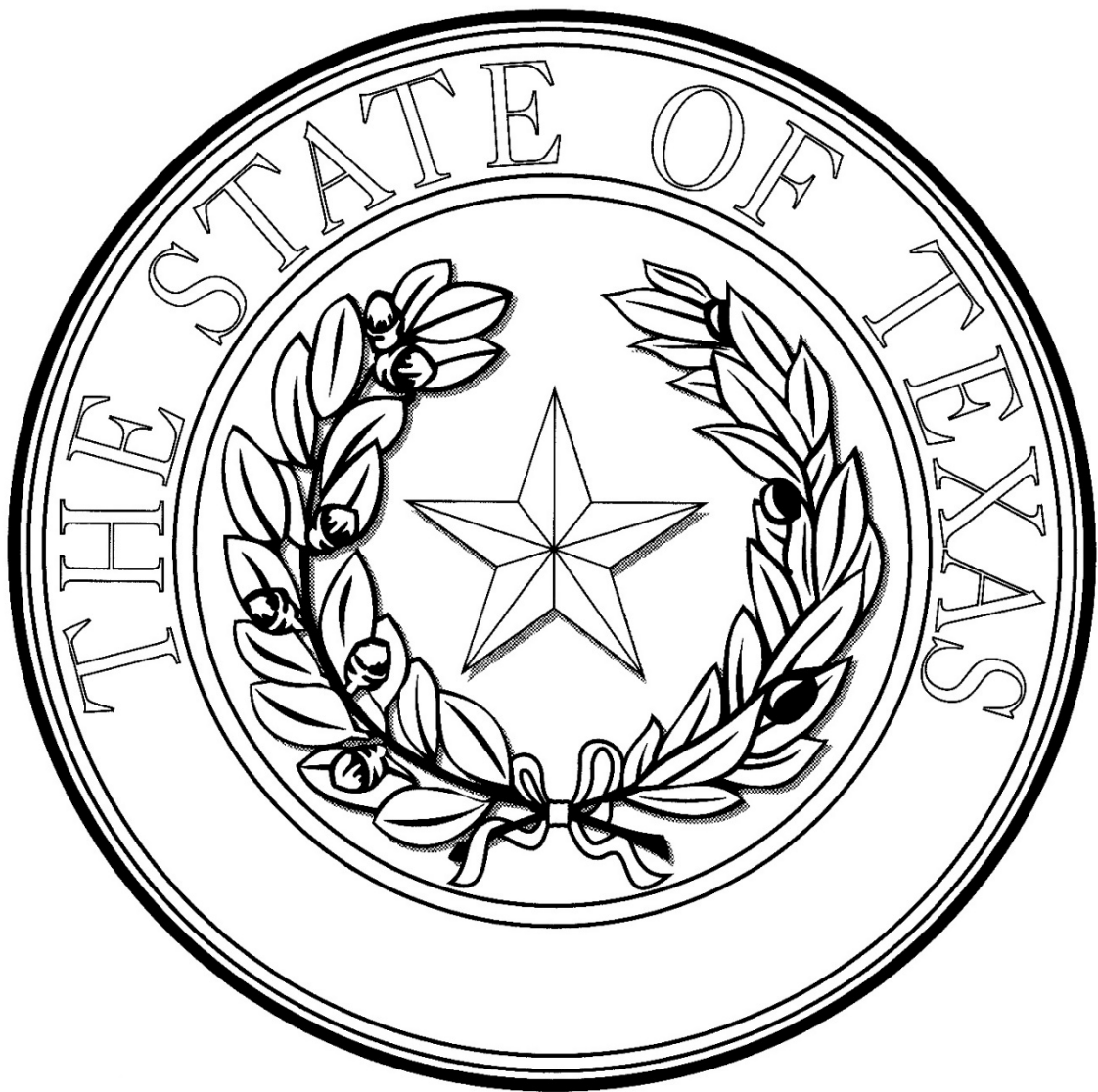

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THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for January 3, 2024

Pursuant to SB 2315, 88th Legislature, Regular Session, appointed to the Task Force on Consolidation of Workforce and Social Services for a term to expire at the pleasure of the Governor, Courtney H. Arbour of Austin, Texas.

Pursuant to SB 2315, 88th Legislature, Regular Session, appointed to the Task Force on Consolidation of Workforce and Social Services for a term to expire at the pleasure of the Governor, Leslie S. Cantu of Potect, Texas.

Pursuant to SB 2315, 88th Legislature, Regular Session, appointed to the Task Force on Consolidation of Workforce and Social Services for a term to expire at the pleasure of the Governor, Sylvia Hernandez Kauffman of Austin, Texas.

Pursuant to HB 4990, 88th Legislature, Regular Session, appointed to the Texas Pharmaceutical Initiative Governing Board for a term to expire at the pleasure of the Governor, Golinda Erowele, Pharm.D. of Missouri City, Texas.

Pursuant to HB 4990, 88th Legislature, Regular Session, appointed to the Texas Pharmaceutical Initiative Governing Board for a term to expire at the pleasure of the Governor, Michael D. "Mike" McKinney, M.D. of Bryan, Texas.

Pursuant to HB 4990, 88th Legislature, Regular Session, appointed to the Texas Pharmaceutical Initiative Governing Board for a term to expire at the pleasure of the Governor, William A. "Tony" Schell of Austin, Texas.

Greg Abbott, Governor

TRD-202400028



Proclamation 41-4090

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Robert Phillip Marsh, D.O.B. August 9, 1972, was sentenced in the 238th District Court in Midland County on November 15, 1990, to two years of deferred adjudication probation for the offense of Theft Over \$750.00 but Less Than \$20,000.00, Cause No. CRC-17,106; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

ROBERT PHILLIP MARSH

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST

AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. CRC-17,106, IN MIDLAND COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 19th day of December, 2023.

Greg Abbott, Governor

TRD-202400033



Proclamation 41-4091

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Heather Christine Sherman, D.O.B. April 20, 1990, was sentenced in the County Court at Law No. 4 in Collin County on September 16, 2010, to three days in jail for the offense of Possession of Marijuana less than 2 oz, Cause No. 004-83863-10; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

HEATHER CHRISTINE SHERMAN

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HER CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 004-83863-10, IN COLLIN COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 19th day of December, 2023.

Greg Abbott, Governor

TRD-202400034



Proclamation 41-4092

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Jerry Lynn Smith, D.O.B. February 2, 1959, was sentenced in the 232nd District Court in Harris County on April 18, 1978, to a \$500 fine for the offense of Theft, Cause No. 276652; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

JERRY LYNN SMITH

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 276652, IN HARRIS COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 19th day of December, 2023.

Greg Abbott, Governor

TRD-202400035



EMERGENCY RULES

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

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER K. FORMULA ADVISORY COMMITTEE - COMMUNITY AND TECHNICAL COLLEGES

19 TAC §§1.156 - 1.163

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency repeal §§1.156 - 1.163 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4913).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304956

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Original effective date: September 1, 2023

Expiration date: February 27, 2024

For further information, please call: (512) 427-6548



19 TAC §§1.156 - 1.162

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency new §§1.156 - 1.162 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4914).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304955

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Original effective date: September 1, 2023

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For further information, please call: (512) 427-6548



SUBCHAPTER L. FORMULA ADVISORY COMMITTEE - GENERAL ACADEMIC INSTITUTIONS

19 TAC §§1.164 - 1.167

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency amended §§1.164 - 1.167 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4916).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304957

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Original effective date: September 1, 2023

Expiration date: February 27, 2024

For further information, please call: (512) 427-6548



CHAPTER 9. PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES

SUBCHAPTER B. GENERAL PROVISIONS

19 TAC §9.28, §9.29

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency repeal of §9.28 and §9.29 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4917).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304958

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6548



SUBCHAPTER N. BACCALAUREATE DEGREE PROGRAMS

19 TAC §9.677

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency amended §9.677 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4918).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304959

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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Expiration date: February 27, 2024

For further information, please call: (512) 427-6548



CHAPTER 13. FINANCIAL PLANNING

SUBCHAPTER A. DEFINITIONS

19 TAC §13.1

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency amended §13.1 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4919).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304960

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6548



SUBCHAPTER D. FINANCIAL REPORTING

19 TAC §13.62

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency repeal of §13.62 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4921).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304962

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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Expiration date: February 27, 2024

For further information, please call: (512) 427-6548

19 TAC §13.63

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency amended §13.63 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4922).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304961

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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Expiration date: February 27, 2024

For further information, please call: (512) 427-6548



SUBCHAPTER P. COMMUNITY COLLEGE

FINANCE PROGRAM

19 TAC §§13.470 - 13.477

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency new §§13.470 - 13.477 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4922).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304963

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Original effective date: September 1, 2023

Expiration date: February 27, 2024

For further information, please call: (512) 427-6548



SUBCHAPTER Q. FINANCIAL AID FOR SWIFT TRANSFER (FAST) PROGRAM

19 TAC §§13.500 - 13.506

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency new §§13.500 - 13.506 for a 60-day period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4929).

Filed with the Office of the Secretary of State on December 21, 2023.

TRD-202304964

Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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Expiration date: February 27, 2024
For further information, please call: (512) 427-6365



**SUBCHAPTER R. STATE PUBLIC JUNIOR
COLLEGE FINANCE PROGRAM REPORTING,
AUDIT, AND OVERALLOCATION**

19 TAC §§13.520 - 13.529

The Texas Higher Education Coordinating Board is renewing the effectiveness of emergency new §§13.520 - 13.529 for a 60-day

period. The text of the emergency rule was originally published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 4932).

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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Expiration date: February 27, 2024
For further information, please call: (512) 427-6528





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 22. EXAMINING BOARDS

PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 1. ARCHITECTS

SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §1.29

The Texas Board of Architectural Examiners (Board) proposes the amendment of 22 Texas Administrative Code §1.29, relating to the Registration of a Military Service Member, Military Veteran, or Military Spouse (architects).

Subject Material Statement

This proposed rulemaking action would implement Senate Bill 422 (88th Regular Session, 2023), which amends provisions in Texas Occupations Code Chapter 55, relating to the licensure of military service members, military veterans, and military spouses.

In 2019, the Texas Legislature passed Senate Bill 1200 (86th Regular Session), which created a process under Texas Occupations Code §55.0041 to allow certain military spouses licensed in other states to engage in a business or occupation without becoming licensed in Texas. Through Senate Bill 422, the legislature has extended this provision to apply to military service members as well. Under amended §55.0041(a), a military service member may engage in a business or occupation for which a license is required without obtaining the applicable license if the military service member is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to Texas requirements. A military service member seeking to practice under this provision is required to notify the licensing entity, submit proof of residency and military identification, and receive confirmation of qualification to practice from the state agency. See Tex. Occ. Code §55.0041(b). The law also authorizes state agencies to adopt rules to issue a temporary license to an individual who qualifies to practice their profession under §55.0041(a). In such a case, the agency cannot charge a fee for the issuance of the license.

Senate Bill 422 also amends the law to impose deadlines upon agencies in considering applications under Texas Occupations Code Chapter 55. Under these amendments, a licensing agency has no more than 30 days from the submission of required documentation to approve a qualifying military service member or military spouse seeking to practice under Tex. Occ. Code §55.0041. Additionally, an amendment to Tex. Occ. Code §55.005 requires a licensing agency to process and approve an application for li-

censure from a qualifying military service member, military veteran, or military spouse within 30 days.

Explanation of Action

The Board proposes to implement Senate Bill 422 by amending 22 Texas Administrative Code §1.29(b)(3) to implement a 30-day processing deadline for the consideration of an application submitted by a military service member, military veteran, or military spouse.

The Board proposes to implement Senate Bill 422 by amending §1.29(c). Previously, the Board adopted this rule to implement a temporary architectural registration procedure for qualifying military spouses pursuant to Tex. Occ. Code §55.0041. Because Senate Bill 422 expands §55.0041 to apply to qualifying military service members, the Board proposes to do the same for §1.29(c). The proposed rule would implement two additional Senate Bill 422 amendments to §55.0041 by requiring the Board to issue a temporary registration to a qualifying military service member or military spouse within 30 days, and by clarifying that a military spouse's temporary registration is not impacted by a divorce or similar event.

Finally, the Board proposes non-substantive amendments to §1.29(c)(7) and §1.29(c)(8)(B) to improve the clarity of the rule.

FISCAL NOTE

Lance Brenton, General Counsel, has determined that for the first five-year period the proposed rule is in effect, the amendments will have no significant fiscal impact upon state or local government or the Board. Any potential adverse fiscal impact would be based on a loss of revenue otherwise payable to the Board by qualifying military service members in the form of registration and renewal fees that would be waived under proposed §1.29(c). However, under 22 Texas Administrative Code §7.10(h), military service members are exempt from the payment of any fee to the Board during any period of active duty service. Because a "military service member" is by definition on active duty under Tex. Occ. Code §55.001(4) and 22 Texas Administrative Code §1.29(a)(3), the proposed rule will have no fiscal impact on state or local government or the Board.

GOVERNMENT GROWTH IMPACT STATEMENT

During the first five years the proposed rule would be in effect, no government program would be created or eliminated. Implementation of the proposed rule would not result in the creation or elimination of employee positions. Implementation of the proposed rule is not expected to require an increase or decrease in legislative appropriations to the agency. The proposed rule does not require an increase or decrease in fees paid to the agency. The proposed rule does not create a new regulation. Rather, the proposed rule amends an existing regulation. The proposed rule increases the number of individuals who can benefit from

waivers under the rule, as Senate Bill 422 creates the option for temporary architectural registration for qualifying military service members and ensures the continued validity of a military spouse's temporary architectural registration in the event of a divorce or similar event. The proposed rule is not expected to positively or adversely affect the state's economy.

PUBLIC BENEFIT/COST OF COMPLIANCE

Mr. Brenton has determined that for the first five-year period the proposed rule is in effect, public benefits will be realized with no probable economic cost to persons required to comply with the rule.

Adoption of the proposed rule would benefit the public by ensuring consistency between the Board's rules and the legislature's mandate enacted in Senate Bill 422. Additionally, the state may realize a public benefit resulting from marginal increased economic activity by military service members who obtain a temporary architectural registration when they might otherwise not participate in the practice of architecture due to licensure barriers.

There is no anticipated economic cost to persons required to comply with the proposed rule, including military spouses and military service members, as qualifying individuals will benefit from the ability to obtain a temporary architectural registration without charge.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities resulting from adoption of the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, microbusinesses, or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code §2006.002, is not required.

