *rules@engineers.texas.gov.*

SUBCHAPTER A. INDIVIDUAL AND ENGINEER COMPLIANCE

22 TAC §137.5, §137.17

The amendments are proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendments.

§137.5. License Holder Notification Requirements.

(a) Each license holder shall notify the board in writing not later than 30 days after [~~of~~] a change in the person's legal name, personal mailing address, or employment status.

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

§137.17. Continuing Education Program.

(a) (No change.)

(b) Terms used in this section are defined as follows:

(1) Professional Development Hour (PDH)--A contact hour (clock hour) of CEP activity. PDH is the basic unit for CEP reporting.

(2) Continuing Education Unit (CEU)--Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.

(3) College/Unit Semester/Quarter Hour--Credit for course in ABET-approved program or other related college course.

(4) Course/Activity--Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the license holder's field of practice.

(5) Self-directed study--Time spent engaging in professional development that is not otherwise identified in this rule. (Examples include, but are not limited to: reading/reviewing trade magazines or books, watching tutorials, and viewing other online content.)

(c) - (m) (No change.)

(n) A license holder may be exempt from the professional development educational requirements for one of the following reasons listed in paragraphs (1) - (4) of this subsection:

(1) New license holders by way of examination shall be exempt for their first renewal period.

(2) A license holder serving on active duty and deployed outside the United States, its possessions and territories, in or for the military service of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.

(3) License holders experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.

(4) License holders who list their status as "Inactive" and who further certify that they are not providing professional engineering services in Texas shall be exempt from the professional development hours required.

(5) Exemptions must be claimed at the time of renewal.

(o) A license holder may bring an inactive license to active status by obtaining all delinquent PDH units and submitting copies of CEP records demonstrating compliance to the board or its authorized representative for verification purposes. If the total number required to become current exceeds 30 units, then 30 units shall be the maximum number required, and hours acquired must be within the two years prior to reactivation.

(p) Noncompliance:

(1) If a license holder does not certify that CEP requirements have been met for a renewal period, the license shall be considered expired and subject to late fees and penalties.

(2) Failure to comply with CEP reporting requirements as listed in this section is a violation of board rules and shall be subject to sanctions.

(3) A determination by audit that CEP requirements have been falsely reported shall be considered to be misconduct and will subject the license holder to disciplinary action.

(4) If found to be noncompliant, the board may require additional audits of the license holder.

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 August 31, 2016.

TRD-201604605
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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SUBCHAPTER B. SEALING REQUIREMENTS

22 TAC §§137.31, 137.33, 137.37

The amendments are proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendments.

§137.31. Seal Specifications.

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

(d) All seals obtained and used by license holders shall contain any given name, commonly accepted variation of the given name, or initial combination with the surname as currently listed with the board and in the usual written signature. Nicknames shall not be permitted on a seal in lieu of a given name or initial combination. The name can be displayed on the seal using all uppercase letters such as "LESLIE H. DOE" or using the standard combination of upper and lowercase letters, such as "Leslie H. Doe". If after licensure, a license holder legally changes his/her name, the license holder must have a new seal or seals made showing the new legal name and submit an imprint or imprints of the new seal(s) to the board for review, approval, and processing (submitted within 60 days of name change).

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

§137.33. Sealing Procedures.

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

(d) License holders shall take reasonable steps to ensure the security of their physical or electronic seals and electronic signatures. For electronic seals and electronic signatures, the engineer must have reasonable security measures in place to protect these files. In the event of loss of a seal or electronic signature, the engineer will, as soon as possible, but within 30 days of discovery, [~~immediately~~] give written notification of the facts concerning the loss to board.

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

(i) A license holder, as a third party, may alter, complete, correct, revise, or add to the work of another license holder when engaged to do so by a client, provided:

[~~(1) the client furnishes the documentation of such work submitted to the client by the first license holder;~~]

(1) [~~(2)~~] the first license holder is notified in writing by the second license holder of the engagement immediately upon acceptance of the engagement; and

(2) [~~(3)~~] any work altered, completed, corrected, revised, or added to shall have a seal affixed by the second license holder. The second license holder then becomes responsible for any alterations, additions or deletions to the original design including any effect or impact of those changes on the original license holder's design.

(j) - (n) (No change.)

§137.37. Sealing Misconduct.

(a) (No change.)

(b) A person not licensed by the board shall [~~may~~] not use, cause to be used, affix, or cause to be affixed or in any other manner, regardless of the means, attach or in any way depict an engineering seal or a representation of an engineering seal without the express permission of [~~by~~] the currently active licensee [~~responsible for the project or the specific engineering work in question~~].

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 August 31, 2016.

TRD-201604606
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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SUBCHAPTER C. PROFESSIONAL CONDUCT AND ETHICS

22 TAC §137.63

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendment.

§137.63. Engineers' Responsibility to the Profession.

(a) (No change.)

(b) The engineer must [~~shall~~]:

(1) [~~endeavor to~~] meet all of the applicable professional practice requirements of federal, state and local statutes, codes, regulations, rules, ordinances or standards in the performance of engineering services;

(2) exercise reasonable care or diligence to prevent the engineer's partners, associates, and employees from engaging in conduct which, if done by the engineer, would violate any provision of the Texas Engineering Practice Act, general board rule, or any of the professional practice requirements of federal, state and local statutes, codes, regulations, rules or ordinances in the performance of engineering services;

(3) exercise reasonable care to prevent the association of the engineer's name, professional identification, seal, firm or business name in connection with any venture or enterprise which the engineer knows, or should have known, is engaging in trade, business or professional practices of a fraudulent, deceitful, or dishonest nature, or any action which violates any provision of the Texas Engineering Practice Act or board rules.

(4) act as faithful agent for their employers or clients;

(5) conduct engineering and related business affairs in a manner that is respectful of the client, involved parties, and employees. Inappropriate behaviors or patterns of inappropriate behaviors may include, but are not limited to, misrepresentation in billing; unprofessional correspondence or language; sale and/or performance of unnecessary work; or conduct that harasses or intimidates another party; and

(6) practice engineering in a careful and diligent manner.

(c) (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 August 31, 2016.

TRD-201604607
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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CHAPTER 139. ENFORCEMENT

The Texas Board of Professional Engineers (Board) proposes amendments to §139.13, concerning Filing a Complaint, §139.15, concerning Processing a Complaint, §139.17, concerning Investigating a Complaint, §139.19, concerning Final Resolution of Complaint, §139.31, concerning Enforcement Actions for Violations of the Act, §139.35, concerning Sanctions and Penalties, §139.43, concerning License Holder with Criminal Convictions, and §139.47, concerning Probation.

The proposed rule changes are clean up changes to make some minor corrections and updates. These changes clarify, correct or simplify existing rules to make them more consistent with the current statute and procedures.

David Howell, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendments are in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the sections as amended. There is no additional cost to licensees or other individuals. There is no adverse fiscal impact to the estimated 1,000 small or 6,400 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Howell also has determined that for the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the proposed amendments is an improvement in the flexibility of the licensure processes and the ability to issue international temporary licenses to qualified engineers.

Any comments or request for a public hearing may be submitted no later than 30 days after the publication of this notice to David Howell, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@engineers.texas.gov.

SUBCHAPTER B. COMPLAINT PROCESS AND PROCEDURES

22 TAC §§139.13, 139.15, 139.17, 139.19

The amendments are proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendments.

§139.13. Filing a Complaint.

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

(c) A complainant may contact the board in person or by telephone to file a complaint. However, the complaint shall be submitted in writing containing sufficient information to determine jurisdiction. [~~Upon receipt of the written complaint and supporting evidence, it will be logged and assigned a case number.~~]

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

§139.15. Processing a Complaint.

(a) Upon receipt of the written complaint and supporting evidence, it will be logged and assigned a case number. [~~Upon receipt of a complaint, the board staff shall assign the complaint a case number.~~]

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

§139.17. Investigating a Complaint.

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

(c) Upon determination that sufficient evidence exists to indicate that a violation of law or rules may have occurred, the executive director shall notify the person or entity by personal service or by certified or registered mail of the alleged violation. The respondent will be afforded the opportunity to respond to the complaint to show that the actions which precipitated the complaint are not in violation of the Act or board rules.

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

§139.19. Final Resolution of Complaint.

(a) Upon the completion of an investigation, the board staff shall present to the executive director a report of investigation and recommendation of final resolution of the complaint. If sufficient evidence and documentation exists to substantiate one or more violations of the Act or board rules has occurred, the board shall proceed as prescribed in §139.31 of this chapter (relating to Enforcement Actions for Violations of the Act). These actions may include, but are not limited to, one or more of the following:

(1) enter into an agreement of voluntary compliance;

(2) agree to informal Consent Order or Agreed Board Order that may include an administrative penalty and/or compliance requirements;

(3) referral of injunctive or criminal actions to the proper authorities;

(4) referral to the State Office of Administrative Hearings [~~which will result in a Final Order for dismissal or issuance of a sanction~~]; or

(5) other action as provided by law.

(b) (No change.)

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

Filed with the Office of the Secretary of State on August 31, 2016.

TRD-201604608
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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SUBCHAPTER C. ENFORCEMENT PROCEEDINGS

22 TAC §139.31, §139.35

The amendments are proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendments.

§139.31. Enforcement Actions for Violations of the Act.

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

(c) [~~Upon determination that sufficient probable cause exists to indicate that a violation of law or rules may have occurred, the executive director shall notify the person or entity, hereafter referred to in this section as "respondent," by personal service or by certified or registered mail of the alleged violation.~~] The respondent shall be afforded an opportunity to present rebuttals, arguments, and evidence [~~to the board~~] prior to the initiation of disciplinary proceedings. If a respondent does not respond, the board may proceed with a contested case hearing at the State Office of Administrative Hearings.

§139.35. Sanctions and Penalties.

(a) (No change.)

(b) The following is a table of suggested sanctions the board may impose against *license holders* for specific violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table. Also, for those suggested sanctions that list "suspension" ['~~suspension~~'], all or any portion of the sanction could be probated depending on the severity of each violation and the specific case evidence.
Figure: 22 TAC §139.35(b)
[~~Figure: 22 TAC §139.35(b)~~]

(c) The following is a table of suggested sanctions that may be imposed against a *person or business entity* for specific violations of the Act or board rules. NOTE: In consideration of subsection (a)(1) - (6) of this section, the sanction issued could be less than or greater than the suggested sanctions shown in the following table.
Figure: 22 TAC §139.35(c)
[~~Figure: 22 TAC §139.35(c)~~]

(d) - (e) (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 August 31, 2016.

TRD-201604609
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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SUBCHAPTER D. SPECIAL DISCIPLINARY PROVISIONS FOR LICENSE HOLDERS

22 TAC §139.47

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

No other statutes, articles or codes are affected by the proposed amendment.

§139.47. Probation.

As part of a disciplinary action for violating the Act and board rules including, but not limited to, negligence, incompetence, or endangerment to the public, the board may prescribe conditions of probation for each probated suspension on a case-by-case basis depending on the severity of the violation that will include reporting requirements, restrictions on practice, and/or continuing education requirements as applicable as described in this subsection.

(1) The board will determine the reporting requirements for each probated suspension and will include a list of board probation requirements and schedule for completion of those requirements in which the board may require the license holder to submit documentation including, but not limited to, client lists, job assignments, designs, proof of continuing education participation, restricted practice reports, and other documents concerning the practice of engineering to demonstrate compliance with the conditions of probation. As a condition of probation, the license holder shall accept that schedule deadlines are final and no extensions or revision shall be granted, unless approved by the board.

(2) - (5) (No change.)

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

Filed with the Office of the Secretary of State on August 31, 2016.

TRD-201604610
Lance Kinney, P.E.
Executive Director
Texas Board of Professional Engineers
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 440-7723

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PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING AND ENFORCEMENT RULES

The Texas Board of Professional Geoscientists (TBPG) proposes amendments to 22 TAC §§851.29, 851.31, and 851.32, and proposes new rules §§851.35, 851.113, 851.203 and 851.204, concerning the licensure and regulation of Professional Geoscientists.

BACKGROUND AND PURPOSE

The TBPG proposes amendments to clarify the requirements regarding Endorsement and Reciprocal Licensure. Proposed amendments amend language to show that a licensing qualification can be endorsed by another licensing board for an applicant for P.G. licensure who is currently or has been licensed in the last ten years to practice a discipline of geoscience in Texas or another U.S. jurisdiction. Proposed amendments also clarify under "Licensure by similar examination" that an individual who has applied for licensure as a Professional Geoscientist in Texas may meet the licensing examination requirement by submitting proof of passage of examinations that are substantially similar to the applicable examination(s) as specified in §851.21.

TBPG proposes amendments to clarify the process of obtaining a temporary license and to be consistent with the requirements

of temporary licensure authorized in Texas Occupations Code 1002.258. TBPG proposes amendments to clarify and simplify the process for obtaining a temporary P.G. license in Texas.

TBPG proposes amendments to clarify a licensee's duty to comply with continuing education (CE) program requirements, adding a specific 30-day deadline for when a licensee must respond and produce a CE activity log and supporting records. Amendments also clarify that a licensee is subject to disciplinary action for failure to satisfy CE program requirements during the applicable period, and that it is a separate violation to falsely report CE requirements for a renewal period.

TBPG proposes a new rule to outline the process for voluntary surrender of a license, registration, or certification.

TBPG proposes a new rule to require all persons who are the subject of a Board order to abide by the terms of that order, and that failure to abide by the terms of a Board order is grounds for disciplinary action. Additionally, the proposed new rule adds that the Board may deny a person's request for a license, registration or certification, or deny renewal of a license, registration or certification if the person has failed to timely pay an administrative penalty. This rule also allows the Board to apply money received from an individual to outstanding administrative penalties owed by that individual before applying it to any other fee or cost.

TBPG proposes a new rule to clarify that the Board may serve a notice of hearing on a respondent by sending it to his or her last known address as shown by the Board's records. The proposed rule also outlines the procedures for default cases, and details a procedure for informal disposition of cases in accordance with §2001.056 of the Texas Government Code. The proposed rule also addresses the process taken when an applicant with a criminal history applies for a license and does not show up at the hearing at the State Office of Administrative Hearings.

TBPG proposes a new rule to provide that the costs of an administrative hearing shall be borne by the licensee who chooses to appeal a Board Order. Specifically, the cost of transcribing the contested-case hearing and the cost of preparing the record shall be assessed to the person appealing the Board's order. This rule also outlines how these costs may be recovered.

SECTION BY SECTION SUMMARY

Proposed amendment to §851.29 adds language in subsection (a)(2) regarding the licensure endorsement process to show that an applicant for a P.G. license who is currently or has been licensed or registered "in the last ten years" to practice a discipline of geoscience in "Texas or" another U.S. jurisdiction or another country may be eligible to demonstrate having met all or some of the qualifications for licensure through endorsement. It adds language in subsection (a)(4) to show that the Board staff considers evidence "supporting the endorsement of a licensing qualification" of an applicant, and adds language in subsection (a)(4)(A) to show that verification may be provided if the license is current or "was held in the past ten years from the date of application." In subsection (b)(2), regarding licensure by similar examination, words are added to show that an individual who is licensed or registered to practice a discipline of geoscience in another United States jurisdiction, or another country, "...who has applied for licensure as a Professional Geoscientist" under this subsection "may meet the licensing examination requirement by submitting" proof of passage of examination(s) that is/are substantially similar to the applicable examination(s) as specified in §851.21.

Proposed amendment to §851.31 removes subsections (b), (c), and (d) to clarify that "TBPG may issue a temporary license to an applicant as described in §1002.258(a) of the Act."

Proposed amendment to §851.32 adds language in subsection (p)(2) regarding noncompliance with the continuing education program (CEP) to show that "a licensee must submit the CEP certification log and supporting records for credits claimed not later than 30 days after the Board sends by certified mail an audit notification and request for a log and supporting documentation to the licensee's last known address as shown by the Board's records. Failure to timely submit a CEP certification log and supporting records for credits claimed is grounds for disciplinary action." A new subsection (p)(3) adds that "A licensee must satisfy CEP requirements. Failure to satisfy CEP requirements during the applicable period is grounds for disciplinary action." A sentence previously located in (p)(2) is moved to new subsection (p)(4) and is reworded to state, "Falsely reporting that CEP requirements have been met for a renewal period is misconduct and will subject the licensee to disciplinary action."

Proposed new rule §851.35, entitled, "Voluntary Surrender of a License, Registration or Certification" adds language to outline the process for voluntary surrender of a license, registration, or certification. New subsection (a) states, "A license holder who does not wish to maintain a license, registration, or certification may voluntarily surrender the license, registration, or certification by submitting a request in writing on a form prescribed by the TBPG, provided that the license holder: (1) has a current license, registration, or certification; (2) is not out of compliance with a disciplinary order; (3) does not have a complaint pending; and (4) is not under a continuing education audit." New subsection (b) states, "The effective date of a voluntary surrender of a license shall be the date that the Board accepts the surrender and will mark the termination of the licensee's license, registration, or certification." New subsection (c) states, "Any fees paid on the license, registration, or certification shall not be refunded upon surrender." New subsection (d) states, "A license, registration, or certification that has been voluntarily surrendered may not be renewed. A licensee who has voluntarily surrendered a license, registration, or certification may apply for a new license, registration, or certification." New subsection (e) states, "The Board maintains jurisdiction over a complaint filed against a licensee alleging violation of the TBPG's Code of Professional Conduct that occurred prior to the date of surrender of the license, registration, or certification."

