

**From:** [Sunset Advisory Commission](#)  
**To:** [Trisha Linebarger](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
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From: sunset@sunset.texas.gov [<mailto:sunset@sunset.texas.gov>] On Behalf Of Texas Sunset Commission  
Sent: Saturday, September 5, 2020 1:44 PM  
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS ANIMAL HEALTH COMMISSION

First Name: Judith

Last Name: McGeary

Title: Executive Director

Organization you are affiliated with: Farm and Ranch Freedom Alliance

Email: judith@farmandranchfreedom.org

City: Cameron

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

The Farm and Ranch Freedom Alliance appreciates the Sunset staff's work in evaluating the Texas Animal Health Commission. We strongly support the recommendations made under Issue 3, relating to making the agency more accountable, transparent, and inclusive.

We wish to draw the Commissioners' attention to an example of just how exclusionary and biased the agency's "working group" approach is.

Approximately ten years ago, FARFA met with the then-executive director of TAHC, along with representatives from the Texas Organic Farmers & Gardeners Association and R-CALF USA. All three groups have members who own livestock in this state and are regulated by the agency. We all asked to be included in working groups. Since that time, representatives and members of all three organizations have on occasion appeared in person or filed written comments with the agency. Yet not only has the agency never once included any of the organizations in a working group, but its of "interest groups" in its self-evaluation report did not even mention these organizations.

Any Alternative or New Recommendations on This Agency:

While we support all of the staff's recommendations, we believe they do not go far enough to ensure that the agency adequately represents all stakeholders.

First, the current provisions for "public interest members" are not drafted so as to ensure that they actually represent the public, rather than industry interests. Texas Agriculture Code § 161.021 requires that three commissioners on TAHC be "members of the general public." A potential commissioner will not qualify as a member of the general public if he or she or his or her spouse:

- (1) is registered, certified, or licensed by the commission;
- (2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving money from the commission;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization

regulated by or receiving money from the commission; or  
(4) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

Essentially, a person will qualify as a member of the public as long as he or she is not regulated or sponsored by the commission. The “conflict of interest” language used in the Agriculture Code doesn’t work well in practice with the Commission because the agency is technically regulating animals, not individuals or businesses. So, for example, the person who owns or manages a cattle ranch is not regulated by TAHC – but the animals on the ranches are, and TAHC regulations have very significant impacts on his business interests. The statutory language thus is ineffective, in theory and in practice, in ensuring that the general public is represented on the Commission and should be revised to achieve that goal.

In addition, while the Commission includes a seat for feedlots, it does not include seats for small-scale, organic, or sustainable producers, who have distinct perspectives and knowledge on issues of animal health. TAHC is unusual among regulatory agencies in that its regulations are not only applicable to commercial entities. Every person who owns even a single livestock animal (including poultry) is subject to TAHC’s regulations. Because the agency’s jurisdiction includes “exotic fowl,” its rules can even apply to pet parakeets. This issue was starkly highlighted in the fight over the National Animal Identification System in 2006 and 2007, during which TAHC sought to require every person who owned even one livestock animal – even just a single backyard chicken or pet pony – to register the animal with the agency and pay a fee.

The vast majority of Texans who own livestock or poultry own just a few animals. According to the USDA 2017 Census of Agriculture: 91% of farms with sheep have fewer than 100 head; 97% of farms with laying hens have fewer than 100 birds; 98% of farms with horses own fewer than 25 head; 84% of farms with hogs own fewer than 25 head; and 52% of farms with cattle have fewer than 20 head.

These census numbers are striking, and yet they don’t tell the whole story.

The census only includes farms, which are defined as operations that produced and sold \$1,000 or more of agricultural product in the year before the census. TAHC’s jurisdiction extends much further, covering hobby and noncommercial operations.

Despite the very broad scope of the agency’s authority, the Commissioners are drawn from commercial agriculture interests and almost entirely from large-scale, industrial businesses, as noted in the Sunset staff’s report. The obvious problem is that, as in any industry, the impact of regulations is very different for small-scale entities than for large-scale entities. But in the context of animal health, there are very significant additional considerations. How animals are managed affects their health, the incidence and severity of disease, and, ultimately, human health. Whether animals are kept in low-density, low-stress settings or in high-density feedlot operations where they stand in manure and are regularly fed antibiotics has real-world, substantive implications for animal health and disease control.

Yet, while the feedlot industry has its own dedicated Commissioner, small-scale traditional ranchers producing organic and pastured livestock have no representation.

FARFA thus urges the Commissioners to consider changing the designated seats to:

- 1) tighten and clarify the "public interest" requirements, and
- 2) provide representation for small-scale and/or other interest groups that have historically been excluded from the agency's decision-making process and consideration.

My Comment Will Be Made Public: I agree