TAKINGS IMPACT ASSESSMENT

The agency has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT

The agency has determined that the proposed rules will not affect any local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

As a self-directed semi-independent agency, Government Code §2001.0045 does not apply to rules adopted by the Board.

PUBLIC COMMENT

Comments on the proposed rules may be submitted to Lance Brenton, General Counsel, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

STATUTORY AUTHORITY

The amendment of §1.29 is proposed under Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of architecture. The amendment implements Occupations Code §55.0041, which requires the Board to adopt the proposed rule.

CROSS REFERENCE TO STATUTE

The proposed amendment does not affect any other statute.

§1.29. *Registration of a Military Service Member, Military Veteran, or Military Spouse.*

(a) (No change.)

(b) Architectural registration eligibility requirements for military service members, military veterans, and military spouses.

(1) Verified military service, training, or education will be credited toward the registration requirements, other than an examination requirement, of an Applicant who is a military service member or a military veteran.

(2) An Applicant who is a military service member, military veteran, or military spouse may be eligible for registration if the Applicant:

(A) Holds an active architectural registration issued by another jurisdiction that has licensing or registration requirements that are substantially equivalent to the requirements for registration in this state; or

(B) Held an active architectural registration in this state within the five years preceding the application.

(3) Not later than 30 days [As soon as practicable] after a military service member, military veteran, or military spouse files an application for registration, the Board shall process the application, and if the applicant qualifies for registration under this subsection, issue the registration.

(4) This subsection does not apply if the Applicant holds a restricted registration issued by another jurisdiction or has an unacceptable criminal history.

(c) Alternative temporary registration procedure for an individual who is a military service member or military spouse [spouses].

(1) An individual who is a military service member or [A] military spouse may qualify for a temporary architectural registration if the individual[spouse]:

(A) holds a current architectural license or registration in good standing in another jurisdiction that has licensing requirements substantially equivalent to the requirements for architectural registration in this state;

(B) notifies the Board in writing of the individual's [spouse's] intent to practice Architecture in this state;

(C) submits to the Board required information to demonstrate eligibility for temporary architectural registration; and

(D) receives a verification letter from the Board that:

(i) the Board has verified the individual's [spouse's] license or registration in the other jurisdiction; and

(ii) the individual [spouse] is issued a temporary architectural registration.

(2) The Board will review and evaluate the following criteria when determining whether another jurisdiction's licensing requirements are substantially equivalent to the requirements for an architectural registration in Texas:

(A) whether the other jurisdiction requires an applicant to pass the Architect Registration Examination (ARE);

(B) any experience qualifications required by the jurisdiction to obtain the license or registration; and

(C) any education credentials required by the jurisdiction to obtain the license or registration.

(3) The individual [military spouse] must submit the following information to the Board to demonstrate eligibility for temporary architectural registration:

(A) a written request for the Board to review the individual's [military spouse's] eligibility for temporary architectural registration;

(B) sufficient documentation to verify that the individual [military spouse] is currently licensed or registered in good standing in another jurisdiction and has no restrictions, pending enforcement actions, or unpaid fees or penalties relating to the license or registration;

(C) proof of residency in this state;

(D) a copy of the individual's military [spouse's] identification card; and

(E) proof the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is stationed at a military installation in Texas.

(4) Not later than the 30th day after the date an individual submits the information described by paragraph (3) of this subsection, the Board shall provide the verification described by paragraph (1)(D) of this subsection if the individual is eligible for a temporary registration under this subsection.

(5) [(4)] A temporary architectural registration issued under this subsection expires three years from the date of issuance or when the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is no longer stationed at a military installation in Texas, whichever occurs first. The registration may not be renewed.

(6) In the event of a divorce or similar event that affects an individual's status as a military spouse, the spouse's registration will continue in effect until the registration expires three years from the date of issuance.

(7)(5) Except as provided under this [the] subsection, an individual [a military spouse] who receives a temporary architectural registration under this subsection is subject to and shall comply with all applicable laws, rules, and standards governing the Practice of Architecture in this state.

(8)(6) A temporary architectural registration issued under this subsection may be revoked if the individual [military spouse]:

(A) fails to comply with paragraph (7) [(5)] of this subsection; or

(B) the individual's [military spouse's] license or registration required under paragraph (1)(A) [(1)(a)] of this subsection expires or is suspended or revoked.

(9)(7) The Board shall not charge a fee for the issuance of a temporary architectural registration under this subsection.

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 December 21, 2023.

TRD-202304951

Lance Brenton

General Counsel

Texas Board of Architectural Examiners

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 305-8519



CHAPTER 3. LANDSCAPE ARCHITECTS SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §3.29

The Texas Board of Architectural Examiners (Board) proposes the amendment of 22 Texas Administrative Code §3.29, relating to the Registration of a Military Service Member, Military Veteran, or Military Spouse (landscape architects).

Subject Material Statement

This proposed rulemaking action would implement Senate Bill 422 (88th Regular Session, 2023), which amends provisions in Texas Occupations Code Chapter 55, relating to the licensure of military service members, military veterans, and military spouses.

In 2019, the Texas Legislature passed Senate Bill 1200 (86th Regular Session), which created a process under Texas Occupations Code §55.0041 to allow certain military spouses licensed in other states to engage in a business or occupation without becoming licensed in Texas. Through Senate Bill 422, the legislature has extended this provision to apply to military service members as well. Under amended §55.0041(a), a military service member may engage in a business or occupation for which a license is required without obtaining the applicable license if the military service member is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to Texas requirements. A military service member seeking to practice under this provision is required to notify the licensing entity, submit proof of residency and military identification, and receive confirmation of qualification to practice from the state agency. See Tex. Occ. Code §55.0041(b). The law also authorizes state agencies to adopt rules to issue a temporary license to an individual who qualifies to practice their profession under §55.0041(a). In such a case, the agency cannot charge a fee for the issuance of the license.

Senate Bill 422 also amends the law to impose deadlines upon agencies in considering applications under Texas Occupations Code Chapter 55. Under these amendments, a licensing agency has no more than 30 days from the submission of required documentation to approve a qualifying military service member or military spouse seeking to practice under Tex. Occ. Code §55.0041. Additionally, an amendment to Tex. Occ. Code §55.005 requires a licensing agency to process and approve an application for licensure from a qualifying military service member, military veteran, or military spouse within 30 days.

Explanation of Action

The Board proposes to implement Senate Bill 422 by amending 22 Texas Administrative Code §3.29(b)(3) to implement a 30-day

processing deadline for the consideration of an application submitted by a military service member, military veteran, or military spouse.

The Board proposes to implement Senate Bill 422 by amending §3.29(c). Previously, the Board adopted this rule to implement a temporary landscape architectural registration procedure for qualifying military spouses pursuant to Tex. Occ. Code §55.0041. Because Senate Bill 422 expands §55.0041 to apply to qualifying military service members, the Board proposes to do the same for §3.29(c). The proposed rule would implement two additional Senate Bill 422 amendments to §55.0041 by requiring the Board to issue a temporary registration to a qualifying military service member or military spouse within 30 days, and by clarifying that a military spouse's temporary registration is not impacted by a divorce or similar event.

Finally, the Board proposes non-substantive amendments to §§3.29(b)(2)(A), 3.29(c)(7) and 3.29(c)(8)(B) to improve the clarity of the rule.

FISCAL NOTE

Lance Brenton, General Counsel, has determined that for the first five-year period the proposed rule is in effect, the amendments will have no significant fiscal impact upon state or local government or the Board. Any potential adverse fiscal impact would be based on a loss of revenue otherwise payable to the Board by qualifying military service members in the form of registration and renewal fees that would be waived under proposed §3.29(c). However, under 22 Texas Administrative Code §7.10(h), military service members are exempt from the payment of any fee to the Board during any period of active duty service. Because a "military service member" is by definition on active duty under Tex. Occ. Code §55.001(4) and 22 Texas Administrative Code §3.29(a)(3), the proposed rule will have no fiscal impact on state or local government or the Board.

GOVERNMENT GROWTH IMPACT STATEMENT

During the first five years the proposed rule would be in effect, no government program would be created or eliminated. Implementation of the proposed rule would not result in the creation or elimination of employee positions. Implementation of the proposed rule is not expected to require an increase or decrease in legislative appropriations to the agency. The proposed rule does not require an increase or decrease in fees paid to the agency. The proposed rule does not create a new regulation. Rather, the proposed rule amends an existing regulation. The proposed rule increases the number of individuals who can benefit from waivers under the rule, as Senate Bill 422 creates the option for temporary landscape architectural registration for qualifying military service members and ensures the continued validity of a military spouse's temporary landscape architectural registration in the event of a divorce or similar event. The proposed rule is not expected to positively or adversely affect the state's economy.

PUBLIC BENEFIT/COST OF COMPLIANCE

Mr. Brenton has determined that for the first five-year period the proposed rule is in effect, public benefits will be realized with no probable economic cost to persons required to comply with the rule.

Adoption of the proposed rule would benefit the public by ensuring consistency between the Board's rules and the legislature's mandate enacted in Senate Bill 422. Additionally, the state may

realize a public benefit resulting from marginal increased economic activity by military service members who obtain a temporary landscape architectural registration when they might otherwise not participate in the profession due to licensure barriers.

There is no anticipated economic cost to persons required to comply with the proposed rule, including military spouses and military service members, as qualifying individuals will benefit from the ability to obtain a temporary landscape architectural registration without charge.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities resulting from adoption of the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, microbusinesses, or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code §2006.002, is not required.

TAKINGS IMPACT ASSESSMENT

The agency has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT

The agency has determined that the proposed rules will not affect any local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

As a self-directed semi-independent agency, Government Code §2001.0045 does not apply to rules adopted by the Board.

PUBLIC COMMENT

Comments on the proposed rules may be submitted to Lance Brenton, General Counsel, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

STATUTORY AUTHORITY

The amendment of §3.29 is proposed under Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of landscape architecture. The amendment implements Occupations Code §55.0041, which requires the Board to adopt the proposed rule.

CROSS REFERENCE TO STATUTE

The proposed amendment does not affect any other statute.

§3.29. *Registration of a Military Service Member, Military Veteran, or Military Spouse.*

(a) (No change.)

(b) Landscape architectural registration eligibility requirements for military service members, military veterans, and military spouses.

(1) Verified military service, training, or education will be credited toward the registration requirements, other than an examination requirement, of an Applicant who is a military service member or a military veteran.

(2) An Applicant who is a military service member, military veteran, or military spouse may be eligible for registration if the Applicant:

(A) Holds an active landscape architectural registration issued by another jurisdiction that has licensing or registration requirements that are substantially equivalent to the requirements for registration [the license] in this state; or

(B) Held an active landscape architectural registration in this state within the five years preceding the application.

(3) Not later than 30 days [As soon as practicable] after a military service member, military veteran, or military spouse files an application for registration, the Board shall process the application, and if the applicant qualifies for registration under this subsection, issue the registration.

(4) This subsection does not apply if the Applicant holds a restricted registration issued by another jurisdiction or has an unacceptable criminal history.

(c) Alternative temporary registration procedure for an individual who is a military service member or military spouse [spouses].

(1) An individual who is a military service member or [A] military spouse may qualify for a temporary landscape architectural registration if the individual [spouse]:

(A) holds a current landscape architectural license or registration in good standing in another jurisdiction that has licensing requirements substantially equivalent to the requirements for landscape architectural registration in this state;

(B) notifies the Board in writing of the individual's [spouse's] intent to practice Landscape Architecture in this state;

(C) submits to the Board required information to demonstrate eligibility for temporary landscape architectural registration; and

(D) receives a verification letter from the Board that:

(i) the Board has verified the individual's [spouse's] license or registration in the other jurisdiction; and

(ii) the individual [spouse] is issued a temporary landscape architectural registration.

(2) The Board will review and evaluate the following criteria when determining whether another jurisdiction's licensing requirements are substantially equivalent to the requirements for a landscape architectural registration in Texas:

(A) whether the other jurisdiction requires an applicant to pass the Landscape Architect Registration Examination (LARE);

(B) any experience qualifications required by the jurisdiction to obtain the license or registration; and

(C) any education credentials required by the jurisdiction to obtain the license or registration.

(3) The individual [military spouse] must submit the following information to the Board to demonstrate eligibility for temporary landscape architectural registration:

(A) a written request for the Board to review the individual's [military spouse's] eligibility for temporary landscape architectural registration;

(B) sufficient documentation to verify that the individual [military spouse] is currently licensed or registered in good standing in another jurisdiction and has no restrictions, pending enforcement actions, or unpaid fees or penalties relating to the license or registration;

(C) proof of residency in this state;

(D) a copy of the individual's military [spouse's] identification card; and

(E) proof the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is stationed at a military installation in Texas.

(4) Not later than the 30th day after the date an individual submits the information described by paragraph (3) of this subsection, the Board shall provide the verification described by paragraph (1)(D) of this subsection if the individual is eligible for a temporary registration under this subsection.

(5) [(4)] A temporary landscape architectural registration issued under this subsection expires three years from the date of issuance or when the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is no longer stationed at a military installation in Texas, whichever occurs first. The registration may not be renewed.

(6) In the event of a divorce or similar event that affects an individual's status as a military spouse, the spouse's registration will continue in effect until the registration expires three years from the date of issuance.

(7) [(5)] Except as provided under this [the] subsection, an individual [a military spouse] who receives a temporary landscape architectural registration under this subsection is subject to and shall comply with all applicable laws, rules, and standards governing the practice of Landscape Architecture in this state.

(8) [(6)] A temporary landscape architectural registration issued under this subsection may be revoked if the individual [military spouse]:

(A) fails to comply with paragraph (7) [(5)] of this subsection; or

(B) the individual's [military spouse's] license or registration required under paragraph (1)(A) [(1)(a)] of this subsection expires or is suspended or revoked.

(9) [(7)] The Board shall not charge a fee for the issuance of a temporary landscape architectural registration under this subsection.

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 December 21, 2023.

TRD-202304952

Lance Brenton

General Counsel

Texas Board of Architectural Examiners

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 305-8519

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CHAPTER 5. REGISTERED INTERIOR DESIGNERS
SUBCHAPTER B. ELIGIBILITY FOR REGISTRATION

22 TAC §5.39

The Texas Board of Architectural Examiners (Board) proposes the amendment of 22 Texas Administrative Code §5.39, relating to the Registration of a Military Service Member, Military Veteran, or Military Spouse (registered interior designers).

Subject Material Statement

This proposed rulemaking action would implement Senate Bill 422 (88th Regular Session, 2023), which amends provisions in Texas Occupations Code Chapter 55, relating to the licensure of military service members, military veterans, and military spouses.