Proposed new rule §851.113, entitled "Duty to Abide by Board Order and Timely Pay Administrative Penalty" adds new subsection (a) which states, "All persons who are the subject of a Board order shall abide by the terms of that order. Failure to abide by the terms of a Board order is grounds for disciplinary action." New subsection (b) adds, "All persons who are assessed an administrative penalty must pay the administrative penalty not later than the 30th day after the date the Board's order becomes final or timely satisfy section 1002.454(b) of the Texas Occupations Code." New subsection (c) states, "Failure to timely pay an administrative penalty is grounds for disciplinary action. This subsection does not apply if a person timely complies with section 1002.454(b) of the Texas Occupations Code regarding staying the enforcement of the administrative penalty at issue." New subsection (d) adds, "The Board may deny a person's request for a license, registration or certification, or to renew a license, registration, or certification if the person has failed to timely pay an administrative penalty." New subsection (e) adds, "When a person pays money to the Board, the Board may first apply that

money to outstanding administrative penalties owed by that person before applying it to any other fee or cost."

Proposed new rule §851.203 entitled "Defaults" adds new subsection (a) which states, "The Board may serve the notice of hearing on the respondent by sending it to his or her last known address as shown by the Board's records." New subsection (b) adds, "Default. If the party who does not have the burden of proof fails to appear at a contested-case hearing at the State Office of Administrative Hearings, the administrative law judge may issue a default proposal for decision that can be adopted by the Board." New subsection (c) adds, "Failure to issue default proposal for decision. If the administrative law judge grants a default but does not issue a default proposal for decision and instead issues an order dismissing the case and returning the file to the Board for informal disposition on a default basis in accordance with section 2001.056 of the Texas Government Code, the allegations in the notice of hearing will be deemed as true and proven and the Board will issue a final order imposing a sanction requested in the notice of hearing." New subsection (d) adds, "Contesting a final order issued following a default. In the event that the respondent wishes to contest a final order issued following a default, the respondent must timely file a motion for rehearing as provided by Chapter 2001 of the Texas Government Code, and the motion for rehearing must show the following: (1) the default was neither intentional nor the result of conscious indifference; (2) the respondent has a meritorious defense; (3) a new hearing will not cause delay or otherwise injure the Board; and (4) the motion for rehearing must be supported by affidavits and documentary evidence of the above and show a prima facie case for meritorious defense." New subsection (e) adds, "Failure to prosecute. If a party who does not represent TBPG Board or staff and who has the burden of proof fails to appear at a contested case hearing at the state Office of Administrative Hearings, the administrative law judge must dismiss the case for want of prosecution, any relevant application will be withdrawn, and the Board may not consider a subsequent petition from the party until the first anniversary of the date of dismissal of the case." New subsection (f) adds, "Applicants for licensure bear the burden to prove fitness for licensure."

Proposed new rule §851.204 outlines TBPG's policies regarding the costs of administrative hearings. New subsection (a) adds, "If a person files a suit for judicial review of an agency decision in a contested case, the Board shall request that the contested-case hearing be transcribed." New subsection (b) adds, "Costs. The costs of transcribing the contested-case hearing and preparing the record for appeal in a suit for judicial review shall be paid by the party who appeals to district court." New subsection (c) adds, "Documentation of costs. Documentation supporting the costs of transcribing the testimony in a contested-case proceeding and preparing the record for appeal shall be included in the administrative record or filed with the court." New subsection (d) adds, "Recovery as court costs. The costs of transcribing the testimony in a contested-case proceeding and preparing the record for appeal in a suit for judicial review may be recovered as court costs." New subsection (e) adds, "Additionally and alternatively, failure to timely pay the cost of transcribing the contested-case hearing is grounds for disciplinary action, and payment of the cost of transcribing the contested-case hearing is due no later than 60 days after the Board sends a request for payment and copy of the documentation of costs to the respondent's last known address as shown by the Board's records or to the respondent's attorney if any." New subsection (f) adds, "The Board may deny a person's request to issue or renew a license, registration, or certification if the person has failed to pay the cost of transcribing the contested-case hearing." New subsection (g) adds, "When a person pays money to the Board, the Board may first apply that money to outstanding transcript costs owed by that person before applying it to any other fee or cost."

FISCAL NOTE

Charles Horton, Executive Director of the Texas Board of Professional Geoscientists, has determined that for each fiscal year of the first five years the sections are in effect there is no cost to the state as a result of enforcing or administering the section as proposed.

SMALL AND MICRO-BUSINESS ECONOMIC IMPACT ANALYSIS

Mr. Horton has determined that there will be no anticipated economic costs to small businesses or micro-businesses required to comply with proposed amendments to §§851.29, 851.31, 851.32 and proposed new §§851.35, 851.113, 851.203, and 851.204. Consequently, an economic impact statement or regulatory flexibility analysis is not required. There will be no anticipated economic cost to individuals who are required to comply with the proposed sections. There is no anticipated negative impact on state or local government.

PUBLIC BENEFIT

Mr. Horton has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is that the Texas Board of Professional Geoscientists' rules are clarified, and the Board will be able to more effectively regulate the public practice of geoscience in Texas, which will protect and promote public health, safety, and welfare.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Board has determined that these proposals are not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. Although Professional Geoscientists and Registered Geoscience Firms play a key role in environmental protection for the state of Texas, this proposal is not specifically intended to protect the environment nor reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposed amendments and new rules may be submitted in writing to Charles Horton, Executive Director, Texas Board of Professional Geoscientists, 333 Guadalupe Street, Tower I-530, Austin, Texas 78701 or by mail to P.O. Box 13225, Austin, Texas 78711 or by e-mail to chorton@tbpg.state.tx.us. Please indicate "Comments on Proposed Rules" in the subject

line of all e-mails submitted. Please submit comments within 30 days following publication of the proposal in the *Texas Register.*

SUBCHAPTER B. P.G. LICENSING, FIRM REGISTRATION, AND GIT CERTIFICATION

22 TAC §§851.29, 851.31, 851.32, 851.35

The proposed amendments and new rule are authorized by the Texas Occupations Code §1002.151, which provides that the Board shall adopt and enforce rules consistent with the Texas Geoscience Practice Act (the Act); by Occupations Code §1002.154, which provides that Board shall enforce the Act; by Occupations Code §1002.255, which defines license eligibility; by Occupations Code §1002.257, which allows for reciprocity of licensure; and by Occupations Code §1002.258, which authorizes temporary licenses.

The proposal implements the Texas Occupations Code, §§1002.151, 1002.154, 1002.255, 1002.257, and 1002.258.

§851.29. Endorsement and Reciprocal Licensure.

(a) Endorsement.

(1) Endorsement is the process whereby TBPG, based on review of evidence of having completed a requirement for licensure for an equivalent license in another jurisdiction, determines that the applicant has met a requirement for licensure as a Professional Geoscientist.

(2) An applicant for a Professional Geoscientist license who is currently or has been licensed or registered in the last ten years to practice a discipline of geoscience in Texas or another United States jurisdiction (state, commonwealth, or territory, including the District of Columbia) or another country may be eligible to demonstrate having met all or some of the qualifications for licensure through endorsement.

(3) The Board staff will only consider documentation provided to the TBPG directly from a licensing authority that has issued a license to the applicant. It is the responsibility of the applicant to ensure that the licensing authority provides information to the TBPG and pays any associated costs.

(4) In order for the Board staff to consider evidence supporting the endorsement of a licensing qualification, the applicant must ensure that his or her licensing authority provides:

(A) Verification that the license is current or was held in the past ten years from the date of application; and

(B) Verification of the specific requirements that were met in order to become licensed.

(5) Verification may be in the form of:

(A) A document signed by an authorized agent of the jurisdiction indicating the specific qualifications that were met in order to become licensed; and/or

(B) Copies of specific documents that were submitted to the licensing authority to document having met a specific requirement.

(6) The TBPG may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(b) Reciprocal Licensure.

(1) Licensure by reciprocity agreement.

(A) Licensure by reciprocity agreement is the process whereby an applicant for licensure as a Professional Geoscientist in Texas who is currently licensed as a Professional Geoscientist (or equivalent license) in another United States jurisdiction (state, commonwealth or territory, including the District of Columbia) or another country becomes licensed in Texas and the process whereby an applicant currently licensed as a Professional Geoscientist in Texas applying for licensure as a Professional Geoscientist (or equivalent license) in the other jurisdiction becomes licensed in the other jurisdiction under the terms of a formal reciprocity agreement between the two jurisdictions.

(B) An applicant who holds a current license in a jurisdiction with which the TBPG has a reciprocity agreement may apply for licensure under the terms of the specific reciprocity agreement between the two jurisdictions.

(C) The TBPG shall maintain a list of each jurisdiction in which the requirements and qualifications for licensure or registration are comparable to those established in this state and with which a reciprocity agreement exists.

(2) Licensure by similar examination. An individual who is licensed or registered to practice a discipline of geoscience in another United States jurisdiction (state, commonwealth, or territory, including the District of Columbia) or another country who has applied for licensure as a Professional Geoscientist [~~applying for licensure~~] under this subsection may meet the licensing examination requirement by submitting [~~must submit~~] proof of passage of examination(s) that is/are substantially similar to the applicable examination(s) as specified in §851.21 of this chapter.

(3) Licensure by recognition of licensed experience in another jurisdiction. An applicant for a Professional Geoscientist license who is currently licensed or registered to practice a discipline of geoscience in another United States jurisdiction (state, commonwealth, or territory, including the District of Columbia) or another country who was licensed without examination, i.e. "grandfathered", with regard to a licensing examination or who was licensed based on a licensing examination that is not recognized as substantially similar to the current licensing examination required for licensure under paragraph (2) of this subsection shall be deemed to have met the examination requirement upon verification of the following:

(A) Verification of a valid licensure in the other jurisdiction. The applicant requesting licensure under this subsection must be in good standing with the jurisdiction in which that individual holds their current license as a professional geologist or geoscientist;

(B) Verification of at least five (5) years of responsible professional geoscience work experience since the date of their initial licensure;

(C) Verification that licensure was maintained continuously (including sequential licensure, if a license was held in more than one jurisdiction) during the five (5) years prior to application with the TBPG; and

(D) Verification that no complaint is pending against the applicant, that no complaint against the applicant has been substantiated, and no disciplinary action has ever been taken against the applicant.

(E) The applicant seeking licensure under this subsection shall be responsible for contacting the jurisdiction(s) in which the applicant is currently licensed and all jurisdictions in which the applicant has ever been licensed and cause to have verification of information in subparagraphs (A) - (D) of this paragraph submitted to TBPG.

§851.31. Temporary License.

[~~(a)~~] The TBPG may issue a temporary license to an applicant as described in §1002.258(a) of the Act.

[~~(b) A temporary licensee is subject to all rules and legal requirements to which a standard license is subject. The TBPG may issue a temporary license to an applicant currently licensed in another jurisdiction who:~~]

[~~(1) Has held such a license in good standing as a geoscientist for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of the TBPG and has passed a national or other examination recognized by the Appointed Board relating to the discipline of geoscience for which licensure is being sought;~~]

[~~(2) Submits all required forms and fees; and~~]

[~~(3) Complies with and meets the requirements set forth in §1002.258 of the Act.~~]

[~~(c) Pursuant to §1002.258(c) of the Act, a temporary license expires either on the 90th day after the date of issuance or on the date a reciprocal license is issued or denied, whichever event occurs first.~~]

[~~(d) The application fee is non-refundable.~~]

§851.32. Continuing Education Program.

(a) Each licensee shall meet the Continuing Education Program (CEP) requirements for professional development as a condition for license renewal.

(b) Terms used in this section are defined as follows:

(1) Professional Development Hour (PDH)--A contact hour (clock hour) of CEP activity. PDH is the basic unit for CEP reporting.

(2) Continuing Education Unit (CEU)--Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.

(3) College/Unit Semester/Quarter Hour--Credit for course in a discipline of geoscience or other related technical elective of the discipline.

(4) Course/Activity--Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.

(c) Every P.G. licensee is required to obtain 15 continuing education hours (PDH units) during a standard renewal period year (one year). The continuing education requirement for a license that is renewed for a period less than one year per §851.28(b) of this chapter shall be prorated.

(d) A minimum of 1 PDH per renewal period must be in the area of professional ethics, roles and responsibilities of Professional Geoscientists, or review on-line of the Texas Geoscientist Practice Act and TBPG rules.

(e) If a licensee exceeds the annual requirement in any renewal period, a maximum of 30 PDH units may be carried forward into the subsequent renewal periods.

(f) PDH units may be earned as follows:

(1) Successful completion or auditing of college credit courses.

(2) Successful completion of continuing education courses, either offered by a professional or trade organization, university or college, or offered in-house by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group.

(3) Successful completion of correspondence, on-line, televised, videotaped, and other short courses/tutorials.

(4) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences sponsored by a corporation, other business entity, professional or technical societies, associations, agencies, or organizations, or other group.

(5) Teaching or instructing as listed in paragraphs (1) - (4) of this subsection.

(6) Authoring published papers, articles, books, or accepted licensing examination items.

(7) Active participation in professional or technical societies, associations, agencies, or organizations, including:

(A) Serving as an elected or appointed official;

(B) Serving on a committee of the organization; or

(C) Serving in other official positions.

(8) Patents issued.

(9) Engaging in self-directed course work.

(10) Software programs published.

(g) All activities described in subsection (f) of this section shall be relevant to the practice of a discipline of geoscience and may include technical, ethical, or managerial content.

(h) The conversion of other units of credit to PDH units is as follows and subject to subsection (g) of this section:

(1) 1 College or unit semester hour--15 PDH.

(2) 1 College or unit quarter hour--10 PDH.

(3) 1 Continuing Education Unit (CEU)--10 PDH.

(4) 1 Hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences--1 PDH.

(5) 1 Hour of professional development through self-directed course study (Not to exceed 5 PDH)--1 PDH.

(6) Each published paper or article--10 PDH and book--45 PDH.

(7) Active participation, as defined in subsection (f)(7) of this section, in professional or technical society, association, agency, or organization (Not to exceed 5 PDH per year)--1 PDH.

(8) Each patent issued--15 PDH.

(9) Each software program published--15 PDH.

(10) Teaching or instructing as described in subsection (f)(5) of this section--3 times the PDH credit earned.

(i) Determination of Credit:

(1) The Appointed Board shall be the final authority with respect to whether a course or activity meets the requirements of this chapter.

(2) The Board staff shall not pre-approve or endorse any CEP activities. It is the responsibility of each licensee to use his/her best professional judgment by reading and utilizing the rules and regulations to determine whether all PDH credits claimed and activities being considered meet the continuing education requirement. However, a course provider may contact the Board staff for an opinion for

whether or not a course or technical presentation would meet the CEP requirements.

(3) Credit for college or community college approved courses will be based upon course credit established by the college.

(4) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.

(5) Credit for self-directed course work will be based on one PDH unit for each hour of study and is not to exceed 5 PDH per renewal period. Credit determination for self-directed course work is the responsibility of the licensee.

(6) Credit determination for activities described in subsection (h)(6) of this section is the responsibility of the licensee.

(7) Credit for activity described in subsection (h)(7) of this section requires that a licensee serve as an officer of the organization, actively participate in a committee of the organization, or perform other activities such as making or attending a presentation at a meeting or writing a paper presented at a meeting. PDH credits are not earned until the end of each year of service is completed.

(8) Teaching credit, as defined in subsection (f)(5) of this section, is valid for teaching a course or seminar for the first time only.

(j) The licensee is responsible for maintaining records to be used to support credits claimed. Records required include, but are not limited to:

(1) A log, showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; and

(2) Attendance verification records in the form of completion certificates, receipts, attendance roster, or other documents supporting evidence of attendance.

(k) The licensee must submit CEP certification on the log and a list of each activity, date, and hours claimed that satisfy the CEP requirement for that renewal year when audited. A percentage of the licenses will be randomly audited each year.
Figure: 22 TAC §851.32(k) (No change.)

(l) CEP records for each licensee must be maintained for a period of three years by the licensee.

(m) CEP records for each licensee are subject to audit by the Board staff.

(1) Copies must be furnished, if requested, to the Board staff for audit verification purposes.

(2) If upon auditing a licensee, the Board staff finds that the activities cited do not fall within the bounds of educational, technical, ethical, or professional management activities related to the practice of geoscience, the Board staff may require the licensee to acquire additional PDH as needed to fulfill the minimum CEP requirements.

(n) A licensee may be exempt from the professional development educational requirements for a specific renewal period or periods for one of the following reasons listed in paragraphs (1) - (4) of this subsection:

(1) New licensees that were licensed by passage of any part of the required licensing examinations shall be exempt for their first renewal period.

(2) A licensee serving on active duty and deployed outside the United States, its possessions and territories, in or for the military service of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.

(3) A licensee employed outside the United States, its possessions and territories, actively engaged in the practice of geoscience for a period of time exceeding three hundred (300) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year except for five (5) hours of self-directed course work.

(4) A licensee who is impacted by a long term physical disability or illness (of the licensee or a family member or other person) may be exempt.

(5) Supporting documentation must be furnished to the TBPG. The Executive Director shall review circumstances and documentation and make a decision. A licensee may appeal a decision of the Executive Director to an appropriate Committee or the full Appointed Board, as appropriate.

