



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

June 25, 2020

Jennifer Jones
Acting Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

Dear Ms. Jones,

Thank you for the opportunity to provide the Texas Department of Agriculture's (TDA) position on the issues presented in the Sunset staff report. TDA appreciates the Sunset staffs' thorough and professional review and looks forward to continuing to serve as a resource for the Sunset Commission members and staff as well as the Legislature throughout this process.

The Sunset staff report identifies several issues with key recommendations. TDA is evaluating each recommendation to determine the appropriate steps forward, and in some cases is already making changes based on those recommendations.

TDA believes additional consideration is warranted for certain staff recommendations made. In response to these specific issues and recommendations in the staff report, TDA provides the following comments:

Comment 1: Texas Agriculture is a \$115 billion industry.

In the *Summary of the Staff Report*, the Sunset staff writes "...TDA's functions now extend well beyond regulating and promoting the state's \$25 billion agriculture industry." The Texas agriculture industry is the second largest economic driver in the State of Texas, behind the oil and gas industry. Texas agriculture is a \$115 billion industry, and TDA asks that be reflected in the Sunset staff report.

Comment 2: Rephrase Issue 1 "The GO TEXAN Program Lacks the Guidance and Direction Needed for a Successful Program."

TDA would like to the request the Issue be rephrased to say, "The GO TEXAN program Lacks the Statutory Guidance and Direction Needed for a Successful Program."

Comment 3: Re-establish the GO TEXAN program and its purpose in statute.

TDA agrees that the TDA statute should be updated to define the GO TEXAN program's purpose, as well updating rules to more clearly define participation eligibility requirements, tiers, and benefits.

Comment 4: Direct TDA to establish a mission, goals, and objectives for the GO TEXAN program.

TDA agrees with this Management Action. The recently filled Director for Marketing position has already taken steps to address this issue, including directing a review of similar state branded programs across the U.S., requiring strategic plans to be completed by all marketing programs, and soliciting input regarding program benefits and processes. Information will be used to draft rules and program policies.

Comment 5: Direct TDA to establish clear performance measures to evaluate its progress in meeting GO TEXAN program goals.

TDA agrees with this Management Action. Once rules are finalized, internal performance measures will be created to better track GO TEXAN program goals, business participation and effectiveness.

The next portion of this response is dedicated to the report of the Prescribed Burning Board (Board). The Board was grateful to have hosted the review team at last September's Board meeting in Sonora, Texas and the opportunity to provide any input the review team deemed necessary to complete the report. The Board's responses will follow the Commission's recommendations in order as stated in the report, beginning with Issue 3.1 and continuing in numeric order.

Comment 6: Clearly authorize TDA to adopt rules for all prescribed burning standards and continue the Prescribed Burning Board as an advisory committee to the department.

The Board agrees clarity must be given regarding rule making authority for proper rule adoption but has reservations about making the Prescribed Burning Board an advisory committee to the agency. The Board feels there should continue to be autonomy given to the Board as intended when the semi-independent organization was established. By establishing rule making authority with the Board, the public can be assured the most qualified individuals with the greatest combined experience in prescribed burning in Texas will be the officials setting standards affecting the safety, efficiency, effectiveness and acceptance of prescribed burning in Texas.

Removing authority from the Board and making it simply an advisory committee would allow shifting sentiments of future elected officials to affect what has previously been consistent in messaging and policies from the Board. The prescribed burning industry has confidence in the Board it otherwise would not have, given the diversity of prescribed fire training and educational backgrounds, along with considerable expertise of Board members from decades of field experience. The removal of authority would take away that confidence. With the acceptance of prescribed burning in Texas still actively growing and evolving, allowing a shift in policy and procedures at this point would inhibit the progress we have made to date.

Comment 7: Provide clear statutory authority for the department to issue licenses by reciprocity for substantially equivalent states.

The Board agrees with the Sunset Advisory Commission's recommendation concerning reciprocity. Allowing authorization to the Board to enter into reciprocal agreements with other states with equal or higher standards to that of Texas, will streamline the approval process for those applicants eligible to perform the duties of a certified and insured prescribed burn managers in Texas. As stated, any applicant certified in a state with lesser standards would have to complete the regular application process.