In 2019, the Texas Legislature passed Senate Bill 1200 (86th Regular Session), which created a process under Texas Occupations Code §55.0041 to allow certain military spouses licensed in other states to engage in a business or occupation without becoming licensed in Texas. Through Senate Bill 422, the legislature has extended this provision to apply to military service members as well. Under amended §55.0041(a), a military service member may engage in a business or occupation for which a license is required without obtaining the applicable license if the military service member is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to Texas requirements. A military service member seeking to practice under this provision is required to notify the licensing entity, submit proof of residency and military identification, and receive confirmation of qualification to practice from the state agency. See Tex. Occ. Code §55.0041(b). The law also authorizes state agencies to adopt rules to issue a temporary license to an individual who qualifies to practice their profession under §55.0041(a). In such a case, the agency cannot charge a fee for the issuance of the license.

Senate Bill 422 also amends the law to impose deadlines upon agencies in considering applications under Texas Occupations Code Chapter 55. Under these amendments, a licensing agency has no more than 30 days from the submission of required documentation to approve a qualifying military service member or military spouse seeking to practice under Tex. Occ. Code § 55.0041. Additionally, an amendment to Tex. Occ. Code §55.005 requires a licensing agency to process and approve an application for licensure from a qualifying military service member, military veteran, or military spouse within 30 days.

Explanation of Action

The Board proposes to implement Senate Bill 422 by amending 22 Texas Administrative Code §5.39(b)(3) to implement a 30-day processing deadline for the consideration of an application submitted by a military service member, military veteran, or military spouse.

The Board proposes to implement Senate Bill 422 by amending §5.39(c). Previously, the Board adopted this rule to implement a temporary interior designer registration procedure for qualifying military spouses pursuant to Tex. Occ. Code §55.0041. Because Senate Bill 422 expands §55.0041 to apply to qualifying

military service members, the Board proposes to do the same for §5.39(c). The proposed rule would implement two additional Senate Bill 422 amendments to §55.0041 by requiring the Board to issue a temporary registration to a qualifying military service member or military spouse within 30 days, and by clarifying that a military spouse's temporary registration is not impacted by a divorce or similar event.

Finally, the Board proposes non-substantive amendments to §§5.39(b)(2)(A), 5.39(c)(7) and 5.39(c)(8)(B) to improve the clarity of the rule.

FISCAL NOTE

Lance Brenton, General Counsel, has determined that for the first five-year period the proposed rule is in effect, the amendments will have no significant fiscal impact upon state or local government or the Board. Any potential adverse fiscal impact would be based on a loss of revenue otherwise payable to the Board by qualifying military service members in the form of registration and renewal fees that would be waived under proposed §5.39(c). However, under 22 Tex. Administrative Code §7.10(h), military service members are exempt from the payment of any fee to the Board during any period of active duty service. Because a "military service member" is by definition on active duty under Tex. Occ. Code §55.001(4) and 22 Texas Administrative Code §5.39(a)(3), the proposed rule will have no fiscal impact on state or local government or the Board.

GOVERNMENT GROWTH IMPACT STATEMENT

During the first five years the proposed rule would be in effect, no government program would be created or eliminated. Implementation of the proposed rule would not result in the creation or elimination of employee positions. Implementation of the proposed rule is not expected to require an increase or decrease in legislative appropriations to the agency. The proposed rule does not require an increase or decrease in fees paid to the agency. The proposed rule does not create a new regulation. Rather, the proposed rule amends an existing regulation. The proposed rule increases the number of individuals who can benefit from waivers under the rule, as Senate Bill 422 creates the option for temporary interior design registration for qualifying military service members and ensures the continued validity of a military spouse's temporary interior design registration in the event of a divorce or similar event. The proposed rule is not expected to positively or adversely affect the state's economy.

PUBLIC BENEFIT/COST OF COMPLIANCE

Mr. Brenton has determined that for the first five-year period the proposed rule is in effect, public benefits will be realized with no probable economic cost to persons required to comply with the rule.

This proposal would benefit the public by ensuring consistency between the Board's rules and the legislature's mandate enacted in Senate Bill 422. Additionally, the state may realize a public benefit resulting from marginal increased economic activity by military service members who obtain a temporary interior design registration when they might otherwise not participate in the profession due to licensure barriers.

There is no anticipated economic cost to persons required to comply with the proposed rule, including military spouses and military service members, as qualifying individuals will benefit from the ability to obtain a temporary interior design registration without charge.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities resulting from the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, microbusinesses, or rural communities, preparation of an economic impact statement and a regulatory flexibility analysis, as detailed under Texas Government Code §2006.002, is not required.

TAKINGS IMPACT ASSESSMENT

The agency has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

LOCAL EMPLOYMENT IMPACT STATEMENT

The agency has determined that the proposed rules will not affect any local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

As a self-directed semi-independent agency, Government Code §2001.0045 does not apply to rules adopted by the Board.

PUBLIC COMMENT

Comments on the proposed rules may be submitted to Lance Brenton, General Counsel, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

STATUTORY AUTHORITY

The amendment of §5.39 is proposed under Occupations Code §1051.202, which authorizes the Board to adopt reasonable rules as necessary to regulate the practice of interior design. The amendment implements Occupations Code §55.0041, which requires the Board to adopt the proposed rule.

CROSS REFERENCE TO STATUTE

The proposed amendment does not affect any other statute.

§5.39. *Registration of a Military Service Member, Military Veteran, or Military Spouse.*

(a) (No change.)

(b) Interior design registration eligibility requirements for military service members, military veterans, and military spouses.

(1) Verified military service, training, or education will be credited toward the registration requirements, other than an examination requirement, of an Applicant who is a military service member or a military veteran.

(2) An Applicant who is a military service member, military veteran, or military spouse may be eligible for registration if the Applicant:

(A) Holds an active interior design registration issued by another jurisdiction that has licensing or registration requirements that are substantially equivalent to the requirements for registration [the license] in this state; or

(B) Held an active interior design registration in this state within the five years preceding the application.

(3) Not later than 30 days [As soon as practicable] after a military service member, military veteran, or military spouse files an application for registration, the Board shall process the application, and if the applicant qualifies for registration under this subsection, issue the registration.

(4) This subsection does not apply if the Applicant holds a restricted registration issued by another jurisdiction or has an unacceptable criminal history.

(c) Alternative temporary registration procedure for an individual who is a military service member or military spouse [spouses].

(1) An individual who is a military service member or [A] military spouse may qualify for a temporary Interior Design registration if the individual [spouse]:

(A) holds a current interior design license or registration in good standing in another jurisdiction that has licensing requirements substantially equivalent to the requirements for Interior Design registration in this state;

(B) notifies the Board in writing of the individual's [spouse's] intent to practice Interior Design in this state;

(C) submits to the Board required information to demonstrate eligibility for temporary Interior Design registration; and

(D) receives a verification letter from the Board that:

(i) the Board has verified the individual's [spouse's] license or registration in the other jurisdiction; and

(ii) the individual [spouse] is issued a temporary Interior Design registration.

(2) The Board will review and evaluate the following criteria when determining whether another jurisdiction's licensing requirements are substantially equivalent to the requirements for an Interior Design registration in Texas:

(A) whether the other jurisdiction requires an applicant to pass the Council for Interior Design Qualification (CIDQ) examination;

(B) any experience qualifications required by the jurisdiction to obtain the license or registration; and

(C) any education credentials required by the jurisdiction to obtain the license or registration.

(3) The individual [military spouse] must submit the following information to the Board to demonstrate eligibility for temporary Interior Design registration:

(A) a written request for the Board to review the individual's [military spouse's] eligibility for temporary Interior Design registration;

(B) sufficient documentation to verify that the individual [military spouse] is currently licensed or registered in good standing in another jurisdiction and has no restrictions, pending enforcement actions, or unpaid fees or penalties relating to the license or registration;

(C) proof of residency in this state;

(D) a copy of the individual's military [spouse's] identification card; and

(E) proof the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is stationed at a military installation in Texas.

(4) Not later than the 30th day after the date an individual submits the information described by paragraph (3) of this subsection, the Board shall provide the verification described by paragraph (1)(D) of this subsection if the individual is eligible for a temporary registration under this subsection.

(5) [(4)] A temporary Interior Design registration issued under this subsection expires three years from the date of issuance or when the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is no longer stationed at a military installation in Texas, whichever occurs first. The registration may not be renewed.

(6) In the event of a divorce or similar event that affects an individual's status as a military spouse, the spouse's registration will continue in effect until the registration expires three years from the date of issuance.

(7) [(5)] Except as provided under this [the] subsection, an individual [a military spouse] who receives a temporary Interior Design registration under this subsection is subject to and shall comply with all applicable laws, rules, and standards governing the practice of Interior Design in this state.

(8) [(6)] A temporary Interior Design registration issued under this subsection may be revoked if the individual [military spouse]:

(A) fails to comply with paragraph (7) [(5)] of this subsection; or

(B) the individual's [military spouse's] license or registration required under paragraph (1)(A) [(a)] of this subsection expires or is suspended or revoked.

(9) [(7)] The Board shall not charge a fee for the issuance of a temporary Interior Design registration under this subsection.

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 December 21, 2023.

TRD-202304953

Lance Brenton

General Counsel

Texas Board of Architectural Examiners

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 305-8519



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER A. AUTOMOBILE INSURANCE

DIVISION 3. MISCELLANEOUS INTERPRETATIONS

28 TAC §5.208

The Texas Department of Insurance (TDI) proposes new 28 TAC §5.208, concerning terminology describing transportation-related incidents. Section 5.208 implements House Bill 2190, 88th Legislature, 2023.

EXPLANATION. New §5.208 is proposed to clarify terminology in the Insurance Code.

New §5.208(a) clarifies that the changes made by House Bill 2190, 88th Legislature, 2023, are nonsubstantive and are intended to clarify rather than change existing law.

Subsection (b) clarifies that the term "collision" has the same meaning that "accident" had before HB 2190 for the purposes of Insurance Code §1952.155 and §1954.056.

Subsection (c) clarifies that for the purposes of Title 28, Chapter 5, Subchapter A, HB 2190 did not change the meaning of the term "accident."

This section is proposed because the transition provision in Section 142 of HB 2190 is not included in the statutory text. This section highlights that the changes in law made by HB 2190 are nonsubstantive and are intended to clarify rather than change existing law. Because there is no substantive change to the meaning of the term "accident" as currently used in many policy forms, insurers do *not* need to file updated policy forms.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Marianne Baker, director, Property and Casualty Lines, has determined that during each year of the first five years the proposed new §5.208 is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section, other than that imposed by the statute. Ms. Baker made this determination because the proposed new section does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

Ms. Baker does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section is in effect, Ms. Baker expects that administering the proposed section will have the public benefit of providing clarity in TDI's rules on the impact of HB 2190 in light of the transition provision in HB 2190.

Ms. Baker expects that the proposed new section will not increase the cost of compliance with the Insurance Code because it does not impose requirements beyond those in the statute.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal will not impose a cost on regulated persons. Therefore, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on February 12, 2024. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on February 12, 2024. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

STATUTORY AUTHORITY. TDI proposes new §5.208 under Insurance Code §1951.002 and §36.001.

Insurance Code §1951.002 provides that the commissioner may adopt reasonable rules necessary to carry out the provision of Insurance Code Title 10, Subtitle C, which includes Insurance Code §1952.155 and §1954.056.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 5.208 implements Insurance Code §1952.155 and §1954.056.

§5.208. Terminology Describing Transportation-Related Accidents (Collisions).

(a) House Bill 2190, 88th Legislature, 2023 (HB 2190) replaced the term "accident" with "collision" in Insurance Code §1952.155, concerning Benefits Payable Without Regard to Fault or Collateral Source; Effect on Subrogation, and §1954.056(b), concerning Financial Responsibility. However, the transition provision in Section 142 of HB 2190 states that these changes to the law are

nonsubstantive and are intended to clarify rather than change existing law.

(b) Consistent with the transition provision in Section 142 of HB 2190, the Texas Department of Insurance (TDI) interprets the term "collision" when used in Insurance Code §1952.155 and §1954.056(b) as having the same meaning that "accident" had before passage of HB 2190 and as having no impact on rules adopted pursuant to Insurance Code §1952.155 and §1954.056(b) or forms filed for approval with TDI under those Insurance Code sections and rules before HB 2190.

(c) Because the transition provision in Section 142 of HB 2190 says the changes are nonsubstantive, they do not impact the rules in 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 December 27, 2023.

TRD-202304969

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 676-6555

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 21. TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION

**CHAPTER 675. OPERATIONAL RULES
SUBCHAPTER B. EXPORTATION AND IMPORTATION OF WASTE**

31 TAC §675.24

The Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC or Commission) proposes to amend 31 Texas Administrative Code §675.24, concerning Importation of Certain Low-Level Radioactive Waste for Management or Disposal that is not Required to be Disposed of in the Compact Facility. The proposed changes to 31 Texas Administrative Code §675.24 improves the quality, frequency, and accuracy of information facilities in Texas report to the Commission about the low-level radioactive waste they receive from outside the Texas Compact region for treatment, processing, storage or disposal. The proposed rule implements and complies with Texas Health and Safety Code §403.006 ("the Texas Low-Level Radioactive Waste Disposal Compact" or "the Compact").

BACKGROUND AND PURPOSE. Pursuant to the Commission's authority set out in Tex. Health & Safety Code §403.006, the Commission proposes to amend §675.24 to require monthly reporting of material that may become low-level waste when it enters the state rather than at the time the facility seeks approval to import the material into Texas. The rule protects the health, safety, and welfare of the residents of Texas by allowing the

Commission to be fully informed of the nature, volume, and curie count of radioactive material entering the Texas. The Commission has determined that it is in the public interest that the Commission require monthly reporting instead of every six months. More accurate reporting of low-level radioactive waste (LLRW) entering the state is necessary because radioactive material entering Texas may become waste that either will need to be disposed of in the Compact Facility, disposed of at another alternate approved facility or will need to be exported. The Commission has determined that it is in the public interest to receive timely reports regarding LLRW that enters the host state irrespective of whether it requires an agreement for importation for disposal at the Compact Facility and the disposition of imported LLRW in the host state. For this reason, the Commission proposed the following changes to the rule text, summarized below.