(o) A licensee may bring an expired license to active status by obtaining all delinquent PDH units. However, if the total number required to become current exceeds 30 units, including 2 hours of professional ethics, roles and responsibilities of Professional Geoscientists, then 30 units (including 2 hours of ethics) shall be the maximum number required.

(p) Noncompliance:

(1) If a licensee does not certify that CEP requirements have been met for a renewal period, the license shall be considered expired and subject to late fees and penalties.

(2) A licensee must submit the CEP certification log and supporting records for credits claimed not later than 30 days after the Board sends by certified mail an audit notification and request for a log and supporting documentation to the licensee's last known address as shown by the Board's records. Failure to timely submit a CEP certification log and supporting records for credits claimed is grounds for disciplinary action.

(3) A licensee must satisfy CEP requirements. Failure to satisfy CEP requirements during the applicable period is grounds for disciplinary action.

(4) [~~(2)~~] Falsely reporting that CEP requirements have been met for a renewal period is [~~A determination by audit that CEP requirements have been falsely reported shall be considered to be~~] misconduct and will subject the licensee to disciplinary action.

§851.35. Voluntary Surrender of a License, Registration or Certification.

(a) A license holder who does not wish to maintain a license, registration, or certification may voluntarily surrender the license, registration, or certification by submitting a request in writing on a form prescribed by the TBPG, provided that the license holder:

(1) has a current license, registration, or certification;

(2) is not out of compliance with a disciplinary order;

(3) does not have a complaint pending; and

(4) is not under a continuing education audit.

(b) The effective date of a voluntary surrender of a license shall be the date that the Board accepts the surrender and will mark the termination of the licensee's license, registration, or certification.

(c) Any fees paid on the license, registration, or certification shall not be refunded upon surrender.

(d) A license, registration, or certification that has been voluntarily surrendered may not be renewed. A licensee who has voluntarily surrendered a license, registration, or certification may apply for a new license, registration, or certification.

(e) The Board maintains jurisdiction over a complaint filed against a licensee alleging violation of the TBPG's Code of Professional Conduct that occurred prior to the date of surrender of the license, registration, or certification.

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 August 30, 2016.

TRD-201604558
Charles Horton
Executive Director
Texas Board of Professional Geoscientists
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 936-4405

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SUBCHAPTER C. CODE OF PROFESSIONAL CONDUCT

22 TAC §851.113

The proposed new rule is authorized by the Texas Occupations Code §1002.151, which provides that the Board shall adopt and enforce rules consistent with the Texas Geoscience Practice Act (the Act); by Occupations Code §1002.153, which provides that the Board shall adopt a code of professional conduct that is binding on all license holders; by Occupations Code §1002.154, which provides that Board shall enforce the Act; and by Occupations Code §1002.351, which provides that the Board may adopt rules relating to the public practice of geoscience by a firm or corporation.

The proposed new rule implements the Texas Occupations Code, §§1002.151, 1002.153, 1002.154, and 1002.351.

§851.113. Duty to abide by Board order and timely pay administrative penalty.

(a) All persons who are the subject of a Board order shall abide by the terms of that order. Failure to abide by the terms of a Board order is grounds for disciplinary action.

(b) All persons who are assessed an administrative penalty must pay the administrative penalty not later than the 30th day after the date the Board's order becomes final or timely satisfy section 1002.454(b) of the Texas Occupations Code.

(c) Failure to timely pay an administrative penalty is grounds for disciplinary action. This subsection does not apply if a person timely complies with section 1002.454(b) of the Texas Occupations Code regarding staying the enforcement of the administrative penalty at issue.

(d) The Board may deny a person's request for a license, registration or certification, or to renew a license, registration, or certification if the person has failed to timely pay an administrative penalty.

(e) When a person pays money to the Board, the Board may first apply that money to outstanding administrative penalties owed by that person before applying it to any other fee or cost.

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

Filed with the Office of the Secretary of State on August 30, 2016.

TRD-201604559
Charles Horton
Executive Director
Texas Board of Professional Geoscientists
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 936-4405

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SUBCHAPTER E. HEARINGS--CONTESTED CASES

22 TAC §851.203, §851.204

The proposed new rules are authorized by the Texas Occupations Code §1002.151, which provides that the Board shall adopt and enforce rules consistent with the Texas Geoscience Practice Act (the Act); by Occupations Code §1002.154, which provides that Board shall enforce the Act; by Occupations Code §1002.351, which provides that the Board may adopt rules relating to the public practice of geoscience by a firm or corporation; and by Occupations Code §1002.453, which provides that the Board adopt rules of procedure for the imposition of an administrative penalty, and that such rules must conform to the requirements of Chapter 2001, Government Code.

The proposed new rules implement the Texas Occupations Code, §§1002.151, 1002.154, 1002.351, and 1002.453.

§851.203. Defaults.

(a) The Board may serve the notice of hearing on the respondent by sending it to his or her last known address as shown by the Board's records.

(b) Default. If the party who does not have the burden of proof fails to appear at a contested-case hearing at the State Office of Administrative Hearings, the administrative law judge may issue a default proposal for decision that can be adopted by the Board.

(c) Failure to issue default proposal for decision. If the administrative law judge grants a default but does not issue a default proposal for decision and instead issues an order dismissing the case and returning the file to the Board for informal disposition on a default basis in accordance with section 2001.056 of the Texas Government Code, the allegations in the notice of hearing will be deemed as true and proven and the Board will issue a final order imposing a sanction requested in the notice of hearing.

(d) Contesting a final order issued following a default. In the event that the respondent wishes to contest a final order issued following a default, the respondent must timely file a motion for rehearing as provided by Chapter 2001 of the Texas Government Code, and the motion for rehearing must show the following:

(1) the default was neither intentional nor the result of conscious indifference;

(2) the respondent has a meritorious defense;

(3) a new hearing will not cause delay or otherwise injure the Board; and

(4) the motion for rehearing must be supported by affidavits and documentary evidence of the above and show a prima facie case for a meritorious defense.

(e) Failure to Prosecute. If a party who does not represent TBPG Board or staff and who has the burden of proof fails to appear at a contested case hearing at the State Office of Administrative Hearings, the administrative law judge must dismiss the case for want of prosecution, any relevant application will be withdrawn, and the Board may not consider a subsequent petition from the party until the first anniversary of the date of dismissal of the case.

(f) Applicants for licensure bear the burden to prove fitness for licensure.

§851.204. Costs of Administrative Hearings.

(a) If a person files a suit for judicial review of an agency decision in a contested case, the Board shall request that the contested-case hearing be transcribed.

(b) Costs. The costs of transcribing the contested-case hearing and preparing the record for appeal in a suit for judicial review shall be paid by the party who appeals to district court.

(c) Documentation of costs. Documentation supporting the costs of transcribing the testimony in a contested-case proceeding and preparing the record for appeal shall be included in the administrative record or filed with the court.

(d) Recovery as court costs. The costs of transcribing the testimony in a contested-case proceeding and preparing the record for appeal in a suit for judicial review may be recovered as court costs.

(e) Additionally and alternatively, failure to timely pay the cost of transcribing the contested-case hearing is grounds for disciplinary action, and payment of the cost of transcribing the contested-case hearing is due no later than 60 days after the Board sends a request for payment and copy of the documentation of costs to the respondent's last known address as shown by the Board's records or to the respondent's attorney if any.

(f) The Board may deny a person's request to issue or renew a license, registration, or certification if the person has failed to pay the cost of transcribing the contested-case hearing.

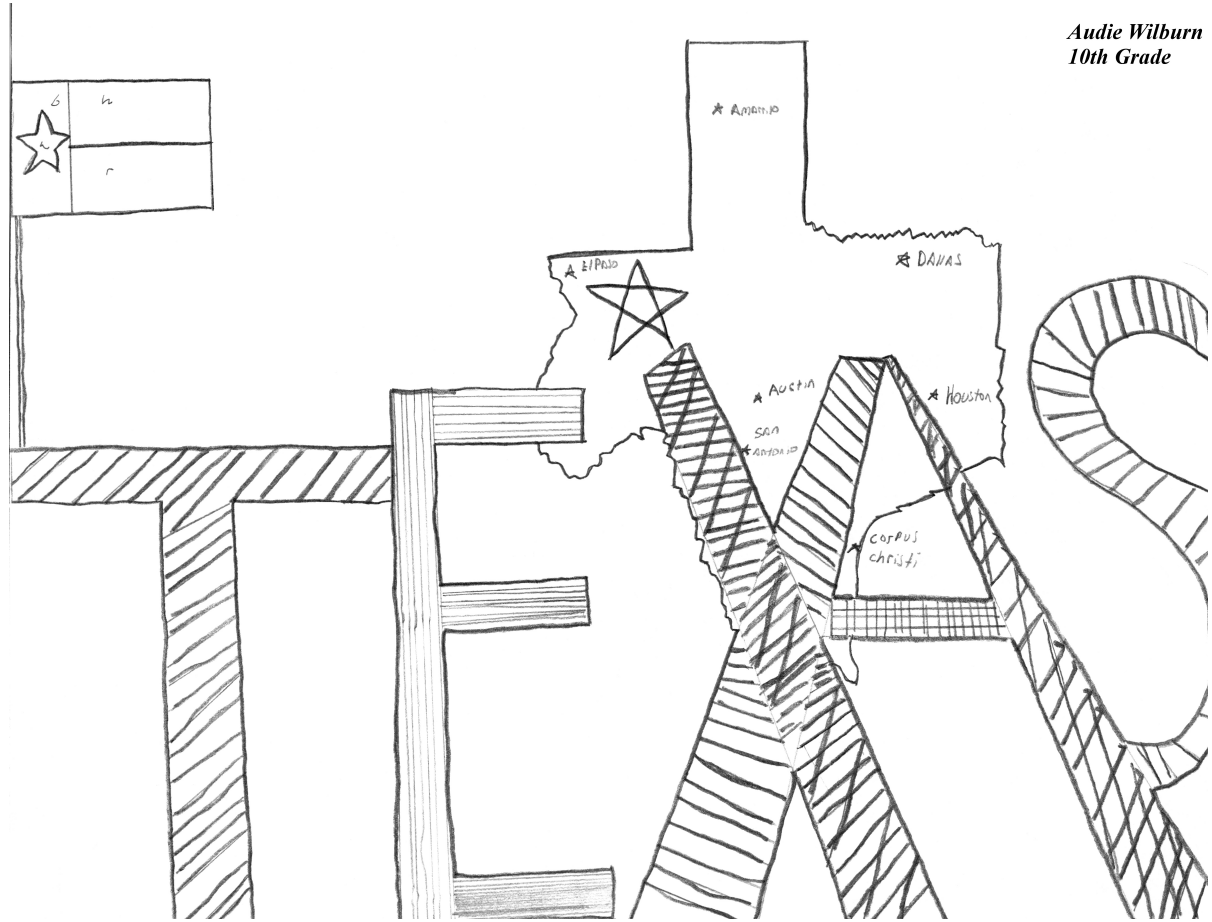
(g) When a person pays money to the Board, the Board may first apply that money to outstanding transcript costs owed by that person before applying it to any other fee or cost.

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

Filed with the Office of the Secretary of State on August 30, 2016.

TRD-201604560
Charles Horton
Executive Director
Texas Board of Professional Geoscientists
Earliest possible date of adoption: October 16, 2016
For further information, please call: (512) 936-4405

Audie Wilburn
10th Grade



WITHDRAWN RULES

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

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 22. GRANT AND SCHOLARSHIP PROGRAMS

SUBCHAPTER B. PROVISIONS FOR THE TUITION EQUALIZATION GRANT PROGRAM

19 TAC §22.23

The Texas Higher Education Board withdraws the proposed amendment to §22.23 which appeared in the May 6, 2016, issue of the *Texas Register* (41 TexReg 3558).

Filed with the Office of the Secretary of State on August 30, 2016.

TRD-201604561
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Effective date: August 30, 2016
For further information, please call: (512) 427-6114

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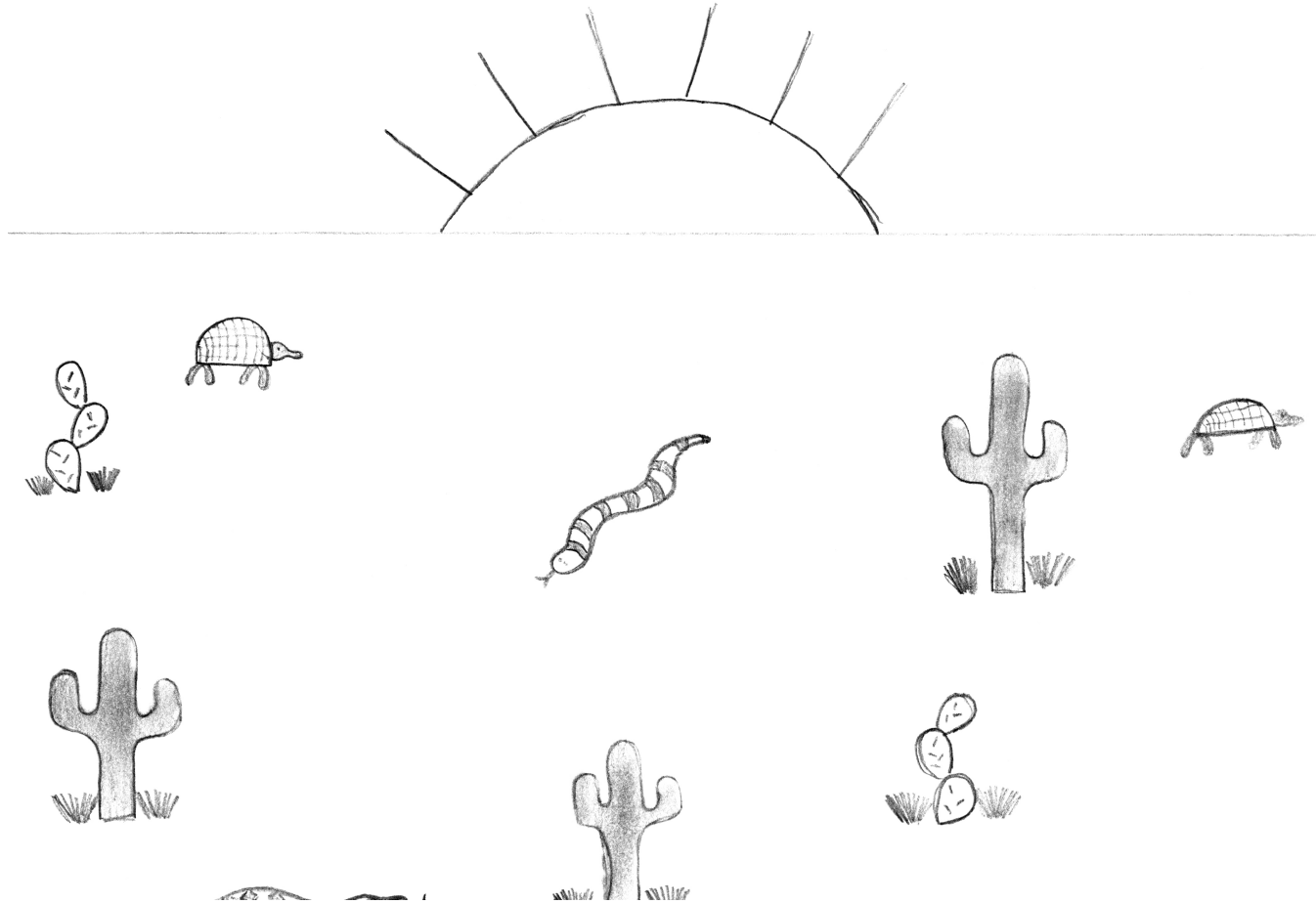

ADOPTED RULES

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

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 59. CONTINUING EDUCATION REQUIREMENTS

16 TAC §§59.3, 59.10, 59.20, 59.21, 59.30, 59.51, 59.80 59.90

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 59, §§59.10, 59.20, 59.21, 59.30, 59.51, 59.80 and 59.90, regarding the Continuing Education Requirements, without changes to the proposed text as published in the May 27, 2016, issue of the *Texas Register* (41 TexReg 3804). The rules will not be republished.

The Commission also adopts amendments to an existing rule at 16 TAC, Chapter 59, §59.3, with changes to the proposed text as published in May 27, 2016, issue of the *Texas Register* (41 TexReg 3804). The rules will be republished.

The adopted amendments update the continuing education requirements for the different professions regulated by the Texas Department of Licensing and Regulation (Department) and general language clean up. The adopted amendments are necessary to allow the Department to streamline continuing education requirements across several professions. The adopted amendments also provide the Department with better enforcement tools to hold the continuing education providers accountable to the consumers they serve.

The adopted amendments to §59.3 add "booting operators" and "elevator contractor responsible party and registered elevator inspector" to the occupations which are required to take continuing education. Also, licensed court interpreters was removed from the listed professions since the Department no longer has regulatory authority over the profession.

The adopted amendments to §59.10 add "current on the payment" to the definitions and clarifies the definition of continuing education provider. Editorial changes are made to renumber the section.

The adopted amendments to §59.20 removes the requirement for a separate provider registration per occupation and adds the requirement for the provider to be current on all fees.

The adopted amendments to §59.21 adds the requirement for providers seeking renewal to be current on all fees.