Comment 8: Direct the board to remove subjective criteria from its certification application.

The Board appreciates the Sunset Advisory Commission's concern regarding language in sections of the certification criteria in the revised application form PBB-601. The Board would like to assure both the public and the Sunset Advisory Commission the intent of the language was not to create subjective or vague requirements that would unfairly assess applicants based on entries of mistakes or lessons learned from previous burn experiences. Instead, the Board seeks to provide an after-action review or debriefing to illustrate the applicant's ability to self-evaluate tactics, decisions, and plans that worked well and/or didn't work well, in order to continuously learn the art and science of prescribed burning.

While prescribed burning is a safe practice when implemented appropriately to manage understory fuel loads and prevent wildfires, burn managers are using fire as a tool and must be able to quickly think on their feet, if and, when conditions change. A burn manager may have a good forecast to burn safely, but conditions may change, and unexpected weather conditions may happen throughout the day which will alter how a burn manager must act or react to situations presented to them. A prescribed burn manager must be able to assess changing situations and self-evaluate their actions at a moments notice for prescribed fire to be safely and effectively executed. Even in the course of a perfect "textbook" prescribed fire it is important burn managers complete after-action reviews to evaluate:

1. What was planned?
2. What actually happened?
3. Why did it happen?
4. What can be done differently next time?

Each prescribed fire is different, and an after-action review is just as important for a prescribed burn manager to use in times of “textbook” prescribed fires as well as prescribed fires with changing conditions. The intent of the Board’s request for an applicant to include and share mistakes or lessons learned was not to ensnare an applicant but is intended to illustrate to the Board that the applicant can effectively and efficiently self-evaluate themselves during a burn.

While the Board does not feel the intent of the new sections in the revised application is subjective, the Board respects the Commission’s concerns and is currently reviewing the application’s language to enhance objectivity and directness. The Board looks forward to working with Robert Romig and his team in determining the most appropriate and professional manner to address these changes while maintaining the Board’s ability to objectively evaluate an applicant’s ability to self-evaluate and maintain span-of-control when implementing a prescribed burn.

Comment 9: Require TDA to develop guidelines for evaluating applicants’ criminal history in all of its occupational licensing programs.

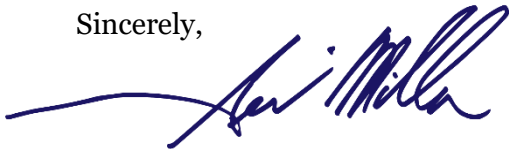
This issue does not specifically fall under the purview of the Prescribed Burning Board’s review. However, the Board did want to briefly comment on the recommendation given prescribed burn managers in this section. The Board agrees these guidelines should be created and supports the submission of criminal history reviews of applicants seeking to become certified and insured prescribed burn managers.

Comment 10: Fiscal Implication Related to the Prescribed Burning Board

The Board would respectfully disagree that there would be a net neutral fiscal implication to the revision offered by the Sunset Board in Issue 3.1. If TDA were to assume rule making authority over all prescribed burners in the state it would necessarily increase the workload on one or more individuals within the Texas Department of Agriculture. It is clear and apparent to the Board that every member dedicates dozens of hours between each of the bi-annual meetings. If that work is not performed by voluntary members of the Board then it would have to be performed by the Texas Department of Agriculture. The labor cost alone to do so would break the net neutrality on expenses and additional staff needed to properly carry out the Boards functions with the necessary expertise.

In closing, TDA would like to thank Robert Romig and his team for their thoroughness and thoughtfulness of both the review process and the report. TDA would also like to thank the Sunset Advisory Commission for the opportunity to formally respond to the Sunset staff report. We look forward to continuing to work with the Sunset Commission and the Legislature as we move through the process and implement changes to provide better services to the Texas agricultural and rural industries.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sid Miller", with a long horizontal flourish extending to the left.

Sid Miller
Commissioner