SECTION BY SECTION ANALYSIS. The proposed amendments to section 675.24(b) describes which facilities are subject to the reporting requirements in this rule. Re-numbered subsection (c) describes the type of radioactive material subject to this rule and expands the definition to material that may become LLRW. Renumber subsection (d) defines what information must be reported to the Commission and revises the requirement to report non-compact facility low-level radioactive waste to the Commission from every six months to monthly. (d) also requires reporting on the generator, source state, curies, date of receipt, date of processing, disposition, physical location of the waste and for export authorizations from other compacts or foreign countries to be made available on request. Renumbered subsections (e)-(k) clarifies that a report is required regardless of whether it requires an agreement for importation, adjusts the timelines for reporting to the Commission, and makes other technical changes to increase accuracy, transparency, and clarity in the rule text.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. Stephen Raines, the Commission's Executive Director, has determined that, for the first five-year period the proposed rules are in effect, no fiscal impact to state government or local government as a result enforcing or administering these amendments as proposed under Tex. Gov't Code §2001.024(a) because the rule does not change the responsibilities of government entities.

PUBLIC BENEFIT/COST NOTE. Mr. Raines has also determined under Tex. Gov't Code § 2001.024(a)(5), for each year of the first five years the proposed rules would be in effect, the public benefit will be improved reporting, processing, and transparency with respect to the presence of low-level radioactive waste in Texas, the Compact's host state. Mr. Raines further has determined there will be no probable economic cost to persons required to comply with the rule because the rule enhances pre-existing reporting and record-keeping requirements but are not more costly to comply with than the current rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no anticipated effect on the local economy for the first five years that the proposed amendments are in effect because the rules only concern reporting certain activities of facilities that import, export, and dispose of low-level radioactive waste. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). Pursuant to Tex. Gov't Code §2001.024, this rule may impose a cost on regulated persons to develop a database query that would produce a report that contains the information meeting

the requirements of the rule. However, the rule is exempt from the requirements of Texas Government Code §2001.0045 because the Commission is an independent entity established by federal law and governed by the compact and is not a "state agency" under Tex. Gov't Code § 2001.024(a). Tex. Gov't Code § 403.0051(a). Further, the Commission is exempt because the rule is necessary to protect the health, safety, and welfare of the residents of the state under subsection (c)(6). Knowing the nature, volume, and curie count of radioactive material entering Texas will allow the Commission to determine when LLRW will need to be disposed of in the Compact Facility in Texas or will need to be exported.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. The Commission hired an outside contractor with expertise in radioactive waste regulatory requirements to conduct the analysis as specified in Texas Government Code §2006.002. In consulting with the contractor, the Commission has determined (1) there is no impact on a rural community or unit of local government; (2) there is an estimated one-time cost of \$416.32 for a computer programmer to develop a database query to generate the new report fields and execute it monthly on one small business, NSSI, but it will not adversely impact NSSI; (3) in conducting a regulatory flexibility analysis, the Commission: (a) revised the rule to reduce this cost by allowing NSSI to use reports already produced to TCEQ and DSHS for compliance purposes instead of generating a new report, (b) revised the rule require reporting only to make available some documentation for export authorization from other compacts and foreign countries.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the agency has determined that during the first five years the proposed rule is in effect, the proposed amendment: (1) will not create or eliminate a government program; (2) will not result in an increase or decrease in the number of agency employees; (3) will not require an increase or decrease in future legislative appropriations to the agency because there are no costs associated with the rule; (4) will not lead to an increase or decrease in fees paid to a state agency; (5) will not create a new regulation; (6) will not repeal an existing regulation; and (7) will not result in an increase or decrease in the number of individuals subject to the rule; and (8) the proposed amendment will not positively or adversely affect the state's economy because it involves no fiscal requirements.

ENVIRONMENTAL REGULATORY ANALYSIS. The Commission has determined the proposed rules are not "major environmental rules" as defined by Texas Government Code, §2001.0225 and are not subject to its requirements.

TAKINGS STATEMENT. The Commission has concluded the proposed rules do not restrict or limit an owner's right to his or her real property that would otherwise exist in the absence of this action.

SUBMITTAL OF COMMENTS. Written comments may be submitted to Stephen Raines, Executive Director, 1502 West Avenue, Austin, Texas 78701, or, by electronic mail to comments@tllrwcc.org. All comments should reference "Rules" in the subject field. The comment period closes on 30 days after the date this notice is published. Copies of the proposed rulemaking can be obtained from the Commission's website at <http://www.tllrwcc.org/rules/>. For further information, please contact Stephen Raines, Executive Director, (512) 350-6241.

STATUTORY AUTHORITY. The rules are proposed under the authority granted in §3.05(4) of the Compact, which authorizes the Commission to adopt, by a majority vote, bylaws and rules necessary to carry out the terms of the Compact. The proposed rules implement and facilitate the Commission's obligations and due diligence regarding §3.05(6) and §§4.02, 4.04(2), (5); 4.05 (1) - (4); 6.01, and 6.02 of the Compact as set out at Tex. Health & Safety Code §403.006.

CROSS-REFERENCE TO STATUTES. The Commission proposes the rule amendment to fulfill its responsibilities with respect to 42 United States Code, §§2021(b)-2021(j)

§675.24. *Requirement to Report on the Importation of Certain Low-Level Radioactive Waste for Management or Disposal that is not Required to be Disposed of in the Compact Facility.*

(a) This section is applicable only in the host state.

(b) This section is applicable only to State of Texas licensed waste processors or brokers, or source consolidators, of certain radioactive waste (LLRW) that is included within the definition of low-level radioactive waste found in 30 TAC §336.2(89) (relating to Definitions) as the definition is in effect on the date this section becomes effective, or as 30 TAC §336.2(89) may be amended or renumbered in the future. For the purposes of this section, the material described in this subsection will be referred to as Non-Compact-Facility Low-Level Radioactive Waste ("NCFW").

(c) [(b)] This section is designed to gather information on the importation into the host state for disposal or management of certain low-level radioactive waste that:

[(1) is required when shipped to be listed on Nuclear Regulatory Commission (NRC) Forms 540 or 541 (Uniform Low-Level Waste Manifest Shipping Forms);]

[(2) is included within the definition of low-level radioactive waste found in 30 TAC §336.2(89) (relating to Definitions) as the definition is in effect on the date this section becomes effective or as 30 TAC §336.2(89) may be amended or renumbered in the future, but is not intended for disposal in the Compact Waste Facility;]

(1) [(3)] is not low-level radioactive waste described by 42 United States Code, §2021c(b)(1) (relating to waste disposal for which the Federal government is responsible) or waste that is regulated under §675.23 of this title (relating to Importation of Waste from a Non-Party Generator for Disposal); and

(2) is required, when shipped, to be listed on Nuclear Regulatory Commission (NRC) Uniform Low-Level Waste Manifest Shipping Forms or other shipping paperwork (including but not limited to Bill of Lading, Hazardous Waste Manifest, or other manifest); or

(3) is radioactive material being received for processing, recycling or consolidation and is subsequently declared to bebecomes low level radioactive waste as a result of the processing, recycling or consolidation, and becomes low level radioactive waste as a result of the processing, recycling, consolidation, including radioactive wastematerial imported into the Compact under NRC 10 CFR Part 110 (under a general or specific license) for processing, recycling or consolidation and is subsequently declared low level radioactive waste;

(4) The information gathering associated with radioactive waste described in (c)(3) does not begin until after the radioactive material is declared waste by the processor, recycler or consolidator.

[(4) for the purposes of this section, the material described in this subsection will be referred to as Non-Compact-Facility Low-Level Radioactive Waste ("NCFW").]

(d) [(e)] Any entity in the host state that imports NCFW or radioactive material which is subsequently declared NCFW must enter into an agreement with the Commission that contains a requirement that it will report or make available for review as detailed below to the Commission on a monthly [semi-annual] basis the following information with respect to each shipment of NCFW that it has received in the previous month [six-month period]:

(1) report the name of the generator;

(2) report the name of the unaffiliated state, territory, or low-level waste compact (if any), or foreign country of origin, [(including State and City);] where the waste originated (including State and City);

(3) report the activity of the waste in curies;

(4) report the gross volume or weight of the waste; the date of receipt; the date of processing (if and when this occurs, whether the waste is being stored, processed, disposed, or otherwise managed; [provided; however, that waste that has been disposed of in the same reporting period in which it was received shall only report gross volume or weight;] and

(5) report the physical location of management or the date of and physical location of disposal of that waste.

(6) make available for review documentation or supporting information to address the requirement for an export agreement from another compact.

(7) make available for review federal documentation supporting import/export of waste from a foreign country, including import/export under 10 CFR Part 110.

(e) Waste must be reported each reporting period until the waste has been returned to the generator, sent out of the compact for disposal or additional processing, or disposed of within the Compact;

(f) If a change in material classification occurs for any material in possession of the agreement holder (such as radioactive material being reclassified as LLRW due to processing, recycling, or consolidation or other factors), then that LLRW must be reported during the next reporting period, and subsequent reporting periods;

(g) [(d)] Monthly [Semi-annual] reports must be submitted electronically on forms provided or approved by the Commission and must be received [submitted] on or before the 15th [31st] day of the month [after the end of each six-month period of the Commission's fiscal year, which begins on September 1 and ends on August 31]. An entity may file its monthly [semi-annual] report on its own form if the Commission has provided its prior written authorization for the form submitted. The report shall only contain information concerning NCFW as defined in this section.

(h) [(e)] An entity that imports [low-level radioactive waste into the host state as described in subsection (e) of this section shall] NCFW into the host state must shall have entered into an agreement with the Commission within 90 days after the effective date of this section or within such time extensions thereafter as the Commission may allow. [New entrants that import waste into the host state as described in subsection (e) of this section.] Entities formed after the effective date of this rule or that apply to import waste into the host state must enter into an NCFW agreement with the Commission within 30 days of commencement of management operations and prior to importing NCFW. To the maximum extent possible, each agreement entered into under this section will contain provisions identical to those in each other agreement entered into under this section.

(i) [(f)] An entity that imports NCFW [waste] into the host state [as described in subsection (e) of this section] shall submit an application for entry into an agreement with the Commission electronically or on a paper [on a] form authorized [provided] by the Commission.

(j) [(g)] Failure on the part of an entity that imports NCFW [waste] into the host state as described in subsection (d) [(e)] of this section to comply with any provision of this section or the agreement entered into pursuant to subsection (i) [(f)] of this section may result in the Commission reporting such failures to the [host] state or federal agency that has licensed, permitted, or otherwise authorized the operation of such entities.

(k) [(h)] The Commission may unilaterally revoke or amend an NCFW agreement [on its own motion or in response to an application by the agreement holder]. When the Commission amends an NCFW agreement [on its own motion], it may provide a reasonable time to allow the other party to the agreement [holder] to make the changes necessary to comply with any additional requirements imposed by the Commission. No importation of NCFW shall be allowed under an NCFW [any amended] agreement for the importation of NCFW until:

(1) the NCFW agreement or any amendment to the NCFW agreement has been executed by both the Commission and the agreement holder; and

(2) the agreement holder has made any changes necessary to comply with additional requirements.

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 December 27, 2023.

TRD-202304980

Stephen Raines

Executive Director

Texas Low-Level Radioactive Waste Disposal Compact Commission

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 350-6241



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION

SUBCHAPTER JJ. CIGARETTE, E-CIGARETTE, AND TOBACCO PRODUCTS REGULATION

34 TAC §3.1203

The Comptroller of Public Accounts proposes amendments to §3.1203, concerning approved seller training programs. The amendments implement the portion of Senate Bill 248, 87th Legislature, 2021, that requires vendors providing comptroller approved training programs to include training on e-cigarette sales. The comptroller also proposes amendments to require the recer-

tification of approved training programs and to make other minor updates and improve readability.

The comptroller amends the definitions in subsection (a). In paragraph (1), the comptroller removes the definition of "application," which has a plain meaning, and replaces it with the definition of "cigar" from Tax Code, Chapter 155 (Cigar and Tobacco Products Tax). In paragraph (2), the comptroller replaces a reference to the definition of "cigarette" with the actual definition from Tax Code, Chapter 154 (Cigarette Tax). The comptroller adds the definition of "e-cigarette" in paragraph (3) and the definition of "minor" in paragraph (4), both from Health and Safety Code, Chapter 161 (Public Health Provisions), Subchapter H (Distribution of Cigarettes, E-cigarettes, or Tobacco Products) and renumbers the subsequent definitions. The comptroller amends the definition of "second party sales" in renumbered paragraph (5) to prohibit the sale of cigarettes and e-cigarettes that result in the provision of such products to a minor. The comptroller updates renumbered paragraph (6) by replacing the term "this state" with the term "Texas" and to add e-cigarettes to the list of products sold by a "seller." In new paragraph (7), the comptroller replaces a reference to the definition of "tobacco product" with the actual definition from Tax Code, Chapter 155.

The comptroller amends subsection (b) to include e-cigarette sellers in the list of sellers to whom the training curriculum must be focused.

The comptroller amends subsection (d) to clarify that the sale of cigarettes, e-cigarettes, and tobacco products must be included in the required course curriculum.

The comptroller amends subsection (g) to add that a certification expires if not recertified under new subsection (h).

The comptroller adds subsection (h) to establish recertification requirements for a comptroller approved seller course curriculum. The recertification must be renewed every two years to ensure the training includes any changes made during a legislative session. Subsequent subsections are relettered.

The comptroller amends relettered subsection (o) to remove the telephone contact numbers for class cancellations. The comptroller's webpage on Seller Training Programs is the best resource for current information of this sort.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rule would benefit the public by conforming the rules to current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. There would be no anticipated significant economic cost to the public.

You may submit comments on the proposal to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528 or to the email address: tp.rule.com

ments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The comptroller proposes the amendments under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture) and §111.0022 (Application to Other Laws Administered by Comptroller) which provide the comptroller with authority to prescribe, adopt, and enforce rules relating to the administration and enforcement provisions of Tax Code, Title 2, and taxes, fees, or other charges which the comptroller administers under other law.

The amendments to this section implement Health & Safety Code, §§161.081 (Definitions), 161.0901 (Disciplinary Action against Cigarette, E-cigarette, and Tobacco Product Retailers), and Tax Code, §155.001 (Definitions).

§3.1203. *Approved Seller Training Programs.*

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

(1) Cigar--A roll of fermented tobacco that is wrapped in tobacco and the main stream of smoke from which produces an alkaline reaction to litmus paper.

~~[(1) Application--The form provided by the comptroller's office for use by persons interested in performing training under this section.]~~

(2) Cigarette--A roll for smoking:

(A) that is made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; and

(B) that is not a cigar.

~~[(2) Cigarettes--Has the meaning assigned by Tax Code, Chapter 154.]~~

(3) E-cigarette--An electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this paragraph.

(A) The term "e-cigarette" includes:

(i) a device described by this paragraph regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and

(ii) a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

(B) The term "e-cigarette" does not include a prescription medical device unrelated to the cessation of smoking.