The adopted amendments to §59.30 allows the Department to approve courses in increments of less than one hour and prevents the Department from approving a continuing education course from a provider that is not current on required fees.

The adopted amendments §59.51 requires the course completion report to include the total amount of continuing education record fees owed to the Department, if any. The proposed amendments also require the provider to pay all required fees and prohibits the provider from enrolling a participant into a continuing education course without Department approval if fees are owed.

The adopted amendments to §59.80 adds a record fee and clean up expired language.

The adopted amendments to §59.90 allows the Department to seek an administrative sanction against a person for failing to pay the Department all required fees, including record fees, or administrative penalties and allows the Executive Director to probate a license.

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the May 27, 2016, issue of the *Texas Register* (41 TexReg 3804). The deadline for public comments was June 27, 2016. The Department received comments from twelve interested parties on the proposed rules during the 30-day public comment period.

Comment--One commenter does not agree with barbers being required to take continuing education.

Department Response--Under Texas Occupations Code, Chapter 1601 and 1603, Barbers are not required to take continuing education and have not been added to these proposed rules. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter would like to keep the four hours of continuing education for driver education and safety school owners and would also like to have the Department hold continuing education classes alongside the Texas Department of Public Safety.

Department Response--Continuing education for the Driver Education and Safety program is administered differently by the Department and it is governed by the Education Code, Chapter 1001 and 16 TAC, Chapter 84. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter described their work experience and wanted to know if the experience could count as continuing education for the renewal of their Cosmetology license.

Department Response--The comment was forwarded to the Department's licensing division for response. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter suggested eliminating the online continuing education course; making the course sixteen hours;

and having the Department conduct the course for the air conditioning and refrigeration license.

Department Response--Online courses provide licensees with more flexibility and options to complete continuing education requirements. The number of continuing education hours required for an air conditioning and refrigeration license is set forth in the air conditioning and refrigeration contractors rules in 16 TAC, Chapter 75 and not addressed by these proposed amendments. In addition, the Department does not conduct courses as to not impede upon provider business practices and the Department would be in direct competition with the industries. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter thinks the continuing education provider system is unfair because of lack of competition. The commenter suggested the Department assign the provider to the licensee renewal.

Department Response--The Department posts a list of all registered continuing education providers for each program on the Department's official website. The information is accessible to everyone and allows consumers to choose their preferred provider instead of having the Department assign providers to the licensees. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter does not agree with the continuing education fees.

Department Response--On November 21, 2013, the Texas Commission on Licensing and Regulation approved a reduction in applications fees for Continuing Education Providers. The fee for initial and renewal applications were reduced from $250 to $200, effective March 1, 2014. Additionally, the proposed changes would no longer require providers to pay registration fees per occupation. The Department strives to set fees that are reasonable and necessary only to cover the costs of administering the programs. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter recommended having the Police Departments and Fire Departments attend training with tow truck operators.

Department Response--The Department has no authority over training requirements for Police Departments and Fire Departments. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter is disappointed by the lack of interest the Tow industry shows toward continuing education and the lack of enforcement regarding provider fee collections.

Department Response--The proposed amendments seek to provide the Department with better enforcement tools to hold continuing education providers accountable to the consumers. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--One commenter wanted to know how this rule change would affect the Property Tax Professionals, specifically: will CE providers be required to pay a registration fee and if this inclusion will conflict with the property tax professional statute.

Department Response--Continuing education for the Property Tax Professionals program is uniquely administered by the Department with the assistance of the Texas Comptroller of Public Accounts as required by the Texas Occupations Code, Chapter 1151. The Texas Comptroller of Public Accounts has raised concerns that addition of the Property Tax Professionals to 16 TAC Chapter 59 may cause confusion. The Department does not foresee any conflict with the inclusion of the Property Tax Professionals Program as proposed; however, to eliminate the confusion regarding continuing education requirements the Department has removed the property tax professionals program from §59.3 and will work with the Texas Comptroller of Public Accounts to address concerns.

Comment--One commenter would like the costs for opening a new driver training school reduced and better enforcement to eliminate corruption.

Department Response--The Department strives to set fees that are reasonable and necessary only to cover the costs of administering the programs. Additionally, the proposed amendments seek to update the continuing education requirements for specifically listed professions regulated by the Department. Driver Education and Safety was not included because it is administered differently by the Department and governed by Education Code, Chapter 1001 and 16 TAC, Chapter 84. The Department did not make any changes to the proposed rules as a result of this comment.

Comment--Three comments expressed concern about implementing the 'record fee' for the property tax professionals program and believes it will force continuing education providers out of the business. In addition, one of the comments would also like stricter continuing education classes to prevent fraud.

Department Response--The 'record fee' is statutorily required by the Cosmetology and Tow Operators programs and does not apply to the Property Tax Professionals program. Furthermore, the proposed amendments seek to provide the Department with better enforcement tools to hold continuing education providers accountable to the consumers. The Department did not make any changes to the proposed rules as a result of this comment.

The amendments are adopted under Texas Occupations Code, Chapter 51, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapter 51. No other statutes, articles, or codes are affected by the proposal.

§59.3. Purpose and Applicability.

These rules are promulgated to establish continuing education provider and course requirements for the following occupations regulated by the Department of Licensing and Regulation:

(1) Air conditioning and refrigeration contractors, as provided by Texas Occupations Code, Chapter 1302. Additional continuing education requirements relating to air conditioning and refrigeration contractors may be found in Chapter 75 of this title.

(2) Auctioneers, as provided by Texas Occupations Code, Chapter 1802. Additional continuing education requirements relating to auctioneers may be found in Chapter 67 of this title.

(3) Booting operators, as provided by Texas Occupations Code, Chapter 2308. Additional continuing education requirement relating to booting may be found in Chapter 89 of this title.

(4) Cosmetologists, as provided by Texas Occupations Code, Chapters 1602 and 1603. Additional continuing education

requirements relating to cosmetologists may be found in Chapter 83 of this title.

(5) Electricians, as provided by Texas Occupations Code, Chapter 1305. Additional continuing education requirements relating to electricians may be found in Chapter 73 of this title.

(6) Elevator contractor responsible party and registered elevator inspector, as provided by Texas Health and Safety Code, Chapter 754, Subchapter B. Additional continuing education requirements relating to responsible parties may be found in Chapter 74 of this title.

(7) Polygraph examiners, as provided by Texas Occupations Code, Chapter 1703. Additional continuing education requirements relating to polygraph examiners may be found in Chapter 88 of this title.

(8) Property tax consultants, as provided by Texas Occupations Code, Chapter 1152. Additional continuing education requirements relating to property tax consultants may be found in Chapter 66 of this title.

(9) Registered accessibility specialists, as provided by Texas Government Code, Chapter 469. Additional continuing education requirements relating to registered accessibility specialists may be found in Chapter 68 of this title.

(10) Towing operators, as provided by Texas Occupations Code, Chapter 2308. Additional continuing education requirements relating to towing operators may be found in Chapter 86 of this title.

(11) Water well drillers and pump installers, as provided by Texas Occupations Code, Chapters 1901 and 1902. Additional continuing education requirements relating to water well drillers and pump installers may be found in Chapter 76 of this title.

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 September 2, 2016.

TRD-201604622
Brian E. Francis
Executive Director
Texas Department of Licensing and Regulation
Effective date: October 1, 2016
Proposal publication date: May 27, 2016
For further information, please call: (512) 463-8179

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CHAPTER 70. INDUSTRIALIZED HOUSING AND BUILDINGS

16 TAC §70.30

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to an existing rule at 16 Administrative Code (TAC), Chapter 70, §70.30, regarding the Industrialized Housing and Buildings Program, without changes to the proposed text as published in the June 10, 2016, issue of the *Texas Register* (41 TexReg 4150), the rules will not be republished.

Senate Bill 1264 (S.B. 1264), 84th Legislature, Regular Session (2015), which amended the Occupations Code, Chapter 1202, to change a size limitation affecting the regulation of industrialized housing and buildings. The adopted amendment is necessary to reflect the change in law made by S.B. 1264, which took effect September 1, 2015.

The adopted amendment to §70.30 expands the applicability of the industrialized housing and buildings rules to include structures up to four stories or 60 feet in height from the previous limitation of three or 49 feet in height.

The Department drafted and distributed the proposed rules to person internal and external to the agency. The proposed rules were published in the June 10, 2016, issue of the *Texas Register* (41 TexReg 4150). The deadline for public comment was July 11, 2016. During the 30-day public comment period, the Department did not receive any comments.

The amendment is adopted under Texas Occupations Code, Chapter 1202, which authorizes the Commission, the Department's governing body, to adopt rules as necessary to implement these rules, chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adoption are those set for in Texas Occupations Code, Chapter 1202. No other statutes, articles, or codes are affected by the adoption.

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

Filed with the Office of the Secretary of State on September 2, 2016.

TRD-201604617
Brian E. Francis
Executive Director
Texas Department of Licensing and Regulation
Effective date: October 1, 2016
Proposal publication date: June 10, 2016
For further information, please call: (512) 463-8614

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 6. ICF/ID PROGRAMS--CONTRACTING

SUBCHAPTER H. DENTAL PROGRAM

40 TAC §§6.351, 6.352, 6.357, 6.370

The Texas Health and Human Services Commission (HHSC) adopts, on behalf of the Department of Aging and Disability Services (DADS), the repeal of Subchapter H, Dental Program, consisting of §§6.351, 6.352, 6.357, and 6.370 in Chapter 6, ICF/ID Programs--Contracting, without changes to the proposal as published in the July 8, 2016, issue of the *Texas Register* (41 TexReg 4997).

The repeal is adopted because DADS has no responsibility for administering dental benefits for individuals enrolled in the Intermediate Care Facilities for Individuals with an Intellectual Disabil-

ity and Related Conditions (ICF/IID) Program; therefore, these rules are not needed.

DADS received no comments regarding adoption of the repeal.

The repeal is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §32.021, which provides that the HHSC executive commissioner shall adopt necessary rules for the proper and efficient operation of the medical assistance program; and Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS.

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 August 30, 2016.

TRD-201604576
Lawrence Hornsby
General Counsel
Department of Aging and Disability Services
Effective date: September 19, 2016
Proposal publication date: July 8, 2016
For further information, please call: (512) 438-2430

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CHAPTER 9. INTELLECTUAL DISABILITY SERVICES--MEDICAID STATE OPERATING AGENCY RESPONSIBILITIES

SUBCHAPTER G. MEDICAID FAIR HEARINGS

40 TAC §9.301

The Texas Health and Human Services Commission (HHSC) adopts, on behalf of the Department of Aging and Disability Services (DADS), the repeal of Subchapter G, Medicaid Fair Hearings, consisting of §9.301 in Chapter 9, Intellectual Disability Services--Medicaid State Operating Agency Responsibilities, without changes to the proposal as published in the July 8, 2016, issue of the *Texas Register* (41 TexReg 5000).

The repeal is adopted to remove rules from the DADS rule base because Medicaid fair hearings are addressed in HHSC rule at 1 TAC Chapter 357, Subchapter A, Uniform Fair Hearing Rules.

DADS received no comments regarding adoption of the repeal.

The repeal is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §32.021, which provides that the HHSC executive commissioner shall adopt necessary rules for the proper and efficient operation of the medical assistance program; and Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS.

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 August 30, 2016.

TRD-201604577
Lawrence Hornsby
General Counsel
Department of Aging and Disability Services
Effective date: September 19, 2016
Proposal publication date: July 8, 2016
For further information, please call: (512) 438-2430

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CHAPTER 39. COMMUNITY ALZHEIMER'S RESOURCES AND EDUCATION (CARE) PROGRAM

40 TAC §§39.1, 39.2, 39.4, 39.6, 39.8, 39.10, 39.12, 39.14, 39.16

The Texas Health and Human Services Commission (HHSC) adopts, on behalf of the Department of Aging and Disability Services (DADS), the repeal of §§39.1, 39.2, 39.4, 39.6, 39.8, 39.10, 39.12, 39.14, and 39.16, in Chapter 39, Community Alzheimer's Resources and Education (CARE) Program, without changes to the proposal as published in the July 8, 2016, issue of the *Texas Register* (41 TexReg 5014).

The repeal is adopted to remove rules governing a program that is no longer being administered and, therefore, are not needed.

DADS received no comments regarding adoption of the repeal.

The repeal is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; and Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS.

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 August 30, 2016.

TRD-201604578
Lawrence Hornsby
General Counsel
Department of Aging and Disability Services
Effective date: September 19, 2016
Proposal publication date: July 8, 2016
For further information, please call: (512) 438-2430

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CHAPTER 92. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

The Texas Health and Human Services Commission (HHSC) adopts, on behalf of the Department of Aging and Disability Services (DADS), new §92.21, in Subchapter B, Application Procedures; an amendment to §92.64, in Subchapter D, Facility Construction; and an amendment to §92.551, in Subchapter H, Enforcement in Chapter 92, Licensing Standards for Assisted Living Facilities. New §92.21 is adopted with changes to the proposed text published in the April 22, 2016, issue of the *Texas Register* (41 TexReg 2873). The amendments to §92.64 and §92.551 are adopted without changes to the proposed text.

The amendments and new section are adopted to implement Texas Health and Safety Code (THSC) §247.022, as amended by House Bill (H.B.) 1769, 84th Legislature, Regular Session, 2015. Texas Health and Safety Code §247.022(d) allows an assisted living facility (facility) license applicant in good standing to request that DADS issue an initial license that does not require an on-site health inspection. Texas Health and Safety Code §247.022(d) also prohibits DADS from requiring an applicant in good standing that requests an initial license to admit a resident to the facility before DADS issues an initial license. The criteria for being in good standing are listed in THSC §247.022(f). Texas Health and Safety Code §247.022 requires a license applicant in good standing to submit for DADS approval the applicant's policies and procedures, verification of employee background checks, and employee credentials before DADS issues an initial license. Texas Health and Safety Code §247.022 requires a facility that is issued an initial license in accordance with THSC §247.022(d) to disclose to residents and prospective residents that the facility has not yet met the requirements of an on-site health inspection. Texas Health and Safety Code §247.022 requires DADS to conduct an on-site health inspection within 90 days after DADS issues an initial license. The adoption sets forth the requirements for an applicant in good standing to obtain an initial license, allows a facility to admit more than three residents after it receives an initial license, and allows DADS to impose an administrative penalty if a facility does not disclose to residents and prospective residents that it has not met the requirements of an on-site health inspection.

DADS made changes to the text of §92.21(c)(2)(A) to clarify that the provision relates to a violation of a licensing rule, and to clarify that, in determining if an applicant is in good standing, a cited violation that the facility challenges will be considered only if the violation was affirmed or a final determination on it is pending.

DADS received written comments from the State Long Term Care Ombudsman and the staff ombudsman with The University of Texas Health Science Center in Houston on the proposed rules. A summary of the comments and the responses follows.

Comment: A commenter recommended the addition of a requirement for a facility that obtains a license before a health inspection to notify the State Long-Term Care Ombudsman within five business days of receiving the license.

Response: The agency will include the practice in its operational procedures and notify the State Long-Term Care Ombudsman within five business days after issuing a license to an applicant in good standing. No changes were made in response to the comment.

Comment: A commenter expressed concerns regarding initial licensure applicants who meet the criteria for good standing in proposed §92.21 and who apply for an Alzheimer's certification simultaneously. The commenter stated the rule does not address how Alzheimer's certification should be treated if a facility receives a license without an initial health inspection. The commenter recommended that DADS not issue Alzheimer's certification to a facility until the agency conducts a health inspection of the facility and the applicant meets the requirements for licensure because of the vulnerable nature of potential residents.

Response: The rule project implements legislation regarding initial licensure of Type A and Type B facilities. The agency will consider Alzheimer's certification for applicants in good standing in the future. No changes were made in response to the comment.

Comment: A commenter noted "actual harm" is not defined in Chapter 92 and recommended creating a definition that correlates with current and future violations.

Response: The agency defines actual harm in proposed §92.21(c)(2)(A)(i)(I) as a negative outcome that compromises the resident's physical, mental, or emotional well-being. The agency will train surveyors to help ensure that actual harm is recognized and enforced consistently across all regions, and will develop a process to track instances of actual harm. No changes were made in response to the comment.

Comment: A commenter recommended that licensure applicants who operate facilities in other states should also be required to meet the good standing requirements.

Response: Texas Health and Safety Code §247.022(f), as amended by H.B. 1769, applies to a license applicant or a controlling person of a license applicant that has, in addition to other criteria, operated or been the controlling person of a facility in Texas for at least six consecutive years. An applicant that has operated a facility in another state does not meet this statutory requirement. No changes were made in response to the comment.

Comment: A commenter suggested that, although the proposed amendment to §92.21(g) requires a facility to attach an addendum to the disclosure statement to notify all residents and prospective residents that the facility has not met the requirements of the initial on-site health inspection, the disclosure statement itself should include information explaining that the facility has not met the requirements of an initial health inspection.

Response: The agency added to §92.21(g) the minimum information a facility must include on an addendum. The agency chose to require an addendum explaining that the facility has not met the requirements of an initial health inspection, rather than require a facility to change the actual disclosure form, because this is a temporary status for the facility.

Comment: A commenter recommended a requirement for a facility that has not had an on-site health inspection to disclose that status on the Long Term Care Quality Reporting System (QRS) Provider Report.