(4) Minor--A person under 21 years of age.

(5) ~~[(3)]~~ Second party sales--Sales that result [A sale which results] in the provision of cigarettes, e-cigarettes, or tobacco products to a minor, even though the purchaser of those products [the tobacco product] is not necessarily a minor.

(6) ~~[(4)]~~ Seller--Any person who sells cigarettes, e-cigarettes, or tobacco products in Texas [this state].

~~[(5) Tobacco products--Has the meaning assigned by Tax Code, Chapter 155.]~~

(7) Tobacco product--A tobacco product is:

(A) a cigar;

(B) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette;

(C) chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing;

(D) snuff or other preparations of pulverized tobacco;
or

(E) an article or product that is made of tobacco or a tobacco substitute and that is not a cigarette or an e-cigarette.

(b) Application process. In order for a vendor to be certified to provide employers and employees engaged in the retail sales of cigarettes, e-cigarettes, or tobacco products with training regarding provisions in [the] Health and Safety Code, Chapter 161 and in [the] Tax Code, Chapters 154 and 155, regarding regulation of sales, distribution, and use of tobacco products, the vendor's training program must meet the minimum curriculum requirements established by the comptroller and be certified by the comptroller. Vendors must make application to the comptroller's office on a prescribed application form. The comptroller's office will review qualified applications and certify vendors interested in providing a seller training program.

(c) Curriculum information. Vendors interested in obtaining certification must apply in writing and provide a written description detailing curriculum information, including:

(1) the presentation;

(2) specific course objectives;

(3) academic content;

(4) learning activities;

(5) audio-visual materials, if any;

(6) written materials (including instructor manual and participant workbook); and

(7) course evaluation or feedback forms.

(d) Curriculum requirements. The curriculum of the training program presented should include, but is not limited to, the following components.

(1) Component One--tobacco-related health hazards. Statistical information regarding tobacco-related health hazards as published by the U.S. Food and Drug Administration must be included in this component.

(2) Component Two--federal and state laws. Discussion and comparison of the provisions of current federal law with the provisions of current state law pertaining to minors and cigarettes, e-cigarettes, and tobacco products must be included in this component. In particular, this component must include a review and explanation of all provisions relating to:

(A) prohibiting the distribution of cigarettes, e-cigarettes, or tobacco products to minors;

(B) prohibiting the purchase, possession, or consumption of cigarettes, e-cigarettes, or tobacco products by minors (citing examples of tobacco products included);

(C) the warning notice signs for retail locations;

(D) statistics on cigarette, e-cigarette, and tobacco usage by adults and minors; and

(E) the placement of cigarettes, e-cigarettes, and tobacco products in retail locations.

(3) Component Three--detection of minors. This component must identify and discuss:

(A) observation techniques for determining when a customer is a minor;

(B) common physical and behavioral signs of underage status; and

(C) behaviors indicative of adolescence, including current clothing trends and fads, and physical appearance preferences, according to generally recognized experts in the field.

(4) Component Four--personal identification. This component must:

(A) identify, discuss, and provide actual samples of acceptable forms of identification, including, but not limited to:

(i) a valid state driver's license issued by the Texas Department of Public Safety; and

(ii) other state or U.S. government issued forms of identification (with photograph);

(B) identify, discuss, and provide actual samples of unacceptable forms of identification including, but not limited to:

(i) a temporary state driver's license;

(ii) a birth certificate;

(iii) a school or work ID;

(iv) a social security card; and

(v) a professionally printed identification card.

(C) explain how to detect invalid identification documents used in attempts to establish proof of age and provide examples of the following:

(i) unofficial documents that look similar to official documents;

(ii) types of document counterfeiting and alteration; and

(iii) warning signs of document counterfeiting and alterations.

(5) Component Five--second party sales. This component must:

(A) explain and define second party sales; and

(B) provide examples of second party sales including, but not limited to, the following:

(i) a minor loitering outside a store in the store parking lot;

(ii) a minor loitering around a store, either inside or outside, after having been refused a cigarette, e-cigarette, or tobacco product purchase; and

(iii) a minor randomly approaching an adult customer to solicit the adult customer to purchase cigarettes, e-cigarettes, or tobacco products and giving the adult customer money.

(6) Component Six--refusing a sale. This component must:

(A) identify and discuss techniques to prevent an illegal sale of cigarettes, e-cigarettes, or tobacco products to a minor or second party;

(B) identify and discuss techniques to terminate an illegal sale of cigarettes, e-cigarettes, or tobacco products to a minor or second party; and

(C) provide examples of words and actions that may be used by a seller to amicably avoid or terminate illegal attempts to purchase cigarettes, e-cigarettes, or tobacco products by a minor.

(e) Class length. The time length of the seller training class should be a minimum of two actual clock hours, including class breaks.

(f) Notice of certification or denial. The comptroller shall notify each applicant with a letter of certification or denial, including reasons for the denial, within 15 business days from the date the application is received by the comptroller. The certification or denial letter will be mailed to the address on the vendor's application.

(g) Certification. A qualified vendor is certified to provide seller training until the certification expires under subsection (h) of this section or [unless the certification] is revoked or suspended by the comptroller.

(h) Recertification of curriculum.

(1) Every two years, a previously certified vendor must submit a new application to ensure the vendor's course curriculum aligns with federal law, state law, and policy changes relating to cigarettes, e-cigarettes, and tobacco products.

(2) The seller training certification is valid until the last day of each odd numbered year.

(i) [(h)] Denial. Applications for certification will be denied based on the following factors:

(1) the curriculum information submitted does not meet the minimum requirements set out in subsection (d) of this section;

(2) the application is incomplete; or

(3) the applicant is currently delinquent in the payment of any tax or fee collected by the comptroller.

(j) [(h)] Administrative hearing. If the comptroller determines that an applicant is not eligible for certification, the applicant will be notified, in writing, that the application has been denied. The notice will state the reasons for the denial. The applicant may, within 15 days of the date of the notice of denial, make a written request for an oral hearing to contest the denial. If the applicant does not request a hearing within 15 days of the date of the notice of denial, the hearing is waived and the denial is final. The hearing will be governed by the provisions of §§1.1-1.42 of this title (relating to Practice and Procedure).

(k) [(h)] Certification revocation or suspension. The comptroller may, after notice and opportunity for a hearing, revoke or suspend a vendor's certification upon finding that the seller training classes provided by a vendor fail to comply with the comptroller's standards and requirements for seller training programs described in subsections (c), (d), and (e) of this section, or the vendor becomes delinquent in the payment of any tax or fee collected by the comptroller. If the comptroller determines that certification should be suspended or revoked, the comptroller will notify the vendor, in writing, that the certification will be suspended or revoked and will state the reasons for the action. The vendor may, within 15 days of the date of the notice of suspension or revocation, make a written request for an oral hearing to contest the action. If the vendor does not request a hearing within 15 days of the

date of the notice of suspension or revocation, the hearing is waived and the suspension or revocation becomes effective.

(l) [(k)] Certification reinstatement. The comptroller may reinstate the vendor's certification after receiving proof that the vendor has satisfied all the comptroller's standards and requirements for seller training as provided under subsections (c), (d), and (e) of this section, and the vendor is current in the payment of any tax or fee obligation due the comptroller.

(m) [(h)] Notice of classes scheduled. Vendors must provide the comptroller's office written notification of the date, time, and location of scheduled training classes at least five business days prior to the date training classes will be conducted.

(n) [(m)] Vendor reporting requirements.

(1) By the 15th day of the month, each certified vendor must report data for each training class completed during the previous month. The data must include:

- (A) a class roster with the name, driver's license number, and date of birth of each participant;
- (B) the total number of classes conducted for the month;
- (C) the total number of participants that attended each class; and
- (D) the total number of participants that successfully completed the class.

(2) The reports must be mailed to the Texas Comptroller of Public Accounts, 111 East 17th Street, Austin, Texas 78774-0100.

(o) [(n)] Class cancellations. Vendors must notify the comptroller's office [by telephone] of any training class cancellations prior to the actual training session date [by calling 1-800-531-5441, extension 65946 or the local number in Austin (512) 936-5946].

(p) [(o)] Class monitoring. Training classes may be monitored unannounced by the comptroller or a comptroller's representative to evaluate the curriculum presentation and the classroom environment.

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 December 27, 2023.

TRD-202304981

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 475-2220



34 TAC §3.1204

The Comptroller of Public Accounts proposes amendments to §3.1204, concerning administrative remedies for violations of Health and Safety Code, Chapter 161, Subchapter H or K. The comptroller proposes amendments to implement the portions of Senate Bill 248, 87th Legislature, 2021, that relate to violations and to provide guidance on the process for a permit suspension or revocation that conforms with applicable laws and current agency practice.

The comptroller proposes amending the name of this section to remove the reference to Subchapter K as this section addresses only Subchapter H violations.

The comptroller adds titles to statutory references and makes minor grammatical revisions throughout the section.

The comptroller amends subsection (a) to add definitions of cigar, cigarette, e-cigarette, e-cigarette retailer, and tobacco products from Health and Safety Code, §161.081 and Tax Code, §154.001 and §155.001. The comptroller amends the existing definitions of place of business and permit holder by replacing the statutory references with definitions, based on similar terms from Tax Code, §154.001, Tax Code, §155.001 and Health and Safety Code §161.001 with the actual statutory definitions. The comptroller amends the definition of retailer to include the concepts in Health and Safety Code, §147.001(3) and §161.081(4) and Tax Code, §154.001(17) and §155.001(14). The comptroller alphabetizes and renumbers the definitions accordingly.

The comptroller adds, as subsection (b), a non-exclusive list of violations that result in disciplinary action. The comptroller reletters subsequent subsections.

The comptroller amends the title and content of relettered subsection (c) to clarify that a violation is *reported* to the comptroller and that the list of people that may report a violation is non-exclusive.

The comptroller amends relettered subsection (d) to implement Senate Bill 248 which repealed the violation provisions in Tax Code, Chapters 154 (Cigarette Tax) and 155 (Cigars and Tobacco Product Tax) and added the updated violation provisions to Health and Safety Code, Chapter 161. The updated provisions extend the look-back violation period from 12 months to 24 months and increase the amount of the fine for each violation that occurs within a specific timeframe.

The comptroller amends relettered subsection (e) to memorialize agency practice regarding the comptroller's notification to a permit holder of a violation of Health and Safety Code, Subchapter H. The comptroller amends the subsection to reflect that the comptroller no longer sends a written notice of a violation by certified mail. The comptroller also amends the subsection to require a permit holder to respond to the written notice of violation within 20 calendar days, rather than 15 calendar days, consistent with current agency practice.

The comptroller amends relettered subsection (f) to provide information on a permit holder's procedures for requesting a hearing. The comptroller also amends the subsection to remove information related to a permit holder's failure to respond to the violation notice which is now in new subsection (g).

The comptroller deletes original subsection (f) as the information is obsolete.

The comptroller removes original subsection (g) regarding the burden of proof in an administrative hearing in its entirety. The burden of proof is addressed in §1.21 of this title (Practice and Procedures).

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require

an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rule would benefit the public by conforming the rules to current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. There would be no anticipated significant economic cost to the public.

You may submit comments on the proposal to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528 or to the email address: tp.rule.comments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Health and Safety Code, §161.0901 (Disciplinary Action Against Cigarette, E-Cigarette, and Tobacco Product Retailers), and Tax Code, §111.002, (Rulemaking Authority), which provides the comptroller with the authority to prescribe, adopt, and enforce procedural and due process rules relating to the administration and enforcement of the provisions of regulation of the tobacco statutes.

The amendments implement Government Code, Chapter 2001 (Administrative Procedures Act); Health and Safety Code, Chapter 161, Subchapter H (Distribution of Cigarettes, E-Cigarettes, Or Tobacco Products); and conforms this section to the relevant portions of 34 TAC §§1.1-1.35 (relating to Rules of Practice and Procedure).

§3.1204. *Administrative Remedies for Violations of Health and Safety Code, Chapter 161, Subchapter H* [~~or K~~].

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

(1) Cigar--A roll of fermented tobacco that is wrapped in tobacco and the main stream of smoke from which produces an alkaline reaction to litmus paper.

(2) Cigarette--A roll for smoking:

(A) that is made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; and

(B) that is not a cigar.

(3) E-cigarette--An electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this paragraph.

(A) The term "e-cigarette" includes:

(i) a device described by this paragraph regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and

(ii) a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

(B) The term "e-cigarette" does not include a prescription medical device unrelated to the cessation of smoking.

(4) Interstate warehouse--A person in this state who receives untaxed cigarettes, e-cigarettes, tobacco products from a manufacturer, bonded agent, distributor, or importer and stores the tobacco products exclusively for an interstate warehouse transaction.

(5) Interstate warehouse transaction--The sale or delivery of cigarettes, e-cigarettes and tobacco products from an interstate warehouse to a person located in another state who is licensed or permitted by the other state to pay the state's excise tax on tobacco products as required.

[(1) Place of business--Has the meaning assigned by Tax Code, §154.001 and §155.001.]

(6) [(2)] Permit holder--A bonded agent, interstate warehouse, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains a permit under Health & Safety Code, Chapter 147, Subchapter B (Permits), or Tax Code, §154.101 (Permits) or §155.041 (Permits). [Has the meaning assigned by Tax Code, §154.001 or §155.001.]

(7) Place of business--

(A) a commercial business location where cigarettes, e-cigarettes or tobacco products are sold;

(B) a commercial business location where cigarettes, e-cigarettes or tobacco products are kept for sale or consumption or otherwise stored;

(C) a vehicle from which cigarettes, e-cigarettes or tobacco products are sold; or

(D) a vending machine from which cigarettes or tobacco products are sold.

(8) [(3)] Retailer--A person who engages in the practice of selling cigarettes, e-cigarettes, or tobacco products to consumers and includes a person who sells e-cigarettes through a marketplace and the owner of a cigarette or tobacco product vending machine. [Has the meaning assigned by Tax Code, §154.001 or §155.001.]

(9) Tobacco product--A tobacco product is:

(A) a cigar;

(B) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco substitute for smoking in a pipe or as a cigarette;

(C) chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing;

(D) snuff or other preparations of pulverized tobacco;

or

(E) an article or product that is made of tobacco or a tobacco substitute and that is not a cigarette or an e-cigarette.