Response: The purpose of QRS is to provide the results of a facility's most recent survey and to document violations of licensing rules. The results of an initial health survey are available to the public on the DADS website after DADS conducts the survey. No changes were made in response to the comment.

Comment: A commenter suggested a requirement for all facilities to display a disclosure statement in view of potential long-

term care stakeholders or customers until a health inspection is completed.

Response: Staff at a facility must explain and provide a copy of the disclosure statement to an individual, family or responsible party before admitting the individual to the facility. Notification that the facility has not met the requirements of an on-site health inspection must be on an addendum attached to the disclosure statement until the facility meets those requirements. Because §92.21 applies only to an initial license, all individuals who are admitted to the facility will receive the disclosure statement with the addendum. The agency believes that this notification is sufficient and, therefore, requiring a facility to display a disclosure statement is unnecessary. No changes were made in response to the comment.

SUBCHAPTER B. APPLICATION PROCEDURES

40 TAC §92.21

The new section is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS, and Texas Health and Safety Code §247.025 which provides that the HHSC executive commissioner shall adopt rules necessary for licensing assisted living facilities.

§92.21. Initial License for a Type A or Type B Facility for an Applicant in Good Standing.

(a) An applicant may request that DADS issue, before conducting an on-site health inspection, an initial license for a Type A or Type B facility. The applicant must request the license by submitting a form prescribed by and made available from DADS.

(b) If an applicant makes a request in accordance with subsection (a) of this section, DADS determines the applicant is in good standing, and the applicant complies with subsection (d) of this section, the applicant is not required to admit a resident to the facility or have the on-site health inspection described in §92.14(f) of this subchapter (relating to Initial License Application Process and Requirements) before DADS issues an initial license.

(c) For purposes of this section, an applicant is in good standing if:

(1) one of the following conditions is met:

(A) the applicant has operated or been a controlling person of a licensed Type A or Type B facility in Texas for at least six consecutive years; or

(B) the applicant has not held a license for a Type A or Type B facility, but a controlling person of the applicant has operated or been a controlling person of a licensed Type A or Type B facility in Texas for at least six consecutive years; and

(2) each licensed facility operated by the applicant or the controlling person described in paragraph (1)(A) or (B) of this subsection:

(A) has not had a violation of a licensing rule:

(i) that:

(I) resulted in actual harm to a resident, which is defined as a negative outcome that compromises the resident's physical, mental or emotional well-being; or

(II) posed an immediate threat of harm causing or likely to cause serious injury, impairment, or death to a resident; and

(ii) that:

(I) the facility did not challenge;

(II) was affirmed; or

(III) is pending a final determination; and

(B) has not had a sanction imposed by DADS against the facility during the six years before the date an application is submitted that resulted in:

(i) a civil penalty;

(ii) an administrative penalty;

(iii) an injunction;

(iv) the denial, suspension, or revocation of a license; or

(v) an emergency closure.

(d) An applicant that makes a request in accordance with subsection (a) of this section must:

(1) submit to DADS:

(A) the applicant's policies and procedures;

(B) evidence that the applicant has complied with §92.123 of this chapter (relating to Investigation of Facility Employees); and

(C) documentation that the applicant's employees have the credentials described in §92.41(a) of this chapter (relating to Standards for Type A and Type B Assisted Living Facilities); and

(2) comply with §92.14(d) of this subchapter and §92.11(c)(1)(A) - (C) of this subchapter (relating to Criteria for Licensing).

(e) DADS issues an initial license to an applicant that makes a request in accordance with subsection (a) of this section if DADS determines that an applicant:

(1) is in good standing;

(2) has submitted information in accordance with subsection (d)(1) of this section that complies with this chapter; and

(3) is in compliance with the requirements of Subchapter D of this chapter (relating to Facility Construction), including meeting the requirements of a Life Safety Code (LSC) inspection within 120 days after the date DADS conducts the initial LSC inspection.

(f) DADS conducts an on-site health inspection within 90 days after the date DADS issues a license in accordance with subsection (e) of this section. The on-site health inspection includes DADS observation of the facility's provision of care to at least one resident.

(g) Until a facility that is issued an initial license under this section meets the requirements of the on-site health inspection described in subsection (f) of this section, the facility must attach a written addendum to the disclosure statement required by §92.41(d)(1) of this chapter as notice to a resident or a prospective resident that the facility has not met the requirements of the on-site health inspection. At a minimum, the addendum must state that:

(1) the facility has not met the requirements of an initial on-site health inspection for a license; and

(2) DADS will conduct an on-site health inspection for licensure within 90 days after the date the license is issued.

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 August 30, 2016.

TRD-201604573
Lawrence Hornsby
General Counsel
Department of Aging and Disability Services
Effective date: September 19, 2016
Proposal publication date: April 22, 2016
For further information, please call: (512) 438-2235

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SUBCHAPTER D. FACILITY CONSTRUCTION

40 TAC §92.64

The amendment is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS, and Texas Health and Safety Code §247.025 which provides that the HHSC executive commissioner shall adopt rules necessary for licensing assisted living facilities.

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 August 30, 2016.

TRD-201604574
Lawrence Hornsby
General Counsel
Department of Aging and Disability Services
Effective date: September 19, 2016
Proposal publication date: April 22, 2016
For further information, please call: (512) 438-2235

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SUBCHAPTER H. ENFORCEMENT
DIVISION 9. ADMINISTRATIVE PENALTIES

40 TAC §92.551

The amendment is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS, and Texas Health and Safety Code §247.025 which provides that the HHSC executive commissioner shall adopt rules necessary for licensing assisted living facilities.

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 August 30, 2016.

TRD-201604575
Lawrence Hornsby
General Counsel
Department of Aging and Disability Services
Effective date: September 19, 2016
Proposal publication date: April 22, 2016
For further information, please call: (512) 438-2235

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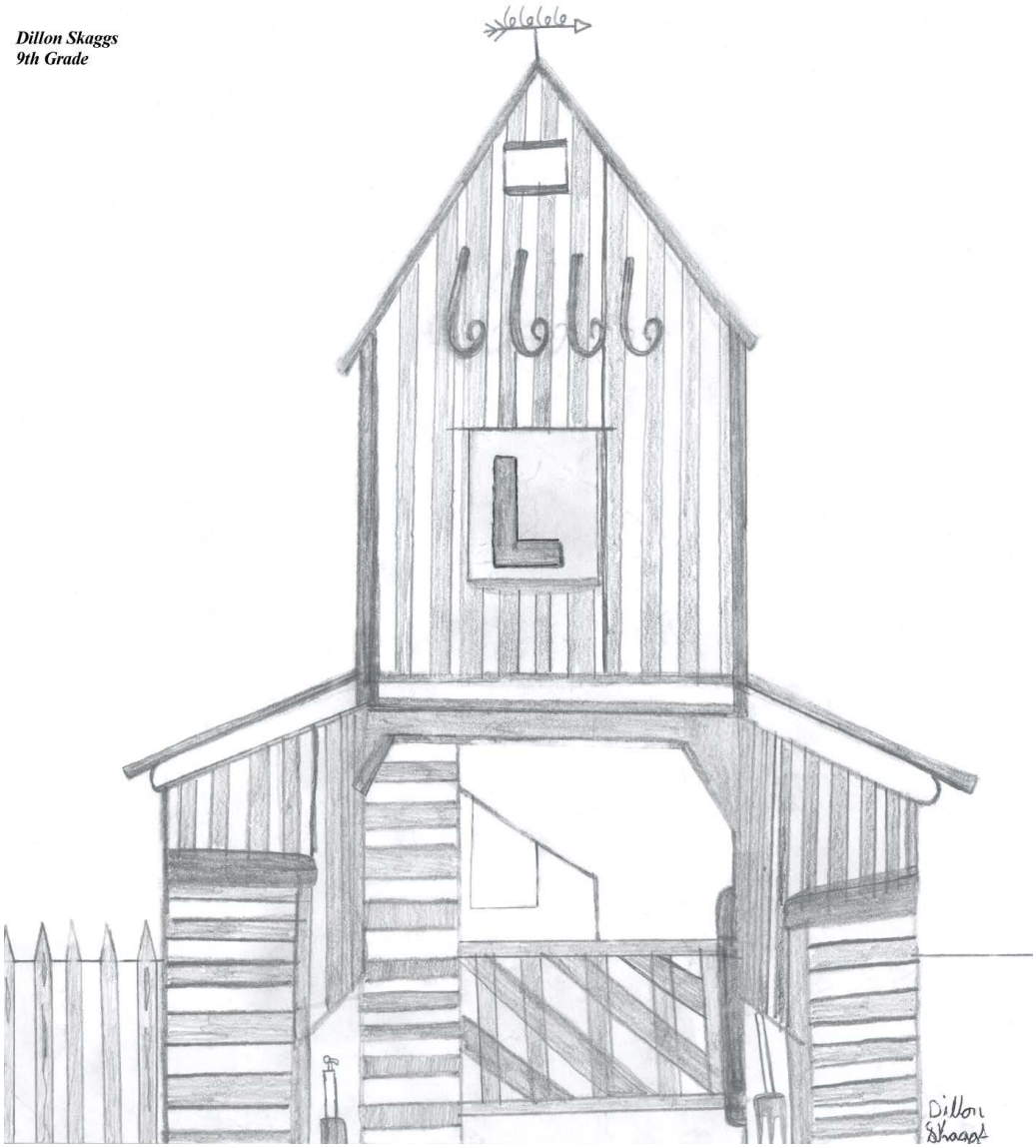
Dillon Skaggs
9th Grade



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.

Adopted Rule Reviews

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Title 4, Part 3

The Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist files this notice of adoption and that it has concluded its review of the Commercial Feed Rules (Chapter 61), Commercial Fertilizer Rules (Chapter 65) and the Pet Food Rules (Chapter 63), in accordance with Texas Government Code, §2001.039.

Each rule has been reviewed and has been determined to reflect current procedures of the Office.

The Rule review proposal has been posted for the required 30 days from the date of the notice published in the *Texas Register,* on July 1, 2016 (41 TexReg 4865).

No comments were received during the Rule review.

This concludes the review of 4 TAC Chapters 61, 63, and 65.

TRD-201604629

Dr. Timothy Herrman

State Chemist and Director

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Filed: September 6, 2016

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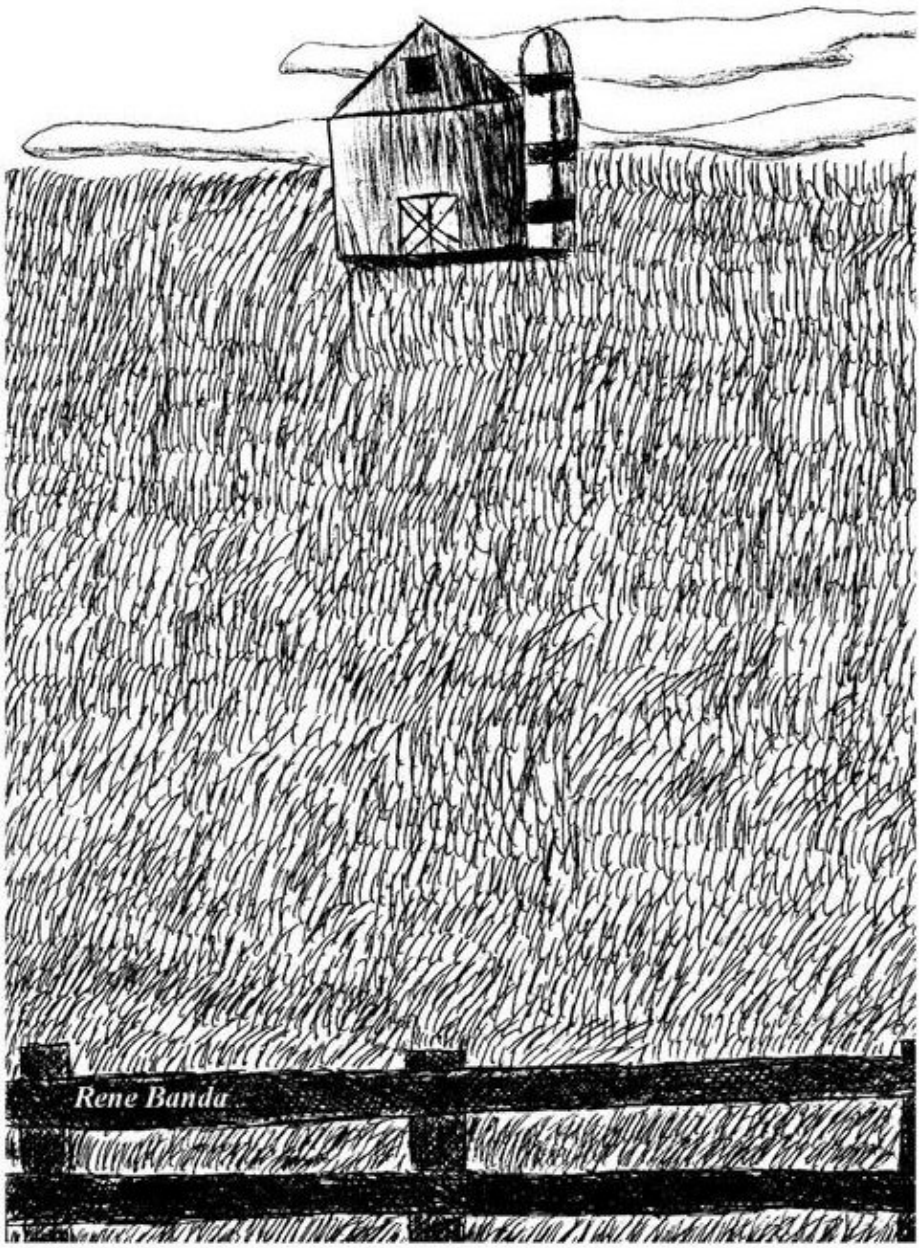
Rene Banda

TABLES & GRAPHICS

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

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

Figure: 22 TAC §139.35(b)

CLASSIFICATION	VIOLATION	CITATION	SUGGESTED SANCTIONS
Engineering Misconduct	Gross negligence	§137.55(a), (b)	Revocation / $5,000.00
	Failure to exercise care and diligence in the practice of engineering	§§137.55(b), 137.63(b)(6)	1 year suspension / $2,500.00
	Incompetence; includes performing work outside area of expertise	§137.59(a), (b)	3 year suspension / $5,000.00
	Misdemeanor or felony conviction without incarceration relating to duties and responsibilities as a professional engineer	§139.43(b)	3 year suspension / $5,000.00
	Felony conviction with incarceration	§ 139.43(a)	Revocation / $5,000.00
Licensing	Fraud or deceit in obtaining a license	§§1001.452(2) 1001.453	Revocation/$5,000.00
	Retaliation against a reference	§137.63(c)(3)	1 year suspension/$2,500.00
	Enter into a business relationship which is in violation of 137.77(Firm Compliance)	§137.51(d)	1 year suspension / $1,500.00
Ethics Violations	Failure to engage in professional and business activities in an honest and ethical manner	§137.63(a)	2 year suspension / $4,000.00
	Failure to follow TDI qualified windstorm inspection procedures.	§1001.652; §§137.19 and 137.63(b)(1)	Reprimand / $1,500.00
	Failure to design a structure associated with windstorm insurance that complies with cited windstorm code design criteria	§§1001.652, 1001.653; §§137.19 and 137.63(b)(1)	1 year suspension / $3,000.00 / Roster Removal
	Misrepresentation; issuing oral or written assertions in the practice of engineering that are fraudulent or deceitful	§§137.57(a) and 137.57(b)(1) or (2)	2 year suspension / $4,000.00
	Misrepresentation; issuing oral or written assertions in the practice of engineering that are misleading	§§137.57(a) and 137.57(b)(3)	1 year suspension / $1,500.00
	Conflict of interest	§137.57(c), (d)	2 year suspension / $4,000.00
	Inducement to secure specific engineering work or assignment	§137.63(c)(4)	2 year suspension / $4,000.00
	Accept compensation from more than one party for services on the same project	§137.63(c)(5)	2 year suspension / $4,000.00
	Solicit professional employment in any false or misleading advertising	§137.63(c)(6)	1 year suspension / $4,000.00
	Offer or practice engineering while license is expired or inactive	§§137.7(a) and 137.13(a) and (h)	1 year suspension / $750.00
	Failure to act as a faithful agent to their employers or clients	§137.63(b)(4)	1 year suspension / $2,500.00
	Reveal confidences and private information	§137.61(a), (b), (c)	Reprimand / $2,500.00
	Attempt to injure the reputation of another	§137.63(c)(2)	1 year suspension / $2,500.00
	Retaliation against a complainant	§137.63(c)(3)	1 year suspension / $2,500.00
	Aiding and abetting unlicensed practice or other assistance	§§137.63(b)(3), 137.63(c)(1)	3 year suspension / $5,000.00