(b) Violations. Violations of Health and Safety Code, Chapter 161, Subchapter H (Distribution of Cigarettes, E-Cigarettes, or Tobacco Products) include, but are not limited to:

(1) the sale of cigarettes, e-cigarettes or tobacco products to persons younger than 21 years of age, as provided in Health and Safety Code, §161.082;

(2) failure to display a warning sign as prescribed by Health and Safety Code, §161.084;

(3) failure to notify employees of state law as required by Health and Safety Code §161.085;

(4) offering cigarettes, e-cigarettes, or tobacco products for sale in a manner that permits a customer direct access to the cigarettes, e-cigarettes, or tobacco products in violation of Health and Safety Code, §161.086;

(5) installing or maintaining a vending machine containing cigarettes, e-cigarettes, or tobacco products in violation of Health and Safety Code, §161.086;

(6) distributing a free sample of a cigarette, e-cigarette, or tobacco product, or a coupon or other item that the recipient may use to receive a free cigarette, e-cigarette, or tobacco product, in violation of Health and Safety Code, §161.087;

(7) distributing to a person younger than 21 years of age a coupon or other item that the recipient may use to receive a discounted cigarette, e-cigarette, or tobacco product in violation of Health and Safety Code, §161.087; and

(8) markets, advertises, sells, or causes to be sold a prohibited e-cigarette product in violation of Health and Safety Code, §161.0876 and §3.1208 of this title (concerning Prohibited E-Cigarette Products).

(c) [(b)] Report of violation [Notice of violations]. The comptroller may receive a report [receives notice] of a violation of Health and Safety Code, Chapter 161, Subchapter H [or K] from any person, including:

(1) the Enforcement or Criminal Investigations Divisions of the comptroller's office;

(2) local law enforcement;

(3) a municipal court or a justice of the peace court; or

(4) a complaint reported by a caller on the tobacco hotline.

(d) [(e)] Disciplinary actions. [The comptroller after receiving notice of violation may take the following actions:]

(1) A retailer is subject to disciplinary action as provided by this section if an agent or employee of the retailer commits an offense under this subchapter. [if during the preceding 12 months at the place of business for which a permit is issued, the permit holder has not been found to have violated Health and Safety Code, Chapter 161, Subchapter H or K, the comptroller may require the permit holder to pay a fine in an amount not to exceed \$500 per violation;]

(2) The penalties for a violation of Health and Safety Code, Subchapter H are: [if during the preceding 12 months at a place of business for which a permit is issued, the permit holder has been found to have violated Health and Safety Code, Chapter 161, Subchapter H or K, the comptroller may require the permit holder to pay a fine in an amount not to exceed \$750 per violation;]

(A) for the first violation at a place of business during the 24-month period preceding the violation, a fine in an amount not to exceed \$1,000;

(B) for the second violation at a place of business during the 24-month period preceding the most recent violation, a fine in an amount not to exceed \$2,000;

(C) for the third violation at a place of business during the 24-month period preceding the most recent violation:

(i) a fine in an amount not to exceed \$3,000; and

(ii) suspension, for not more than five days, of the permit for that place of business issued under Health and Safety Code, Chapter 147, or Tax Code, Chapters 154 or 155, as applicable; and

(D) except as provided by paragraph (4) of this subsection, for the fourth or subsequent violation at a place of business during the 24-month period preceding the most recent violation, revocation of the permit issued under Health and Safety Code, Chapter 147, or Tax Code, Chapters 154 or 155, as applicable. If the permit holder does not hold a permit for that place of business under Health and Safety Code, Chapter 147, or Tax Code, Chapters 154 or 155, the revocation of the sales and use tax permit issued under Tax Code §151.201 (Sales Tax Permits).

(3) A permit holder whose permit has been revoked under paragraph (2)(D) of this subsection may not apply for a permit for the same place of business before the expiration of six months after the effective date of the revocation. [if during the preceding 12 months at a place of business for which a permit is issued, the permit holder has been found to have violated Health and Safety Code, Chapter 161, Subchapter H or K at least twice, the comptroller may require the permit holder to pay a fine in an amount not to exceed \$1,000 per violation or suspend the permit for that place of business for not more than three days; or]

(4) The comptroller may suspend a permit, but may not revoke the permit, under paragraph (2)(D) of this subsection if the comptroller finds: [if during the preceding 12 months the permit holder has been found to have violated Health and Safety Code, §161.082(b), on four or more previous and separate occasions at the same place of business for which a permit is issued, the comptroller may revoke the permit.]

(A) the permit holder has not violated this subchapter more than seven times at the place of business for which the permit is issued in the 48-month period preceding the violation in question; [The revocation of the retailer's permit shall be governed by the provisions in Tax Code, §154.114 and §155.059.]

(B) the permit holder requires its employees to attend a comptroller-approved seller training program; [A retailer whose permit has been revoked under paragraph (4) of this subsection may not apply for a retailer's permit for the same place of business before the expiration of six months after the effective date of the revocation.]

(C) the employees have actually attended a comptroller-approved seller training program; and

(D) the permit holder has not directly or indirectly encouraged the employees to violate the law.

(e) [(d)] Written notice of violation. When the comptroller receives a report of a violation by a permit holder, the [The] comptroller may [will] send a written notice of violation [by certified mail] to the permit holder informing the permit holder that a violation has been reported and that the comptroller proposes taking disciplinary action against the permit holder. [occurred. If the comptroller so offers, the permit holder may have the option to waive the right to a hearing and pay a lesser administrative fine or agree to a lesser administrative remedy.]

(1) The written notice of violation will identify the disciplinary action that the comptroller proposes to take.

(2) The written notice of violation will provide the permit holder an opportunity to request a hearing on or before the 20th day after the date on the written notice of violation and will inform the permit holder that failure to request a hearing on or before that date

will result in the waiver of the right to a hearing and the imposition of the proposed penalty.

{(f) [(e)] Administrative hearings. If the permit holder responds [does not respond] to the written notice of violation and requests a hearing on or before the 20th day after the date on the written notice of violation, the comptroller will grant an administrative hearing. A hearing request is considered submitted by the date-stamp affixed by the agency mail room. [within 15 calendar days, an order finding that a violation has occurred may be entered and the maximum penalty may be imposed. If the permit holder requests a hearing, a hearing will be set.] The hearing shall be governed by §1.21 [Chapter 1, Subchapter A, Division 1] of this title (relating to Cigarette, E-Cigarette, Cigar, and Tobacco Tax Hearings [Practice and Procedures]).

{(f) An oral administrative hearing will be held at the office of the Comptroller of Public Accounts in Austin, Texas. The recourse for a permit holder who does not agree with the administrative decision will be governed by the provisions of Tax Code, Chapter 111; Government Code, Chapter 2001; and Chapter 1, Subchapter A, Division 1 of this title.}

(g) Waiver of hearing. If the permit holder does not respond to the written notice of violation on or before the 20th day after the date

on the written notice of violation, the permit holder's right to an administrative hearing is waived. An untimely request for an administrative hearing will not be granted.

{(g) The burden of proof in an administrative hearing pursuant to this rule is by a preponderance of the evidence, unless otherwise provided by statute.}

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 December 27, 2023.

TRD-202304982

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Earliest possible date of adoption: February 11, 2024

For further information, please call: (512) 475-2220



ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 81. ELECTIONS

SUBCHAPTER A. VOTER REGISTRATION

1 TAC §§81.13, 81.15, 81.23, 81.25

The Office of the Secretary of State (Office) adopts amendments to 1 TAC §§81.13, 81.15, 81.23, and 81.25 concerning disbursement of funds under Chapter 19 of the Texas Election Code. These rules designate which goods and services are reimbursable with Chapter 19 funds and outline the procedures that county voter registrars must follow to obtain such reimbursement.

The Office adopts the amendments to §§81.13, 81.15, 81.23, and 81.25 without changes to the proposed text as published in the November 17, 2023, issue of the *Texas Register* (48 TexReg 6665). These rules will not be republished.

No comments were received regarding the proposed amendments.

The amended rules are authorized by Texas Election Code §§19.002(b), 19.004, and 31.003. Texas Election Code §19.002(b) authorizes the Office to prescribe procedures relating to the disbursement of Chapter 19 funds. Texas Election Code §19.004 authorizes the Office to implement provisions related to disbursing state funds to defray expenses of the voter registrar's office in connection with voter registration. Texas Election Code §31.003 directs the Office to obtain and maintain uniformity in the application, operation, and interpretation of the Texas Election Code and other election laws, including through the preparation of detailed and comprehensive written directives and instructions relating to and based on such laws.

The amended rules implement Chapter 19 of the Texas Election Code. No other statute, code, or article is affected by the amended rules.

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

Filed with the Office of the Secretary of State on December 28, 2023.

TRD-202304997

Adam Bitter

General Counsel

Office of the Secretary of State

Effective date: January 17, 2024

Proposal publication date: November 17, 2023

For further information, please call: (512) 463-5650



SUBCHAPTER F. PRIMARY ELECTIONS

1 TAC §§81.101, 81.107, 81.116, 81.120

The Office of the Secretary of State (Office) adopts amendments to 1 TAC §§81.101, 81.107, 81.116, and 81.120. The amendments concern the financing of primary elections with state funds, including the determination of necessary and appropriate expenses relating to the proper conduct of primary elections by party officials and procedures for requesting reimbursement by the parties for such expenses.

The Office adopts the amendments to §§81.101, 81.107, 81.116, and 81.120 without changes to the proposed text as published in the November 17, 2023, issue of the *Texas Register* (48 TexReg 6667). These rules will not be republished.

No comments were received regarding the proposed amendments.

The amended rules are authorized by Texas Election Code §§31.003 and 173.006. Texas Election Code §31.003 directs the Office to obtain and maintain uniformity in the application, operation, and interpretation of the Texas Election Code and other election laws, including through the preparation of detailed and comprehensive written directives and instructions relating to and based on such laws. Texas Election Code §173.006 authorizes the Office to adopt rules to reduce the cost of primary elections or facilitate the holding of primary elections within the amount appropriated by the legislature for that purpose. Texas Election Code §§172.117, 172.122, and 172.128 of the Texas Election Code also provide the Office with rulemaking authority relating to the conduct of primary elections.

The amended rules implement Chapters 172 and 173 of the Texas Election Code. No other statute, code, or article is affected by the amended rules.

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

Filed with the Office of the Secretary of State on December 28, 2023.

TRD-202304998

Adam Bitter
General Counsel
Office of the Secretary of State
Effective date: January 17, 2024
Proposal publication date: November 17, 2023
For further information, please call: (512) 463-5650

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS

**SUBCHAPTER KK. COMMISSIONER'S
RULES CONCERNING COMPLIANCE
INVESTIGATIONS IN CONNECTION WITH
STATE-FUNDED EDUCATION PROGRAM
GRANTS**

19 TAC §102.1401

The Texas Education Agency (TEA) adopts an amendment to §102.1401, concerning compliance investigations in connection with state-funded education program grants. The amendment is adopted without changes to the proposed text as published in the October 13, 2023 issue of the *Texas Register* (48 TexReg 5935) and will not be republished. The adopted amendment updates the term "special accreditation investigation" to "special investigation" to align with statute.

REASONED JUSTIFICATION: Section 102.1401 outlines the framework for compliance investigations, corrective actions, and sanctions TEA may initiate for recipients of state education program grant funds to ensure taxpayer dollars are being spent appropriately and prevent fraud, waste, and abuse. The rule requires cooperation by state grant recipients, including the submission of required documentation and information, with ongoing compliance investigations. It also indirectly requires, via compliance investigations, that school districts and charter schools maintain documentation of compliance with existing state grant requirements as prescribed by TEA through requests for application for state grants.

The adopted amendment to §102.1401(a)(1) changes the term "special accreditation investigation" to "special investigation" to align with terminology used in Texas Education Code, §39.003 and §39.004.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began October 13, 2023, and ended November 13, 2023. No public comments were received.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.028(a)(2), which authorizes Texas Education Agency to monitor compliance with state grant requirements; and TEC, §39.056(a), which authorizes the commissioner to direct the agency to conduct monitoring reviews and random on-site visits of a school district or charter school as authorized by TEC, §7.028.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §7.028 and §39.056.

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 December 28, 2023.

TRD-202304996
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: January 17, 2024
Proposal publication date: October 13, 2023
For further information, please call: (512) 475-1497

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TITLE 34. PUBLIC FINANCE

**PART 1. COMPTROLLER OF PUBLIC
ACCOUNTS**

CHAPTER 9. PROPERTY TAX ADMINISTRATION

**SUBCHAPTER O. TEXAS JOBS, ENERGY,
TECHNOLOGY AND INNOVATION PROGRAM**

34 TAC §§9.5000 - 9.5012

The Comptroller of Public Accounts adopts new §9.5000, concerning definitions, §9.5001, concerning applicant eligibility requirements, §9.5002, concerning application requirements, §9.5003, concerning economic benefit statement criteria, §9.5004, concerning application process, §9.5005, concerning agreement for limitation on taxable value of eligible property, §9.5006, concerning agreement process, §9.5007, concerning amendment process, §9.5008, concerning job and wage requirements; penalty for failure to comply with job or wage requirement, §9.5009, concerning biennial compliance report, §9.5010, concerning biennial report to legislature, §9.5011, concerning conflicts and §9.5012, concerning electronic submissions; notices, with changes to the proposed text as published in the September 29, 2023, issue of the *Texas Register* (48 TexReg 5639). The rules will be republished.

These new sections implement the Texas Jobs, Energy, Technology and Innovation Act to comply with Government Code, Subchapter T, Chapter 403, which was enacted by House Bill 5, 88th Legislature, R.S., 2023. The new sections will be located in Chapter 9 (Property Tax Administration), new Subchapter O (Texas Jobs, Energy, Technology and Innovation Program).

Section 9.5000 provides definitions.

Section 9.5001 describes applicant eligibility requirements.

Section 9.5002 establishes the application requirements.

Section 9.5003 establishes the economic benefit statement criteria and methodology.

Section 9.5004 describes the application process including the comptroller review and recommendation.

Section 9.5005 describes the requirements for an agreement for limitation on taxable value of eligible property.

Section 9.5006 describes the agreement process.

Section 9.5007 describes the amendment process.

Section 9.5008 establishes the job and wage requirements as well as the penalty for failing to comply with the job or wage requirement.

Section 9.5009 describes the biennial compliance report submitted by a business entity subject to an agreement under Government Code, Chapter 403.

Section 9.5010 describes the biennial report to the legislature.

Section 9.5011 addresses compliance with conflict-of-interest laws.

Section 9.5012 provides that the comptroller may require electronic submission of documents under the Texas Jobs, Energy, Technology and Innovation Act.

The comptroller received 70 comments from the following organizations/interest groups, law firms and individuals: Trinity United Methodist Church, The Metropolitan Organization, Lone Star Chapter of Sierra Club, St. Francis of Assisi Catholic Church, Texas IAF organization, Doug Greco, greater:SATX, St. Christopher's Episcopal Church, All Saints Catholic Church in the Heights, Houston, Texas, Congregation Beth Israel (Houston), The Metropolitan Organization of Houston, Daniel Casey of MoakCasey, Dick Lavine of Every Texan, Holy Trinity Catholic Church, Dallas Area Interfaith, Opportunity Austin, Texas Taxpayers & Research Association ("TTARA"), McAllen Economic Development Corporation, Texas Oil and Gas Association ("TXOGA"), Texas Association of Business, Fort Worth Chamber of Commerce, Dallas Regional Chamber ("DRC") and its 700-plus member companies, Central Texas Interfaith, Greater Austin Chamber of Commerce, Drax Group, NovoHydrogen, Texas Association Of Manufacturers ("TAM"), Texas Chemical Council ("TCC"), First Congregational Church of Houston ("FCC"), Beverly Deutsch, Bruce Barber, EPISO/Border Interfaith, Kaufman Economic Development Corporation, David Solis, Christian Chapel Temple of Faith ("CCTOF"), New Hope Baptist Church, PCUSA Social Justice Committee, St Peter's Lutheran Church, Buda UMC, the Borderplex Alliance, Myron O. Knudson, King of Glory Lutheran Church, Living Word Lutheran Church, Wildflower Unitarian Universalist Church, Corpus Christi Regional Economic Development Corporation, Reliable Energy Alliance, Laura Arbilla, Greater Houston Partnership, Our Lady of Guadalupe Church, All Saints' Episcopal Church, Austin and EDP Best Practices, LLC. With the exception of Reliable Energy Alliance, all commenters requested clarifications or amendments to the proposed rules.

Many commenters raised concerns about the definition sections, particularly §9.5000(1)-(5) and (8)-(11). TTARA recommended a revision to §9.5000(1) agreement holder definition, substituting "person" for "business entity," aligning with the statutory definition used for applicants. The comptroller's office concurs and has incorporated this modification into the definition.

TTARA and EDP Best Practices, LLC provided feedback on the construction job definition in §9.5000(2). TTARA suggested replacing "takes place" with "perform." As the term "perform" is already used in the definition, the comptroller's office opted to replace "takes place" with "occurs" for clarity.

Several commenters including TTARA, TAM, TCC, TXOGA, Texas IAF, TMO, Trinity United Methodist, St Francis of Assisi, All Saints Catholic Church, Congregation Beth Israel (Houston),

Central Texas IAF, EDP Best Practices, LLC, NovoHydrogen, Borderplex Alliance, Kaufman Economic Development Corporation, Lone Star Chapter of Sierra Club, St. Christopher's Episcopal Church, Doug Greco, Holy Trinity Catholic Church, Dallas IAF, retired public school educator, First Congregational Church of Houston, Congregational Church of Austin, Beverly Deutsch, Bruce Barber, Eloise and Dolores De Avila of St. John Paul II Catholic Church in El Paso, members of EPISO/Border Interfaith, an IAF Organization, David Solis, CCTOF, and Every Texan expressed dissatisfaction with the definition of eligible project in §9.5000(3). The primary concern was the perceived broadness of critical infrastructure, with some suggesting to add "including a new or expansion project dedicated power infrastructure" and "facility or facilities" following the use of the term "building." However, the comptroller's office finds that these additions are unnecessary and don't add value to the definition, as critical infrastructure is adequately defined through specific NAICS references.

TTARA provided feedback on the eligible property definition, seeking clarification on the term "building" and proposing a definition encompassing all improvements to real property within eligible property. However, since the term "building" is used in the statute, there's no need for a separate definition in the rules.

EDP Best Practices, LLC submitted multiple comments using a nontraditional format, primarily utilizing track changes to make non-substantive revisions to the rules' text. As these revisions do not aim to modify the interpretation, the comptroller's office chooses not to include these changes.

Numerous comments from TXOGA, TTARA, TAM and TCC were received on §9.5000(5), with a primary focus on clarifying the requirement for the number of hours required annually in connection with the eligible project applies to the position, not the employee. The comptroller's office agrees with this interpretation. Consequently, a new hire that worked on December 31 for a full-time position requiring 1600 hours per year would satisfy the annual hourly requirement.

EDP Best Practices, LLC posed inquiries regarding the definition of investment in §9.5000(6). The definition aligns with the statute and the comptroller's office finds no need for further clarification.

TTARA proposed a revision to §9.5000(8) definition of a performance bond, suggesting it should state "a surety bond or, in the event a surety bond is commercially unavailable, other security in a form acceptable to the governor." The current definition, encompassing "a surety bond," already addresses this suggested revision. Furthermore, introducing alternate language for when a surety bond is unavailable exceeds the scope defined by the statute. For these reasons, the comptroller's office declines to incorporate this revision.

Several commenters, including TTARA, TAM, TCC, TXOGA, Austin Chamber of Commerce, Corpus Christi Regional Economic Development Corporation, Dallas Regional Chamber, and others, expressed discontent with the definition of required job in §9.5000(9) and suggested removing the phrase "performed at the site of the project." They contend that the statute doesn't stipulate the necessity for the job to be performed at the jobsite but underscores the Texas Jobs, Energy, Technology, And Innovation Act's focus on the job's creation within the state of Texas. They also articulate that eliminating the phrase opens up possibilities for remote work. TTARA asserts that the legislature intentionally omitted "at the site of the project" but specifically used this term for independent contractor's

employees. TAM, TCC and TXOGA proposed revising the definition to "must be a direct job in this state with primary job duties related to the project, and that would not exist in the absence of the project." EDP Best Practices, LLC and other commenters suggested stylistic changes to §9.5000(9). Despite differing opinions from the commenters, the comptroller's office maintains its position. Government Code, §403.604(c)(2) becomes meaningless if jobs can be situated anywhere in the state. If required jobs are permissible throughout the state, statutory references to job transfers in this state lose significance. Furthermore, Government Code, §403.604(b) adjusts the number of required jobs based on the county's population where the project site is located, reinforcing the notion that the required jobs are based on project location and cannot be located anywhere in the state of Texas. The inclusion of "at the site of the project" for independent contractor's employees helps distinguish them from numerous service providers operating from various locations, both within and outside the state, without explicitly stating their engagement in project related work for the applicant. While acknowledging concerns about hybrid work schedules, the comptroller's office maintains that the definition specifies the primary job location but doesn't preclude a hybrid work arrangement. The comptroller's office has revised the definition to align with this interpretation.

The comptroller's office received feedback from EDP Best Practices, LLC on the trainee definition in §9.5000(10), proposing stylistic adjustments. The current definition aligns with the Texas Work Program law and the comptroller's office declines to make any revisions.

The comptroller's office received extensive feedback on the wage requirement definition in §9.5000(11), raising concerns about implementing a statewide wage target, asserting its impracticability across various industries. TTARA, Drax Group, Texas Economic Development Council, Dallas Regional Chamber, Corpus Christi Regional Economic Development Corporation, McAllen Economic Development Corporation, Opportunity Austin and others highlight concerns about the wages being too high when based on the statewide average annual wage, surpassing the program benefits. Additionally, there are requests for clarification on the applicable NAICS for the industry, with some proposing use of county or regional average annual wages and others requesting the addition of "during the most recent four quarters for which data is available". In response to these comments, the comptroller's office has amended the definition to designate statewide average annual wage as the default when county or regional average annual wage information for particular NAICS is unavailable during the most recent four quarters.

EDP Best Practices, LLC offered feedback on §9.5001, suggesting non-substantive revisions and proposing stylistic revisions. However, the current style aligns with our intended communication and maintains a specific format required for clarity and consistency. The comptroller's office declines to implement these stylistic changes.

Regarding §9.5002, TTARA commented on the application fee, seeking clarification and confirmation that there would be no additional charges for revised applications or resubmissions post-rejection. A refiled application is treated as a new application, necessitating the payment of an application fee. It's important to note that while the comptroller's office establishes the application fee, the comptroller's office cannot comment on whether additional fees may be imposed by parties to the agreement.

Several comments were made on qualified opportunity zones in §9.5002(c). Greater Houston Partnership, Fort Worth Chamber of Commerce, Dallas Regional Chamber, Austin Chamber of Commerce, and others proposed that the eligible project can be partially situated in the zone. The comptroller's office disagrees and declines to incorporate this suggested revision given the lack of legal support for their perspective.

Several commenters including Lone Star Chapter of Sierra Club, Texas IAF, TMO, Trinity United Methodist, St Francis of Assissi, All Saints Catholic Church, Congregation Beth Israel (Houston), Central Texas IAF, St. Christopher's Episcopal Church and others asserted that the rule should specify the school district's 15-day notice requirement for a public vote. While the school district is obligated to notify the public as matter of law, restating this information in rules is unnecessary, as it is already outlined in statute. The comptroller's office declines to accept this revision.

Some commenters including DRAX Group, greater.SATX, Opportunity Austin, and Texas Association of Business expressed concerns regarding the confidentiality of negotiations and the anonymity of applicants. While the comptroller's office acknowledges these concerns, there is a statutory obligation for the comptroller to disclose information from the application and other documents that are not confidential by law. Therefore, the comptroller's office declines to make any changes. Information deemed confidential by law and in accordance with the statute will be maintained as such and will not be posted on the website.

MoakCasey provided feedback on the economic benefit statement criteria in §9.5003, expressing concern about the broad interpretation of the term "local" in subsection (d)(1), particularly in relation to regional groupings affecting businesses across multiple counties. It's pinpointed that subsections (3)-(6) concentrate on the state impact whereas subsection (2) is silent on whether it pertains to the state or region. The comptroller's office does not share the same concerns. The comptroller will analyze the requested data in accordance with the statute and applicants are encouraged to provide relevant information based on their best knowledge. Additional information may be requested by the comptroller if needed. No revisions are warranted to §9.5003.

The comptroller's office received several comments relating to §9.5004 from organizations, interest groups and individuals. TTARA suggested that removing "all the information requested by the comptroller" in §9.5004(b), suggesting this language exceeds the scope of the statute. They also suggested incorporating "mutually acceptable to the comptroller and the applicant" in §9.5004(d) and "excluding any confidential information identified under Rule 9.5002(b)" in §9.5004(e). TXOGA suggested the rules in §9.5004(d) should provide a specific timeframe on the comptroller to inform the applicant on application completeness and the comptroller should work cooperatively with applicants to gather the requested documents. TTARA, TAM, TXOGA, Lone Star Chapter of Sierra Club, Every Texan, Opportunity Austin and all religious interest groups and churches previously identified, commented on the compelling factor in competitive site selection to locate in Texas (referred to as the determining factor by most commenters), contending that the determination should rest with the comptroller and some reiterate the factors set forth in the statute. There is also a request for clarification regarding the commencement of the 60-day period in §9.5004(i). Another commenter, greater.SATX requested deleting "any other information that may aid the comptroller in its determination" from §9.5004(g)(7) whereas DRAX Group requested further details

on the documents requested by the comptroller in §9.5004(g). Numerous comments from McAllen Economic Development Corporation, TTARA, TAM, TXOGA, Dallas Regional Chamber, Austin Chamber of Commerce, Texas Association of Business, Corpus Christi Regional Economic Development Corporation and DRAX Group highlighted concerns about the performance bond formula in §9.5004(j), contending that the amount is excessive and surpasses the program's benefit to an applicant and some seeking clarification on the impact of the bonds at the conclusion of the agreement term. Recommendations included reducing the percentage to 10%, establishing the bond at \$30,000, or basing it on the benefit received rather than the investment figure. TTARA also inquired whether the comptroller will decide on amendments or supplements within 60 days, referencing §9.5004(k). The comptroller's office acknowledges the comments related to §9.5004, specifically those regarding the performance bond. The comptroller's office has adjusted the formula to yield a reduced performance bond amount as suggested. However, the comptroller's office disagrees with the other comments, as the rules in §9.5004 align with the statute, and additional revisions to §9.5004 are not deemed necessary.

TXOGA, TAM, and TCC requested clarification on modifications to investments and job numbers within §9.5007. The latter specifically pertains to incentive period changes, while adjustments related to investments and job numbers are addressed in Government Code, § 403. 612(f). In response to TXOGA, TAM, and TCC, the comptroller's office finds that no revisions are required.

TTARA sought clarification on the application of §9.5008(e)(1) as well as examples. In response, the comptroller's office directs attention to the previous response concerning the definition of full-time jobs, emphasizing the 1600-hour annual requirement is a prerequisite for the position, not the employee. As this response adequately addresses the concern, no additional examples will be provided.

Many commenters representing religious organizations, churches and groups have requested for the incorporation of the statewide total difference in taxes paid outside the program minus the property tax paid under the program in the biennial report. The comment's specific reference to whether it pertains to the agreement holder's biennial compliance is unclear. Nevertheless, it's essential to highlight that the inclusion of this information is a requirement outlined in Government Code, §403.616(c) of the biennial compliance report. Consequently, no adjustments to the rules are deemed necessary.

Finally, the comptroller's office received comments unrelated to the proposed rules. Specifically, Opportunity Austin inquired about whether a company can make donations to a school district's education foundation or its 501(c)(3) without conflicting with Government Code, §403.610(11). The comptroller's office is unable to address this matter as it falls outside the scope of the proposed rules.

The new sections are adopted under Government Code, §403.623, which permits the comptroller to adopt rules regarding the Texas Jobs, Energy, Technology and Innovation Act as necessary to implement that chapter.

The new sections implement Government Code, Subchapter T, Chapter 403.

§9.5000. Definitions.

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) Agreement holder--A person that is subject to an executed agreement under Government Code, §403.612.

(2) Construction job--A job that is temporary in nature, typically performed on a full-time basis and occurs before the commencement of the eligible project's incentive period. The purpose of the job is to perform construction, maintenance, remodeling or repair work for an applicant's project.

(3) Eligible project--The construction of a project, or the expansion of an existing facility that is:

(A) a manufacturing facility, classified in NAICS 31-33;

(B) a facility related to the provision of utility services, including an electric generation facility that is considered to be dispatchable because the facility's output can be controlled primarily by forces under human control, classified in NAICS 2211;

(C) a facility related to the development of natural resources, defined as the following Goods-Producing Industries subsector groups as identified by the U.S. Bureau of Labor Statistics:

(i) Agriculture, Forestry, Fishing and Hunting, classified in NAICS 11; and

(ii) Mining, Quarrying, and Oil and Gas Extraction, classified in NAICS 21;

(D) a facility engaged in research and development, classified in NAICS 5417, or manufacture of high-tech equipment or technology; or

(E) related to critical infrastructure such as:

(i) a water intake structure, water treatment facility, wastewater treatment plant, or pump station, classified in NAICS 2213;

(ii) a liquid natural gas terminal or storage facility, classified in NAICS 424710;

(iii) pipelines and pipeline appurtenances or facilities, including pipes, valves, meters, pumps, compressors, treating and processing facilities, cathodic protection facilities, and any other equipment, facilities, devices, structures, and buildings used or intended for use in the gathering, transportation, treating, storage, or processing of CO₂, oil, gas, or other minerals, and the liquefied or gaseous substances, constituents, products, or mixtures derived from those minerals through refining, processing, or other methods, classified in NAICS 486; and

(iv) utility-scale water or wastewater storage, treatment, or transmission facilities, classified in NAICS 2213.