	Failure to report violations of others	§137.55(c)	Reprimand / $2,500.00
	Failure to consider societal and environmental impact of actions	§137.55(d)	Reprimand / $2,500.00
	Failure to prevent violation of laws, codes, or ordinances	§137.63(b)(1), (2)	Reprimand / $2,500.00
	Failure to conduct engineering and related business in a manner that is respectful of the client, involved parties and employees	§137.63(b)(5)	1 year suspension / $2,500.00
	Competitive bidding with governmental entity	§137.53	Reprimand / $2,500.00
	Falsifying documentation to demonstrate compliance with CEP	§§137.17(p)(2), (3), 137.63(a)	2 year suspension / $4,000.00
	Action in another jurisdiction	§137.65(a) and (b)	Similar sanction as listed in this table if action had occurred in Texas
	Failure to provide plans and/or specs to TDLR/RAS for assessment within 20 days of issuance	§§1001.452(5), 137.63(b)(1) and (2)	Informal Reprimand / $750.00
Improper use of Seal	Failure to safeguard seal and/or electronic signature.	§137.33(d)	Reprimand / $1,500.00
	Failure to sign, seal, date, or include firm identification on work	§§137.33(e), (f), (h), (n), 137.35(a), (b)	Reprimand / $750.00
	Alter work of another	§§137.33(i), 137.37(a)(3)	1 year suspension / $2,500.00
	Sealing work not performed or directly supervised by the professional engineer	§137.33(b)	Reprimand / $1,500.00
	Practice or affix seal with expired or inactive license	§§1001.401(c), 137.13(h), 137.37(a)(2)	1 year suspension / $750.00
	Practice or affix seal with suspended license	§137.37(a)(2)	Revocation / $5,000.00
	Preprinting of blank forms with engineer seal; use of a decal or other seal replicas	§137.31(e)	1 year suspension / $2,500.00
	Sealing work endangering the public	§137.37(a)(1)	Revocation / $5,000.00
	Work performed by more than one engineer not attributed to each engineer	§137.33(g)	Reprimand / $750.00
	Improper use of standards	§137.33(c)	Reprimand / $750.00
Administrative	Failure to return seal imprint and/or portrait	§§133.97(e), (f); 137.31(a)	Reprimand / $250.00
	Failure to report: change of address or employment, or of any criminal convictions, or legal name change	§137.5(a), (b), and/or (c)	Reprimand / $150.00
	Failure to respond to board communications	§137.51(c)	Reprimand / $750.00
	Failure to include "inactive" or "retired" representation with title while in inactive status	§137.13(f)	Reprimand / $500.00

Figure: 22 TAC §139.35(c)

		SUGGESTED SANCTION	
VIOLATION	**CITATION**	**FIRST OCCURRENCE**	**SUBSEQUENT OCCURRENCES**
Use of "Engineer" title	§§1001.004(c)(2)(B)(C); 1001.301(b)(1)	Voluntary Compliance Cease and Desist	Injunctive / Criminal and $1,500.00
Use of "P.E." designation, or claim to be a "Professional Engineer"	§1001.301(b)(2)-(6), (c), and (e)	Cease and Desist and $2,500.00	Injunctive / Criminal and $5,000.00
Offer or attempt to practice engineering (e.g., through solicitation, proposal, contract, etc.)	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405	Cease and Desist and $2,500.00	Injunctive / Criminal and $5,000.00
Representation of ability to perform engineering (e.g., telephone or HUB listing, newspaper, or other publications, letterhead, Internet, etc.)	§1001.405(e)	Voluntary Compliance	Cease and Desist and $750.00
Use of word "engineer" or any variation or abbreviation thereof under any assumed, trade, business, partnership, or corporate name	§1001.405(e)	Voluntary Compliance	Injunctive / Criminal and $5,000.00
Unlicensed practice of engineering	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §137.77(a)	Cease and Desist and $3,000.00	Injunctive / Criminal and $5,000.00
Unauthorized use of a P.E. seal	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.37(b), 137.77(a)	Cease and Desist and $3,000.00	Injunctive / Criminal and $5,000.00
Fraudulent use of a P.E. seal	§§1001.004(c)(2)(A); 1001.301(a), (c)-(e); 1001.405; §§137.37(b), 137.77(a)	Cease and Desist and $5,000.00	Injunctive / Criminal and $5,000.00

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.

Comptroller of Public Accounts

Notice of Contract Awards

Pursuant to Chapters 72 - 75 and Section 74.702 of the Texas Property Code; and Chapters 403 and 2254, Subchapter A of the Texas Government Code, the Texas Comptroller of Public Accounts ("Comptroller") announces this notice of contract awards.

Comptroller's Request for Proposals 218g ("RFP") related to these contract awards was published in the June 3, 2016, issue of the *Texas Register* (41 TexReg 4067).

Comptroller announces that seven (7) contracts were awarded as follows:

Audit Services, U.S., LLC, 212 West 35th Street, Suite 1600, New York, NY 10001. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

Discovery Audit Services, LLC, 12021 Bricksome Avenue, Baton Rouge, LA 70816. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

Innovative Advocate Group, Inc., 3 Harding Road, Suite E, Red Bank, NJ 07701. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

PRA Government Services, LLC, 600 Beacon Parkway, Suite 900, Birmingham, AL 35209. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

TL2Q, LLC, 477 Madison Avenue, 10th Floor, New York, NY 10022. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

Treasury Services Group, LLC, 1100 Main Street, Suite 2720, Kansas City, MO 64105. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

Verus Financial, LLC, 500 Chase Parkway, Waterbury, CT 06708. The term of the contract is September 1, 2016, through August 31, 2018, with two (2) one (1) year options to renew.

The total amount of each contract is based on a percentage of the cash value of net unclaimed property received by Comptroller as a result of an audit.

The seven (7) contracts above are the final awards that the Comptroller will make under this RFP.

TRD-201604678
Cynthia Stapper
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: September 7, 2016

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/12/16 - 09/18/16 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 09/12/16 - 09/18/16 is 18% for Commercial over $250,000.

The monthly ceiling as prescribed by §303.005 and §303.0093 for the period of 09/01/16 - 09/30/16 is 18% or Consumer/Agricultural/Commercial credit through $250,000.

The monthly ceiling as prescribed by §303.005 and §303.009 for the period of 09/01/16 - 09/30/16 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.

[3] For variable rate commercial transactions only.

TRD-201604640
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: September 6, 2016

♦ ♦ ♦

Deep East Texas Council of Governments

Notice of Building and Land Sale

Bid Specifications - Terms of Sale

Pursuant to §272 of the Local Government Code of the State of Texas, the Deep East Texas Council of Governments and Economic Development District (DETCOG) offers for possible sale the following described property in Lufkin, Angelina County, Texas, to-wit:

118 S. First Street, Lufkin, Angelina County, Texas 75901

and being more particularly described as: All those certain lots, tracts or parcel of land lying and being situated in Lufkin, Angelina County, Texas, and being Lots FIFTEEN (15) and SIXTEEN (16) in Block No. FOUR (4) of the ORIGINAL TOWN OF LUFKIN, TEXAS, as the same appears in the Deed Records of Angelina County, Texas, to which reference is made for a more particular description of said property and all interest in that party wall as set out and described in that Agreement between the Masonic Building Association, a Corporation, and T. A. Taylor, et al, dated June 1, 1916, of record in Volume 38, Page 605 of the Deed Records of Angelina County, Texas, to which reference is hereby made for any and all purposes; and being the same property as set out and described in that certain deed from H. A. Taylor and wife, Winifred McElroy Taylor, and R. W. Taylor and wife, Fannie Belle Taylor, to R. B. Thompson and Curtis Swain, and the same being of record in the Deed Records of Angelina County, Texas, and reference is hereby made to the same for any and all purposes.

2 Stories = Approximately 14,000 sq. ft.

Currently only 1st Floor being used - 2nd Floor can be renovated into useful space.

The property is known as the Taylor - Woods Building and is generally located within the central portion of the downtown area of the City of Lufkin, the county seat of Angelina County, Texas. Angelina County is located in the central part of extreme eastern Texas. Lufkin is located approximately 115 miles northeast of downtown Houston, and 150 miles southeast of downtown Dallas. Beaumont, Texas is about 90 miles southeast of Lufkin. Shreveport, Louisiana is located approximately 100 miles northeast of Lufkin.

An Angelina County Appraisal District map of the property is available at the office of DETCOG at 210 Premier Drive, Jasper, Texas 75951 and at 118 South First Street, Lufkin, Texas 75901.

Most recent certified appraisal from 2014 - $218,000.00, a copy of that appraisal available upon request.

The procedure by which sealed bids to purchase the building may be submitted is as follows:

Sealed bids to purchase the building and land must be submitted to and received on or before 10:00 a.m. Friday, October 7, 2016 at the office of:

ATTN: Mr. Lonnie Hunt, Executive Director

Deep East Texas Council of Governments

210 Premier Drive

Jasper, Texas 75951

ANY BID RECEIVED AFTER THE DATE AND TIME SPECIFIED

WILL NOT BE OPENED OR CONSIDERED.

Bids must include the following information:

• Bidder's name and return address should be prominently displayed on the bid envelope.

• All bids must be marked clearly on the outside of each envelope: **Building Bid**

Bidders are also requested to include:

• A completed proposed commercial purchase (earnest money) contract for improved property signed by Bidder. (The final contract with the chosen bidder will be drafted by DETCOG).

• Proof of sufficient funds to close on the property.

Bid specifics

• DETCOG and its Board reserve the right to waive any informality and to accept the bid which, in its sole and exclusive opinion, is most advantageous to DETCOG.

• DETCOG and its Board reserve the right to reject any or all bids, to remove the property from bidding, or to discontinue its efforts to sell the property or to complete the sale for any reason at any time prior to the actual execution of a purchase contract with Bidder.

• Bidders are advised that information included in a proposal is subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code (the Act). Information a third party submits to or prepares on behalf of DETCOG is subject to the Act and must qualify for an exception provided by the Act to be withheld from public disclosure. Information is not confidential under the Act simply because the party submitting the information anticipates or requests that it be kept confidential. DETCOG, its directors, officers, employees, agents, and attorneys shall not be liable for any disclosure of any information submitted in a response to this request for bid. By submitting a proposal, the Bidder waives any claim against, and releases from liability, DETCOG, its directors, officers, employees, agents, and attorneys with respect to disclosure of any information included in the proposal.

• By submitting a bid, a Bidder waives and releases any rights he may have, either now or in the future, to undertake any legal or equitable action against DETCOG, its directors, officers, employees, agents, and attorneys, for any failure of DETCOG, its directors, officers, employees, agents, and attorneys, to properly advertise or notice the sale of the Property, or to properly conduct the sale of this Property, and hereby covenants not to sue DETCOG, its directors, officers, employees, agents, and attorneys, in connection with the advertisement, notice of the sale, or the sale of this Property.

• All costs incurred in preparing the bid, or costs incurred in any other manner by a Bidder in responding to this notice, will be wholly the responsibility of the Bidder. All materials, supporting materials, correspondence and documents submitted in response to this notice will become the property of DETCOG and will not be returned.

• DETCOG Does Not and Will Not hold harmless or indemnify any Bidder for any liability whatsoever.

Terms of Sale

• The terms of the sale are certified check or money order paid by buyer at closing.

• The successful bidder must pay all customary fees of a Texas buyer of real property attendant to the sale of this property on the date of closing.

• The Seller will convey title by Special Warranty Deed.

• Buyer will take title to property in its "Present Condition", "As Is", and "Without Warranty for Any Purpose, Expressed or Implied".

• No representations can or will be made as to the location or condition of the property including flood plain location or hazardous materials or title conditions.

• Closing shall be within 60 days after the date all bids are opened, unless parties agree otherwise.

• It is the Bidder's responsibility to examine all applicable building codes and zoning ordinances to determine if the Property can be used for the purposes desired.

DETCOG will receive inquiry emails only at: rphillips@detcog.org or faxed to (409) 384-5390, ATTN: Rusty Phillips, 210 Premier Drive, Jasper, Texas 75951.

BIDS MAY BE MAILED OR PERSONALLY DELIVERED. BIDS WILL NOT BE ACCEPTED BY EMAIL.

Any interested party can request to view the property or obtain additional information concerning the property and bidding process by contacting Rusty Phillips located at 210 Premier Drive, Jasper, Texas 75951, telephone number (409) 381-5262 or toll free: 1-800-256-6848 ext 5262

TRD-201604663
Lonnie Hunt
Executive Director
Deep East Texas Council of Governments
Filed: September 6, 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 October 17, 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 October 17, 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: 11 STARS INCORPORATED dba JK Kwik Pantry; DOCKET NUMBER: 2016-0723-PST-E; IDENTIFIER: RN102356516; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; and 30 TAC §334.605(a), by failing to ensure that a certified Class A and Class B operator is re-trained within three years of their last training date; PENALTY: $4,050; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: ABF FREIGHT SYSTEM, INCORPORATED; DOCKET NUMBER: 2016-0888-PST-E; IDENTIFIER: RN101474716; LOCATION: Houston, Harris County; TYPE OF FACILITY: fleet refueling station; RULES VIOLATED: 30 TAC §334.50(b)(1)(A), (d)(1)(B) and (4)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month and failing to provide proper release detection for the UST system; PENALTY: $4,313; Supplemental Environmental Project offset amount of $1,725; ENFORCEMENT COORDINATOR: James Boyle, (512) 239-2527; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Air Liquide Large Industries U.S. LP; DOCKET NUMBER: 2016-0770-AIR-E; IDENTIFIER: RN100215334; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: gas processing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O2391, Special Terms and Conditions (STC) Number 11, and New Source Review (NSR) Permit Numbers 32274, PSDTX995M1, and N042, Special Conditions (SC) Number 5.A, by failing to comply with the maximum allowable concentration for nitrogen oxides (NOX) for the Steam Methane Reformer, Emissions Point Number (EPN) SMRSTACK; and 30 TAC §§101.20(3), 116.115(c), and 122.143(4), THSC, §382.085(b), FOP Number O2391, STC Number 11, and NSR Permit Numbers 32274, PSDTX995M1, and N042, SC Numbers 6.A and 6.B, by failing to comply with the maximum allowable concentration for carbon monoxide and NOX for the Auxiliary Boiler, EPN AUXSTACK; PENALTY: $40,500; ENFORCEMENT COORDINATOR: Kingsley Coppinger, (512) 239-6581; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4) COMPANY: ANH P. BROWN CORPORATION dba The Convenient Store; DOCKET NUMBER: 2016-0863-PST-E; IDENTIFIER: RN101496289; LOCATION: Austin, Travis County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; PENALTY: $6,750; ENFORCEMENT COORDINATOR: Jessica Bland, (512) 239-4967; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78711-3087, (512) 339-2929.

(5) COMPANY: Cimarron Produce Corporation dba Chikita Express Store; DOCKET NUMBER: 2016-0762-PST-E; IDENTIFIER: RN101684306; LOCATION: McAllen, Hidalgo County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; and 30 TAC §334.50(d)(1)(B) and (4)(A)(i), by failing to conduct inventory control for the USTs at the facility; PENALTY: $12,761; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(6) COMPANY: City of Rosebud; DOCKET NUMBER: 2015-1266-MWD-E; IDENTIFIER: RN101918423; LOCATION: Rosebud, Falls County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §§30.331(b), 30.350(j), and 305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010731001, Other Requirements Number 1, by failing to ensure that the facility is operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher; 30 TAC §305.125(1) and (11)(B) and §319.7(c) and TPDES Permit Number WQ0010731001, Monitoring and Reporting Requirements Number 3.b., Operational Requirements Number 1, and Sludge Provisions Section II.E., by failing to retain monitoring records at the facility and make them readily available for review by a TCEQ representative; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0010731001, Operational Requirements Number 1, by failing to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and (19) and TPDES Permit Number WQ0010731001, Permit Conditions Number 1.a., by failing to submit accurate and complete Discharge Monitoring Reports; TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0010731001, Effluent Limitations and Monitoring Requirements Number 2, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and §319.9(a) and TPDES Permit Number WQ0010731001, Permit Conditions Number 1.a and Monitoring and Reporting Requirements

Number 3.c, by failing to take flow measurements concurrently with grab samples; and 30 TAC §305.125(1) and (11)(C)(ii) and §319.7(e) and TPDES Permit Number WQ0010731001, Monitoring and Reporting Requirements Number 1, by failing to submit monitoring results that include the identity of the individual who collected the sample or made the measurements; PENALTY: $28,876; Supplemental Environmental Project offset amount of $23,101; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: City of San Juan; DOCKET NUMBER: 2016-0663-MSW-E; IDENTIFIER: RN104804711; LOCATION: San Juan, Hidalgo County; TYPE OF FACILITY: municipal solid waste (MSW) facility; RULE VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized disposal of MSW; PENALTY: $75,000; Supplemental Environmental Project offset amount of $75,000; ENFORCEMENT COORDINATOR: Jonathan Nguyen, (512) 239-1661; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(8) COMPANY: City of Thornton; DOCKET NUMBER: 2015-0893-MWD-E; IDENTIFIER: RN102844461; LOCATION: Thornton, Limestone County; TYPE OF FACILITY: domestic wastewater system; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010824001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: $10,937; Supplemental Environmental Project offset amount of $10,937; ENFORCEMENT COORDINATOR: James Boyle, (512) 239-2527; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(9) COMPANY: Daljinder Mangat dba Itasca Mart; DOCKET NUMBER: 2016-0985-PST-E; IDENTIFIER: RN102237682; LOCATION: Itasca, Hill 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; and 30 TAC §334.605(a), by failing to ensure that a certified Class A and Class B operator is re-trained within three years of their last training date; PENALTY: $3,975; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(10) COMPANY: DAL-TILE CORPORATION; DOCKET NUMBER: 2016-0522-IHW-E; IDENTIFIER: RN100216779; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: ceramic tile manufacturing facility; RULES VIOLATED: 30 TAC §335.2(b), by failing to cause, suffer, allow, or permit its wastes to be stored, processed, or disposed of at an unauthorized facility; 30 TAC §335.9(a), by failing to keep records of hazardous and industrial solid waste (ISW) activities; 30 TAC §§335.62, 335.503, 335.504, and 335.511 and 40 Code of Federal Regulations (CFR) §262.11, by failing to conduct hazardous waste determinations and waste classifications; 30 TAC §335.10(a) and 40 CFR §262.20(b), by failing to properly complete all manifests for the shipment of hazardous wastes; 30 TAC §335.4(1) and TWC, §26.121, by failing to not cause, suffer, allow, or permit the unauthorized disposal of ISW; 30 TAC §335.10(a) and 40 CFR §262.42(b), by failing to submit an exception report to the TCEQ when the original signed copy of the manifest was not received within 60 days of the date that the waste was accepted by the initial transporter; 30 TAC §335.261(b) and 40 CFR §273.14(e) and §273.15(c), by failing to label or clearly mark with any one of the following phrases: "Universal Waste - Lamp(s)", or "Waste Lamp(s)", or "Used Lamp(s)" each lamp or a container or package in which such lamps are contained, and failing to demonstrate the length of time that the universal waste has been accumulated from the date it becomes waste or is received by placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became waste or was received; 30 TAC §335.6(c), by failing to update the facility's Notice of Registration regarding all generated waste streams; 30 TAC §335.474 and §335.479, by failing to maintain on-site a five-year pollution prevention plan; and 30 TAC §335.69(a)(3) and (f)(2) and 40 CFR §262.34(a)(3) and (d)(2) and §265.173(a), by failing to ensure that each container used to store hazardous waste is labeled or marked clearly with the words "Hazardous Waste" and, failing to keep hazardous waste containers closed except when adding or removing waste; PENALTY: $18,941; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: GARY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2016-0505-PWS-E; IDENTIFIER: RN101436004; LOCATION: Gary, Panola County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(e)(2), (h), and (i)(3) and §290.122(c)(2)(A) and (f) and 40 Code of Federal Regulations (CFR) §141.87 and §141.90(a), by failing to conduct water quality parameter sampling at each of the facility's entry points and the required distribution sample sites as a result of a copper action level exceedance, have the samples analyzed, and report the results to the executive director (ED) for the January 1, 2014 - June 30, 2014, July 1, 2014 - December 31, 2014, January 1, 2015 - June 30, 2015, and July 1, 2015 - December 31, 2015 periods, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to conduct all of the required water quality parameter sampling during the January 1, 2014 - June 30, 2014, July 1, 2014 - December 31, 2014, January 1, 2015 - June 30, 2015, and July 1, 2015 - December 31, 2015 periods; 30 TAC §290.117(d)(2)(A), (h), and (i)(2) and §290.122(c)(2)(A) and (f) and 40 CFR §141.88 and §141.90(b), by failing to collect one lead and copper sample from each of the facility's entry points no later than 180 days after the end of the January 1, 2013 - December 31, 2013, monitoring period during which the copper action level was exceeded, have the samples analyzed, and report the results to the ED, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect one lead and copper sample from each of the facility's entry points no later than 180 days after the end of the January 1, 2013 - December 31, 2013, monitoring period; 30 TAC §290.117(f)(3)(A) and §290.122(b)(2)(A) and (f) and 40 CFR §§141.81(e)(1), 141.82(a), and 141.90(c)(2), by failing to submit a recommendation to the ED for optimal corrosion control treatment within six months after the end of the January 1, 2013 - December 31, 2013, monitoring period during which the copper action level was exceeded, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a recommendation to the ED for optimal corrosion control treatment; 30 TAC §290.117(g)(2)(A) and §290.122(b)(2)(A) and (f) and 40 CFR §141.83 and §141.90(d)(1), by failing to submit a recommendation to the ED for source water treatment within 180 days after the end of the January 1, 2013 - December 31, 2013, monitoring period during which the copper action level was exceeded and, failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit a recommendation to the ED for source water treatment; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples for the January 1, 2003 - December 31, 2011, monitoring period; PENALTY: $1,206; ENFORCEMENT COORDINATOR: Katy Montgomery,

(210) 403-4016; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(12) COMPANY: Irma International, Incorporated dba Irmas Travel Center; DOCKET NUMBER: 2016-0681-PST-E; IDENTIFIER: RN103176152; LOCATION: Robstown, Nueces County; TYPE OF FACILITY: convenience store with retail sale of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank (UST) system; and 30 TAC §334.42(i) and TWC, §26.3475(c)(2), by failing to inspect all sumps, manways, overspill containers, or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight; PENALTY: $4,797; ENFORCEMENT COORDINATOR: Jonathan Nguyen, (512) 239-1661; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(13) COMPANY: Old Dog New Tricks T-Shirts Limitied Liability Company dba Old Dog New Tricks; DOCKET NUMBER: 2016-0128-MLM-E; IDENTIFIER: RN108835232; LOCATION: Argyle, Denton County; TYPE OF FACILITY: print screen shop; RULES VIOLATED: 30 TAC §330.15(a) and (c) and §335.4 and TWC, §26.121(a), by failing to not cause, suffer, allow, or permit the unauthorized disposal of municipal solid waste and industrial solid waste; PENALTY: $2,500; ENFORCEMENT COORDINATOR: Jessica Bland, (512) 239-4967; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(14) COMPANY: PRINCE INTERNATIONAL, INCORPORATED dba Rozis Mini Mart 3; DOCKET NUMBER: 2016-0616-PST-E; IDENTIFIER: RN102387420; LOCATION: Alvin, Galveston 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; and 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years; PENALTY: $7,123; ENFORCEMENT COORDINATOR: Steven Stump, (512) 239-1343; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(15) COMPANY: R and B Mobile Park, LLC; DOCKET NUMBER: 2016-0849-MWD-E; IDENTIFIER: RN101512176; LOCATION: College Station, Brazos 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 WQ0012296001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(1) and §319.5(b) and TPDES Permit Number WQ0012296001, Monitoring and Reporting Requirements Number 1, by failing to collect and analyze effluent samples at the required frequency; PENALTY: $7,950; ENFORCEMENT COORDINATOR: James Boyle, (512) 239-2527; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(16) COMPANY: Rodriguez Store Number 2, Incorporated dba The Country Store 2; DOCKET NUMBER: 2016-0996-PST-E; IDENTIFIER: RN102231859; LOCATION: Rio Grande City, Starr 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; and 30 TAC §334.606, by failing to maintain required training certification documentation on-site and to provide it upon request to a TCEQ-authorized investigator; PENALTY: $3,563; ENFORCEMENT COORDINATOR: Melissa Castro, (512) 239-0855; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(17) COMPANY: Total Petrochemicals and Refining USA, Incorporated; DOCKET NUMBER: 2016-0463-AIR-E; IDENTIFIER: RN102457520; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petroleum refinery; 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 O1267, Special Terms and Conditions Number 29, and New Source Review Permit Numbers 46396, PSDTX1073M1, and N044, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: $13,126; Supplemental Environmental Project offset amount of $5,251; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(18) COMPANY: Town of Double Oak; DOCKET NUMBER: 2016-0714-WQ-E; IDENTIFIER: RN105483986; LOCATION: Double Oak, Denton County; TYPE OF FACILITY: small municipal separate storm sewer system (MS4s); 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 (TPDES) General Permit for small MS4s; 30 TAC §305.125(1) and TPDES General Permit Number TXR040573, Part IV, Section B(2), by failing to timely submit a concise annual report to the executive director within 90 days of the end of a reporting year; and 30 TAC 281.25(a)(4) and TPDES General Permit Number TXR040573, Part III, Section B(5)(b)(5)(d), by failing to demonstrate compliance with Minimum Control Measure Number 5.1 of the approved Stormwater Management Plane; PENALTY: $3,663; ENFORCEMENT COORDINATOR: Austin Henck, (512) 239-6155; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-201604630
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: September 6, 2016

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Enforcement Orders

An agreed order was adopted regarding Lake Lavon Baptist Encampment, Docket No. 2015-0086-MWD-E on September 7, 2016 assessing $13,912 in administrative penalties with $10,312 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Huntsman Petrochemical LLC, Docket No. 2015-0195-AIR-E on September 7, 2016 assessing $120,282 in administrative penalties with $24,056 deferred. Information concerning any aspect of this order may be obtained by contacting Shelby Orme, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blanchard Refining Company LLC, Docket No. 2015-0668-AIR-E on September 7, 2016 assessing $97,500 in administrative penalties with $19,500 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas

Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Thomas H. Stone, Docket No. 2015-1027-MSW-E on September 7, 2016 assessing $337,500 in administrative penalties with $333,900 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LAKESHORE UTILITY COMPANY, Docket No. 2015-1098-PWS-E on September 7, 2016 assessing $947 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding KRZ Texas Enterprises Inc. dba County Line Trading Post, Docket No. 2015-1305-PST-E on September 7, 2016 assessing $14,859 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting David A. Terry, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Allied Waste Services of Fort Worth, LLC, Docket No. 2015-1334-PST-E on September 7, 2016 assessing $40,419 in administrative penalties with $8,083 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ALL-PRO SEPTIC, LLC, Docket No. 2015-1390-SLG-E on September 7, 2016 assessing $16,875 in administrative penalties with $3,375 deferred. Information concerning any aspect of this order may be obtained by contacting Farhaud Abbaszadeh, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Southwest Convenience Stores, LLC, Docket No. 2015-1483-IWD-E on September 7, 2016 assessing $11,800 in administrative penalties with $2,360 deferred. Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Rathana Sarey Khey d/b/a/ Blue Diamond Convenience Store, Docket No. 2015-1487-PST-E on September 7, 2016 assessing $32,073 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Adam Taylor, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PESHAWAR INC dba Super Stop 4, Docket No. 2015-1503-PST-E on September 7, 2016 assessing $14,772 in administrative penalties with $2,954 deferred. Information concerning any aspect of this order may be obtained by contacting James Baldwin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MIDWAY AUTOMOTIVE, INC., Docket No. 2015-1526-PST-E on September 7, 2016 assessing $8,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amanda Patel, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Nome, Docket No. 2015-1585-PWS-E on September 7, 2016 assessing $6,492 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding San Miguel Electric Cooperative, Inc., Docket No. 2015-1640-IWD-E on September 7, 2016 assessing $26,564 in administrative penalties with $5,312 deferred. Information concerning any aspect of this order may be obtained by contacting Larry Butler, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default agreed order was adopted regarding Affordable Sand and Material LLC, Docket No. 2015-1695-MSW-E on September 7, 2016 assessing $1,312 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Roger Alan Biggs, Docket No. 2015-1712-LII-E on September 7, 2016 assessing $609 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Isaac Ta, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Girl Scouts of Texas Oklahoma Plains, Inc., Docket No. 2016-0120-PWS-E on September 7, 2016 assessing $315 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201604672
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 7, 2016

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Enforcement Orders

An agreed order was adopted regarding 4150 East Highway 290 Partners, LLC dba Austin Paintball, Docket No. 2012-1834-MLM-E on September 6, 2016, assessing $5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding OLSEN ESATES PROPERTY OWNER'S ASSOCIATION, Docket No. 2014-1682-PWS-E on September 6, 2016, assessing $918 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jim Lampman and Teresa Lampman, Docket No. 2015-0757-WR-E on September 6, 2016, assessing $399 in administrative penalties. Information concerning any

aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Fuel Centers Environmental Management, LLC d/b/a Tetco 734, Docket No. 2015-0850-PST-E on September 6, 2016, assessing $5,129 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TEMPLE FUEL INC. d/b/a Nugent Food Mart, Docket No. 2015-0880-PST-E on September 6, 2016, assessing $6,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Austin 512, LLC, Docket No. 2015-0891-MWD-E on September 6, 2016, assessing $7,386 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Harkrider, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AIZ CORPORATION d/b/a King Food Mart, Docket No. 2015-1287-PST-E on September 6, 2016, assessing $4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding RJMD Enterprises Inc dba Harris Food Mart, Docket No. 2015-1561-PST-E on September 6, 2016, assessing $5,164 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Lieberknecht, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ranch Hand Apartments, LLC, Docket No. 2015-1854-PWS-E on September 6, 2016, assessing $550 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Eric Grady, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201604679
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 7, 2016

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Notice of Hearing

NEW BRAUNFELS UTILITIES

SOAH Docket No. 582-16-6164

TCEQ Docket No. 2016-0162-WR

Application No. 12469

APPLICATION

New Braunfels Utilities, Applicant, P.O. Box 310289, New Braunfels, Texas 78131-0289, seeks a water use permit pursuant to Texas Water Code §§11.121, 11.042, 11.085 and Texas Commission on Environmental Quality Rules 30 Texas Administrative Code (TAC) §295.1, *et seq.*

New Braunfels Utilities has applied for a water use permit to authorize the diversion and use of its historic and future surface water based and groundwater based return flows and to authorize the use of the bed and banks of two unnamed tributaries of the Guadalupe River, Lake Dunlap, and the Guadalupe River to convey the return flows for subsequent municipal, industrial, and agricultural purposes within the Guadalupe River Basin in Comal, DeWitt, Gonzales, Guadalupe, and Victoria Counties and in that portion of Guadalupe County within the San Antonio River Basin.

The Applicant seeks to authorize the diversion and use of its historic and future surface water based and groundwater based return flows, originating from its three wastewater treatment plants located on two unnamed tributaries of the Guadalupe River and the Guadalupe River, Guadalupe River Basin for subsequent municipal, industrial, and agricultural purposes in Comal, DeWitt, Gonzales, Guadalupe and Victoria Counties.

The Applicant also seeks to authorize the use of the bed and banks of the two unnamed tributaries of the Guadalupe River, Lake Dunlap, and the Guadalupe River to convey the return flows for subsequent diversion from Lake Dunlap on the Guadalupe River.

The Guadalupe-Blanco River Authority owns Certificate of Adjudication No. 18-5488 authorizing Lake Dunlap and has provided consent to this application.

The Applicant further seeks to authorize an exempt interbasin transfer for the authorized water to that portion of Guadalupe County within the San Antonio River Basin for municipal, industrial, and agricultural purposes.

The Applicant estimates the discharged return flows are currently 65% surface water and 35% groundwater, although such percentages may change in the future.

The Applicant indicates there are no channel losses between the discharge and diversion points.

The return flows, totaling up to 9,408 acre-feet of water per year, are discharged at a combined rate of 41.55 cfs (18,646 mgd) at the following three points in Comal County:

1. South Kuehler Wastewater Treatment Plant discharge point located on an unnamed tributary of the Guadalupe River, Guadalupe River Basin, approximately 1.5 miles southeast of the City of New Braunfels, bearing N 53°W, 2,558 feet from the southeast corner of the Thompson J. Original Survey No. 091, Abstract No. 608, also being Latitude 29.687222°N, Longitude 98.097500°W in Comal County at a maximum discharge rate of 19.5 cfs (8,750 gpm).

2. Gruene Wastewater Treatment Plant discharge point located on the Guadalupe River, Guadalupe River Basin, approximately 2.3 miles north of the City of New Braunfels, bearing S 23°E, 3,077 feet from the northeast corner of the Veramendi J. Original Survey No. 091, Abstract No. 2, also being Latitude 29.737777°N, Longitude 98.105833°W in Comal County at a maximum discharge rate of 4.25 cfs (1,910 gpm).

3. North Kuehler Wastewater Treatment Plant discharge point located on an unnamed tributary of the Guadalupe River, Guadalupe River Basin, approximately 1.5 miles southeast of the City of New Braunfels, bearing N 58°W, 2,847 feet from the southeast corner of the Thompson J. Original Survey No. 091, Abstract No. 608, also being Latitude 29.687222°N, Longitude 98.098611°W in Comal County at a maximum discharge rate of 17.8 cfs (7,986 gpm).

The proposed diversion point will be located at any point along the perimeter of Lake Dunlap, approximately nine miles northwest of Seguin and 4.5 miles southeast of New Braunfels, bearing S 36°E, 13,141 feet from the northwest corner of the A.M. Esnaurizar Original Survey No. 187, Abstract No. 20, also being Latitude 29.653833°N and Longitude 98.066333°W in Guadalupe County within ZIP code 78130.

The Executive Director has prepared a draft permit, which, if approved, would establish the conditions under which the applicant may divert this water. The draft permit, if granted, would only authorize the use of the groundwater based return flows and would contain special conditions including, but not limited to, streamflow restrictions and maintenance of an accounting plan. The application and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building F, Austin, Texas 78753.

The application and partial fees were received on June 9, 2009. Additional information and fees were received on October 16, October 27, and October 29, and December 16, 2009. The application was declared administratively complete and filed with the Office of the Chief Clerk on November 20, 2009.

CONTESTED CASE HEARING

SOAH will conduct a preliminary hearing on this application at:

10:00 a.m. - October 24, 2016

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, allow an opportunity for settlement discussions, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding will be similar to a civil trial in state district court.

The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 11, Texas Water Code; and the procedural rules of the TCEQ and SOAH, including 30 Texas Administrative Code Chapter 80 and 1 TAC Chapter 155.

The applicant is automatically a party in this hearing. If anyone else wishes to be a party to the hearing, he or she must attend the hearing and show how he or she would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and any person may request to be a party. Only persons named as parties may participate at the hearing.

INFORMATION

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

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

Issued: September 6, 2016

TRD-201604665
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 7, 2016

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Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission of names of filers who did not file a report or failed to pay penalty fines for late reports in reference to the listed filing deadlines. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

Deadline: Semiannual Report due July 15, 2015 for Candidates

Richard J. Phillips, 2504 Lakehurst Rd., Spicewood, Texas 78669

Deadline: Semiannual Report due July 15, 2016 for Candidates

Michael Alan Dougan, 2250 Tradewind Dr., Apt. 32, Mesquite, Texas 75150-3210

Connor P. Flanagan, 1221 W. Oak St., #2428D, Denton, Texas 76201

Michael D. Gibson, 911 Millpond Dr., Sugar Land, Texas 77498

Ricardo R. Godinez, 2415 N. 10th St., McAllen, Texas 78501-4005

Nathan G. Macias, 31540 Smithson Valley Rd., Bulverde, Texas 78163-2759

David M. Medina, 5300 Memorial Dr., Ste. 890, Houston, Texas 77007-8280

Charles B. Meyer, 2203 Timberloch Pl., Ste. 100, The Woodlands, Texas 77380

Deborah B. Shafto, 7260 Santa Fe Dr., Houston, Texas 77061-2634

Farouk Shami, 880 Richey Rd., Houston, Texas 77073-6325

Judith G. Wells, P.O. Box 173001, Arlington, Texas 76003-3001

Deadline: Lobby Activities Report due January 11, 2016

Robin Chandler, 2222 W. Braker Ln., Austin, Texas 78758

Simon Kim, 7703 N. Lamar Blvd., Ste. 515, Austin, Texas 78752

Andrew Scheberle, 535 E. 5th St., Austin, Texas 78701

Jennifer E. Sellers, 511 Clover Flat Rd., Cedar Park, Texas 78631

Rodney J. Thompson, P.O. Box 152138, Lufkin, Texas 75915

Deadline: Lobby Activities Report due February 10, 2016

Jennifer E. Sellers, 511 Clover Flat Rd., Cedar Park, Texas 78631

Deadline: Lobby Activities Report due March 10, 2016

Kym Nicole Olson, 405A South Park Dr., Austin, Texas 78704

Deadline: Lobby Activities Report due April 11, 2016

Kym Nicole Olson, 405A South Park Dr., Austin, Texas 78704

Deadline: Lobby Activities Report due June 10, 2016

Bradley Joseph Domangue, 3200 Southwest Fwy. #2000, Houston, Texas 77027

Deadline: Personal Financial Statement due July 1, 2016

Thomas E. Freeman, 3011 Hwy. 30 W Ste 101-213, Huntsville, Texas 77340

Teresa Hawthorne, P.O. Box 831726, San Antonio, Texas 78283

Romanita Matta-Barrerra, 510 Adams, San Antonio, Texas 78210

TRD-201604616

Natalia Luna Ashley
Executive Director
Texas Ethics Commission
Filed: September 1, 2016

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Texas Facilities Commission

Request for Proposals #303-8-20580

The Texas Facilities Commission (TFC), on behalf of the Office of the Attorney General (OAG) Child Support Division, announces the issuance of Request for Proposals (RFP) #303-8-20580. TFC seeks a five (5) or ten (10) year lease of approximately 2,825 square feet of office space in Waxahachie, Texas.

The deadline for questions is September 26, 2016 and the deadline for proposals is October 10, 2016 at 3:00 p.m. The award date is November 16, 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=126950.

TRD-201604613
Kay Molina
General Counsel
Texas Facilities Commission
Filed: September 1, 2016

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Texas Department of Insurance

Company Licensing

Application for AECC TOTAL VISION HEALTH PLAN OF TEXAS, INC., a domestic Health Maintenance Organization, to change its name to ENVOLVE VISION OF TEXAS, INC. The home office is in Dallas, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Jeff Hunt, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201604668
Norma Garcia
General Counsel
Texas Department of Insurance
Filed: September 7, 2016

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Texas Lottery Commission

Scratch Ticket Game Number 1804 "Lucky Stars"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1804 is "LUCKY STARS". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 1804 shall be $1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 1804.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, DOLLAR BILL SYMBOL, $1.00, $2.00, $3.00, $4.00, $5.00, $6.00, $10.00, $20.00, $50.00 and $500.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1804 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
DOLLAR BILL SYMBOL	WIN
$1.00	ONE$
$2.00	TWO$
$3.00	THR$
$4.00	FOR$
$5.00	FIV$
$6.00	SIX$
$10.00	TEN$
$20.00	TWY$
$50.00	FFTY$
$500	FVHN

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

F. Low-Tier Prize - A prize of $1.00, $2.00, $3.00, $4.00, $5.00, $6.00, $10.00 or $20.00.

G. Mid-Tier Prize - A prize of $50.00 or $500.

H. 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.

I. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1804), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers

start with 001 and end with 150 within each Pack. The format will be: 1804-0000001-001.

J. Pack - A Pack of "LUCKY STARS" Scratch Game Tickets contains 150 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the books will be in an A, B, C and D configuration.

K. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

L. Scratch Game Ticket, Scratch Ticket or Ticket - A Texas Lottery "LUCKY STARS" Scratch Ticket Game No. 1804.

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 "LUCKY STARS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 11 (eleven) Play Symbols. If a player matches any of YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the PRIZE for that number. If a player reveals a "DOLLAR BILL" Play Symbol, the player wins the PRIZE for that symbol instantly! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly 11 (eleven) 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 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 11 (eleven) 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 11 (eleven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 11 (eleven) 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 in a Pack will not have matching play data, spot for spot.

B. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

C. The "DOLLAR BILL" (WIN) Play Symbol may appear multiple times on intended winning Tickets unless restricted by other parameters, play action or prize structure.

D. No matching non-winning Prize Symbols on a Ticket.

E. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 2 and $2).

G. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY STARS" Scratch Ticket Game prize of $1.00, $2.00, $3.00, $4.00, $5.00, $6.00, $10.00, $20.00, $50.00 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 or $500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. As an alternative method of claiming a "LUCKY STARS" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

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.

D. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under $600 from the "LUCKY STARS" 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 "LUCKY STARS" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 840,000 Scratch Tickets in the Scratch Ticket Game No. 1804. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1804 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$1	140,000	6.00
$2	36,400	23.08
$3	33,600	25.00
$4	8,400	100.00
$5	5,600	150.00
$6	5,600	150.00
$10	5,600	150.00
$20	1,120	750.00
$50	126	6,666.67
$500	21	40,000.00

*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 3.55. 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. 1804 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 1804, 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-201604641
Bob Biard
General Counsel
Texas Lottery Commission
Filed: September 6, 2016

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Scratch Ticket Game Number 1815 "Garland Riches"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1815 is "GARLAND RICHES". The play style is "key symbol match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1815 shall be $5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 1815.

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: WREATH SYMBOL, STOCKING SYMBOL, HORN SYMBOL, SLEIGH SYMBOL, POINSETTIA SYMBOL, HORSE SYMBOL, DRUM SYMBOL, CANDY CANE SYMBOL, SKATE SYMBOL, NUTCRACKER SYMBOL, REINDEER SYMBOL, BELL SYMBOL, TRAIN SYMBOL, LIGHTS SYMBOL, PENGUIN SYMBOL, TREE SYMBOL, HOLLY SYMBOL, MITTEN SYMBOL, SNOWMAN SYMBOL, CANDLE SYMBOL, GINGERBREAD MAN SYMBOL, STAR SYMBOL, GIFT SYMBOL, 5X SYMBOL, $5.00, $10.00, $15.00, $20.00, $50.00, $100, $250, $1,000, and $100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1815 - 1.2D

PLAY SYMBOL	CAPTION
WREATH SYMBOL	WREATH
STOCKING SYMBOL	STCKNG
HORN SYMBOL	HORN
SLEIGH SYMBOL	SLEIGH
POINSETTIA SYMBOL	PNSETA
HORSE SYMBOL	HORSE
DRUM SYMBOL	DRUM
CANDY CANE SYMBOL	CNDYCN
SKATE SYMBOL	SKATE
NUTCRACKER SYMBOL	NUTCKR
REINDEER SYMBOL	REINDR
BELL SYMBOL	BELL
TRAIN SYMBOL	TRAIN
LIGHTS SYMBOL	LIGHTS
PENGUIN SYMBOL	PNGUIN
TREE SYMBOL	TREE
HOLLY SYMBOL	HOLLY
MITTEN SYMBOL	MITTEN
SNOWMAN SYMBOL	SNMAN
CANDLE SYMBOL	CANDLE
GINGERBREAD MAN SYMBOL	GNGRBD
STAR SYMBOL	STAR
GIFT SYMBOL	WIN
5X SYMBOL	WINX5
$5.00	FIV$
$10.00	TEN$
$15.00	FFN$
$20.00	TWY$
$50.00	FFTY$
$100	ONHN
$250	TOFF
$1,000	ONTH
$100,000	100TH

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

F. 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, $250, $300, $400 or $500.

H. High-Tier Prize - A prize of $1,000 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-Scratch Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1815), 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: 1815-0000001-001.

K. Pack - A Pack of the "GARLAND RICHES" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

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 "GARLAND RICHES" Scratch Ticket Game No. 1815.

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 "GARLAND RICHES" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 36 (thirty-six) Play Symbols. A player scratches all 18 play areas. If a player reveals a "GIFT" Play Symbol, the player wins the prize for that symbol instantly. If a player reveals a "5X" Play Symbol, the player wins five (5) TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly 36 (thirty-six) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Scratch Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 36 (thirty-six) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 36 (thirty-six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 36 (thirty-six) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Scratch Ticket Number must be printed in the Pack-Scratch Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

B. A Ticket can win up to eighteen (18) times and all wins will be as per the prize structure.

C. On winning and Non-Winning Tickets, the top cash prizes of $1,000 and $100,000 will each appear at least once, except on Tickets winning more than twelve (12) times.

D. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

E. All non-winning Play Symbols will be unique.

F. A Prize Symbol will appear no more than three (3) times on a Ticket unless restricted by other parameters, play action or prize structure.

G. A "GIFT" (WIN) Play Symbol will win the corresponding prize for that symbol.

H. A "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that symbol.

I. The "GIFT" (WIN) and "5X" (WINX5) Play Symbols will not appear on Non-Winning Tickets.

2.3 Procedure for Claiming Prizes.

A. To claim a "GARLAND RICHES" Scratch Ticket Game prize of $5.00, $10.00, $15.00, $20.00, $50.00, $100, $200, $250, $300, $400 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, $250, $300, $400 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 "GARLAND RICHES" Scratch Ticket Game prize of $1,000 or $100,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of $600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "GARLAND RICHES" 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 "GARLAND RICHES" 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 "GARLAND RICHES" 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 7,560,000 Scratch Tickets in Scratch Ticket Game No. 1815. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1815 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$5	772,800	9.78
$10	789,600	9.57
$15	201,600	37.50
$20	67,200	112.50
$50	71,064	106.38
$100	34,251	220.72
$200	1,050	7,200.00
$250	1,638	4,615.38
$300	777	9,729.73
$400	357	21,176.47
$500	1,197	6,315.79
$1,000	204	37,058.82
$100,000	8	945,000.00

*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 3.89. 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. 1815 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. 1815, 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-201604642
Bob Biard
General Counsel
Texas Lottery Commission
Filed: September 6, 2016

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North Central Texas Council of Governments

Request for Proposals for the Development of a Concept of Operations for the IH 30 Corridor

The North Central Texas Council of Governments (NCTCOG) is requesting written proposals from firms to develop a Concept of Operations (ConOps) for the IH 30 Corridor from Arlington to Dallas. The IH 30 Corridor is a major east/west facility connecting Dallas and Fort Worth. The corridor from Arlington (Collins Street) to the Dallas Central Business District (CBD) includes a six-lane facility that has a two-lane reversible managed lane. The reversible managed lane is utilized for peak period travel and special events. The ConOps should provide a high-level description of what will be the major system capabilities along the corridor and answer who, what, when, where, why, and how. The ConOps for this corridor will be used as a framework for ConOps to be developed for other corridors within the Dallas-Fort Worth region.

Proposals must be received no later than 5:00 p.m., on Friday, October 7, 2016, to Eric Quintana, Transportation Planner III, North Central

Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. Copies of the Request for Proposals (RFP) will be available at *www.nctcog.org/rfp* by the close of business on Friday, September 16, 2016.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-201604669
R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: September 7, 2016

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Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on September 2, 2016, to amend a state-issued certificate of franchise authority, pursuant to Public Utility Regulatory Act §§66.001 - 66.016.

Project Title and Number: Application of Friendship Cable of Texas, Inc., d/b/a Suddenlink Communications for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 46338.

The requested amendment is to expand the service area footprint to include the city limits of the Town of Prosper, Texas.

Information on the application may be obtained by contacting the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Project Number 46338.

TRD-201604677
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 7, 2016

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Notice of Application for a Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on August 31, 2016, for a service provider certificate of operating authority, pursuant to the Public Utility Regulatory Act. Applicant intends to provide facilities-based, data and resale telecommunications services throughout the State of Texas.

Docket Title and Number: Application of Communications Venture Corporation d/b/a INdigital for a Service Provider Certificate of Operating Authority, Docket Number 46327.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477 no later than September 23, 2016. 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 46327.

TRD-201604619
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 2, 2016

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Notice of Application for Service Area Exception

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 1, 2016, to amend a certificated service area for a service area exception within Lampasas County, Texas.

Docket Style and Number: Application of Hamilton County Electric Cooperative Association to Amend a Certificate of Convenience and Necessity for a Service Area Exception in Lampasas County. Docket Number 46330.

The Application: Hamilton County Electric Cooperative Association (HCEA) filed an application for a service area boundary exception to allow HCEA to provide service to a specific customer located within the certificated service area of Pedernales Electric Cooperative, Inc. (PEC). PEC has provided an affidavit of relinquishment for the proposed change.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than September 23, 2016 by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the Commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 46330.

TRD-201604644
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 6, 2016

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Notice of Application to Amend a Service Provider Certificate of Operating Authority

On August 31, 2016, Citrix Communications LLC and LogMeIn, Inc. filed a joint application with the Public Utility Commission of Texas to amend service provider certificate of operating authority number 60929, for a name change, a change in ownership/control, and a corporate restructuring.

Docket Style and Number: Joint Application of Citrix Communications LLC and LogMeIn, Inc. to amend a Service Provider Certificate of Operating Authority, Docket Number 46326.

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 September 23, 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 46326.

TRD-201604618
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 2, 2016

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Notice of Application to Obtain Water and Sewer Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application to obtain a water and sewer certificate of convenience and necessity (CCN) in Harris and Montgomery Counties, Texas.

Docket Style and Number: Application of City Of Tomball to Obtain a Water and Sewer Certificate of Convenience and Necessity in Harris and Montgomery Counties, Docket Number 46336.

The Application: The proposed project will allow the City of Tomball to continue serving existing customers and facilitate orderly growth. The proposed utility service area is generally bounded on the north by Hardin Store Road, on the east by Stuebner-Airline Road, on the south by Boudreaux Road, and on the west by Lutheran Church Road. The proposed water service area being requested includes approximately 12,100 acres and the proposed sewer area is approximately 12,800 acres.

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 46336.

TRD-201604643
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 6, 2016

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Notice of Application to Relinquish a Service Provider Certificate of Operating Authority

On August 29, 2016, Global Telecom & Technology Americas, Inc. filed an application with the Public Utility Commission of Texas to relinquish its Service Provider Certificate of Operating Authority (SPCOA) Number 60710.

Style and Docket Number: Application of Quality Telephone, Inc. to Relinquish its Service Provider Certificate of Operating Authority, Docket Number 46315.

Application: Global Telecom & Technology Americas, Inc. seeks to relinquish its service provider certificate of operating authority because they have no customers in Texas for which it provides local exchange services and no longer intends to retain authority in the State of Texas.

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 September 16, 2016. 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 46315.

TRD-201604611
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 1, 2016

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Texas Department of Transportation

Notice of Amendment - Private Consulting Services

In accordance with Government Code, Chapter 2254, Subchapter B, the Texas Department of Transportation publishes this notice of amendment for the private consulting services contract RFP 601CT0000000913, with Gartner, Inc. This contract for a total amount of $2,921,647 was entered into December 29, 2015, with an expiration date of August 31, 2017.

The consultant provides independent verification and validation (IV&V) advice, assistance and support services related to the Texas Department of Transportation's (TxDOT) purchase of software and system integrator services to design and implement a modern capital projects portfolio and project management solution at the enterprise level. This contract will be amended to include as part of the scope of services the consultant's assistance with the procurement of this solution and will add 24 months to the term of the agreement.

TRD-201604659
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: September 6, 2016

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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.

How to Use the Texas Register

Information Available: The sections of the ***Texas Register*** represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 40 (2015) is cited as follows: 40 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "40 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 40 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: http://www.sos.state.tx.us. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC*) is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at http://www.sos.state.tx.us/tac.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION
Part 4. Office of the Secretary of State
Chapter 91. Texas Register
1 TAC §91.1…….....950 *(P)*

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