(4) Eligible property--Property that is used in connection with an eligible project and is either wholly owned by an applicant or leased by an applicant through a capitalized lease. To be eligible, the property must be:

(A) a new building or expansion of an existing building, including a permanent and nonremovable part of a building that is:

(i) constructed after the execution of the agreement; and

(ii) located in an area that is, at the time the agreement is executed, designated as a contiguous reinvestment zone under Tax Code, Chapter 311 or 312, or as an enterprise zone under Government Code, Chapter 2303; or

(B) tangible personal property, excluding inventory, that is initially placed in a zone described in subparagraph(A)(ii) of this paragraph after the agreement execution.

(5) Full-time job--A permanent position of employment, other than a construction job, requiring a minimum of 1,600 hours of work per year in connection with an eligible project.

(6) Investment--Capital that is expended on the construction or acquisition of eligible property for an eligible project with the exclusion of expenses related to land and inventory for the project.

(7) NAICS--North American Industry Classification System, developed by the U.S. Office of Management and Budget as the standard for use in classifying business establishments.

(8) Performance bond--A surety bond with an amount determined by the comptroller.

(9) Required job--A job, other than construction jobs, that an applicant commits to create or demonstrate for an eligible project that meets the following requirements:

(A) must be a new full-time job in this state;

(B) must be performed by an employee hired by the applicant (including a Texans Work Program trainee under Labor Code, Chapter 308), or by an independent contractor or independent contractor's employee, primarily at the designated project site, allowing for hybrid work schedules but excluding 100% remote work;

(C) must require at least 1,600 hours of work a year;

(D) may not be transferred by the applicant from an existing facility or location in this state unless the applicant fills the vacancy caused by the transfer;

(E) may not create a job to replace an existing job, unless the applicant fills the vacancy caused by the replacement;

(F) must offer and contribute to a group health benefit plan for each full-time employee of the applicant; and

(G) must meet the wage requirement.

(10) Trainee--An individual enrolled in the Texans Work Program who fulfills the following eligibility criteria:

(A) receives a minimum monthly payment of \$300;

(B) is engaged for a duration of at least 6 months but not exceeding one year;

(C) contributes at least 30 hours weekly; and

(D) constitutes no more than 20% of the employer's total workforce.

(11) Wage Requirement-- For all jobs in the applicable industry sector as computed by the Texas Workforce Commission in the Quarterly Census of Employment and Wages and as described in the executed agreement under Government Code, §403.612, a wage for a job in a specified sector is determined by considering the average annual wage data available during the most recent four quarters. If county level data exists, the wage in a specified industry must exceed 110% of the county average annual wage, giving priority to 6-digit NAICS level, followed by 5-digit NAICS level, and then 4-digit NAICS level. If county data is unavailable, the same evaluation is performed on regional data. In the absence of both county and regional data, statewide average annual wage must be utilized.

§9.5001. *Applicant Eligibility Requirements.*

(a) An applicant that is listed as ineligible to receive a state contract or investment or is otherwise ineligible to contract with a

state governmental entity under Government Code, Chapters 808, 809, 2270, 2271, or 2274, is ineligible to apply for an agreement for limitation on taxable value of eligible property under Government Code, Chapter 403.

(b) The comptroller may reject an application based on an applicant's ineligibility under subsection (a) of this section.

(c) The comptroller shall send notice of the rejection described in subsection (b) of this section to the applicant.

(d) An applicant may not submit an administrative appeal to the comptroller for reconsideration of an application that has been rejected under subsection (b) of this section.

§9.5002. *Application Requirements.*

(a) Each application shall include:

(1) a completed application form;

(2) proof of a \$30,000 payment as a nonrefundable application fee, payable to the applicable school district;

(3) a sworn affidavit by an agent authorized to bind an applicant attesting that the applicant is not ineligible under Government Code, §403.606;

(4) a map of the proposed project site;

(5) an economic benefit statement for the proposed project as described in Government Code, §403.608; and

(6) any additional information requested by the comptroller to complete its evaluation of the application.

(b) Applicants must segregate confidential information described by Government Code, §403.621, or information that is confidential as a matter of law from other information in their application, amended application or supplement to an application. A cover sheet marked "Confidential" with the legal justification for confidential treatment must accompany all information that is considered confidential.

(c) If an applicant proposes to place an eligible property in a qualified opportunity zone, the entire project including its boundaries must fall within that qualified opportunity zone in order to be subject to the taxable value prescribed in Government Code, §403.605(a)(2).

§9.5003. *Economic Benefit Statement Criteria.*

(a) The economic benefit statement must include the information described in Government Code, §403.608(b), including the sources relied upon.

(b) The comptroller may require an applicant to supplement or modify the economic benefit statement to provide further clarity or if there are changes to project-related information.

(c) Information provided as an estimate of the associated economic benefits that may be reasonably attributed to the project may be generated from standard economic estimation techniques and multipliers. This information shall be used to obtain a generalized estimation of the economic benefits to be associated with the proposed project. Any economic estimation modeling software used and all modifiers that were incorporated in the calculations must be disclosed.

(d) The economic benefit statement must include the project's associated economic benefits that, at minimum, consist of the following:

(1) the impact on the gross revenues and employment levels of local businesses that provide goods or services in connection with the project or to an applicant's employees;

(2) the amount of state and local taxes that will be generated as a result of the indirect economic impact of the project;

(3) the development of complementary businesses or industries that locate in this state as a direct consequence of the project;

(4) the total impact of the project on the gross domestic product of this state;

(5) the total impact of the project on personal income in this state; and

(6) the total impact of the project on state and local taxes.

(e) The comptroller may reject an economic benefit statement that is determined to be unreasonable or relies on unrealistic assumptions of economic conditions.

(f) If the economic benefit statement is rejected, then the comptroller may recommend not to approve the application.

§9.5004. Application Process.

(a) An applicant must submit an application for a limitation on taxable value of eligible property in the form and manner prescribed by the comptroller. The comptroller may require applications to be submitted electronically.

(b) After the eligibility of the applicant is assessed in §9.5001 of this chapter, the comptroller shall review an application to determine if it is administratively complete. An application is considered administratively complete when it includes all the information requested by the comptroller.

(c) The comptroller shall provide notice of an administratively complete application to the applicant, the governor and the applicable school district. The comptroller may provide notice electronically.

(d) If an application is not administratively complete, the comptroller may require an applicant to submit the necessary information by a deadline.

(e) The comptroller shall publish on its website information from each application including maps, economic benefit statement and any amendments within 10 business days of receiving an administratively complete application.

(f) To assess whether a project proposed in an application is an eligible project, the comptroller must find that:

(1) an applicant satisfies the application requirements;

(2) the proposed project meets the definition of eligible project in §9.5000 of this title and Government Code, §403.602(8); and

(3) The applicant is willing to agree and accept the terms described in Government Code, §403.604, and the agreement terms.

(g) To assess whether an agreement is a compelling factor and whether the applicant would make the proposed investment in the absence of the agreement under Government Code, §403.609(b)(3), the comptroller may consider:

(1) any public documents and statements relating to the applicant, the proposed project or the proposed eligible property that is subject to the application;

(2) official statements by the applicant, government officials or industry officials concerning the proposed project;

(3) alternative sites and prospects explored including any specific incentive information;

(4) any information concerning the proposed project's impact on the Texas economy;

(5) previous applications for and subsequent granting of economic development incentives;

(6) documents pertaining to the proposed project's financials, real estate transactions, utilities, infrastructure, transportation, regulatory environment, permits, workforce, marketing, existing facilities, nature of market conditions, and raw materials that demonstrate whether the incentive is a compelling factor in a competitive site selection process to locate the proposed project in Texas; and

(7) any other information that may aid the comptroller in its determination.

(h) Upon request, the comptroller may require that an applicant provides additional documents to demonstrate a compelling factor in a competitive site selection process to locate the proposed project in Texas. Failure to provide these documents may result in the comptroller being unable to make a recommendation under Government Code, §403.609.

(i) Within 60 days of an application being deemed complete, the comptroller shall examine and determine whether the application should be recommended or not recommended for approval based on the criteria in Government Code, §403.609(b).

(j) The comptroller shall provide written notice of action under Government Code, §403.609(a), to the applicant, the governor and the applicable school district.

(1) The notice shall indicate the comptroller's recommendation either for approval or non-approval of the application along with a copy of the application, and all documents or information relied upon to make the findings prescribed by Government Code, §403.609(b).

(2) A recommendation for approval shall specify a performance bond amount that is 10% of the estimated gross tax benefit to the applicant.

(k) An applicant may submit an amended or supplemental application to the comptroller at any time after the submission of the original application. If an applicant modifies an application recommended by the comptroller prior to the execution of the agreement, the applicant must submit said modifications to the comptroller to make a recommendation pursuant to Government Code, §403.609, before the agreement can be executed.

§9.5005. Agreement for Limitation on Taxable Value of Eligible Property.

(a) An applicant, the governor and the governing body of the applicable school district must mutually agree to enter into an agreement for limitation on taxable value of eligible property that includes the requisite terms in Government Code, §403.604 and §403.612.

(b) An applicant must satisfy the criteria required to enter in a contract with the state of Texas.

(c) The agreement must be based on information from an application that was recommended for approval by the comptroller.

(d) The agreement must comply with all applicable rules, regulations and statutes.

§9.5006. Agreement Process.

(a) Both the governor and the governing body of the applicable school district must decide under Government Code, §403.610(a) and §403.611(a), that they are agreeable to entering into an agreement with the applicant for a limitation on taxable value of eligible property.

(b) The governor and the governing body of the applicable school district must provide written notice of their determination in compliance with Government Code, §403.610(b) and §403.611(d).

(c) The agreement must be written in the manner and form prescribed by the governor.

§9.5007. *Amendment Process.*

(a) An agreement holder may propose to modify the beginning and ending dates of the incentive period. Notice of the proposed modification must be provided to the comptroller, the governor, and the applicable school district not later than the 90th day before the first day of the incentive period specified in Government Code, §403.612(b)(3), or not later than the 90th day before the first day of the proposed incentive period, whichever is earlier.

(b) Failure to provide notice of a proposed modification in a timely manner could lead to a denial of the modification request.

(c) To change the beginning and ending dates of the incentive period, the agreement holder must update the most recent schedules and economic benefit statement as necessary to reflect the proposed change to the incentive period. The agreement holder must include the revised schedules and economic benefit statement with the notice provided to the comptroller, the governor, and the applicable school district under this section.

(d) The comptroller shall make the finding required by Government Code, §403.609(b)(2), regarding the project as proposed to be modified or determine that the finding cannot be made.

(e) The comptroller shall notify the agreement holder, the governor and the applicable school district of the comptroller's finding not later than the 60th day after the date the comptroller receives the notice and revised economic benefit statement from the agreement holder of the proposed modification.

(f) The incentive period for the project may not be modified if the comptroller determines that the finding required by Government Code, §403.609(b)(2), regarding the project as proposed to be modified cannot be made or if the governor or the applicable school district objects to the proposed modification.

§9.5008. *Job and Wage Requirements; Penalty for Failing to Comply with Job or Wage Requirement.*

(a) Except as otherwise provided in Government Code, §403.604(a), the number of required jobs may not be waived.

(b) The wage requirement applies to required jobs and additional jobs, as the terms are defined in §9.5000 of this title and Government Code, §403.602. The wage requirement may not be waived.

(c) The comptroller shall conduct a biennial review of the periods covered by two consecutive reports submitted by an agreement holder to determine whether the agreement holder has created the number of required jobs and has met the wage requirement under Government Code, Chapter 403.

(d) To make the determination, the comptroller may:

(1) review the Biennial Compliance Report submitted by the agreement holder;

(2) request additional information from the agreement holder to substantiate the number of required jobs and the wage requirement and/or inspect the eligible property with a 3-day advance notice to the agreement holder in order to perform the inspection at a mutually agreeable time during regular business hours; or

(3) consider any other information that is available to the comptroller.

(e) The comptroller may issue a determination that a job created by the agreement holder is not a required job if the job as identified by the agreement holder:

(1) does not provide 1,600 hours or more of work for that year;

(2) is not a new job but rather a position that was transferred from a facility of the agreement holder from one area of the state to the project covered by the agreement, unless the agreement holder fills the vacancy caused by the transfer;

(3) is not a new job but rather a position that replaced an existing job of the agreement holder, unless the agreement holder filled the vacancy caused by the replacement;

(4) is not covered by a group health benefit plan for which the agreement holder contributes; or

(5) does not meet the wage requirement.

(f) If the comptroller makes a determination that the agreement holder did not create the required number of jobs or meet the wage requirement, the comptroller shall provide notice to the agreement holder, which shall include an explanation for the adverse determination.

(g) If the comptroller finds that an agreement holder received two consecutive adverse determinations for failing to meet the wage requirement prescribed by the agreement, the comptroller shall impose a penalty on the agreement holder in an amount equal to two times the difference between:

(1) the product of:

(A) the actual average annual wage paid to all persons employed by the agreement holder in connection with the project that is the subject of the agreement as computed under Government Code, §403.612(b)(6); and

(B) the number of required jobs prescribed by the agreement; and

(2) the product of:

(A) the average annual wage prescribed by the agreement; and

(B) the number of required jobs prescribed by the agreement.

(h) If the comptroller finds that an agreement holder received two consecutive adverse determinations for failing to maintain at least the number of required jobs prescribed by the agreement, the comptroller shall impose a penalty on the agreement holder in an amount equal to two times the difference between:

(1) the product of:

(A) the number of required jobs prescribed by the agreement; and

(B) the number of required jobs actually created as stated in the most recent report submitted by the agreement holder under Government Code, §403.616; and

(2) the average annual wage prescribed by the agreement during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission.

(i) A determination by the comptroller under subsection (f) of this section is a deficiency determination under Tax Code, §111.008. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce and is subject to

the payment and redetermination requirements of Tax Code, §111.0081 and §111.009. A redetermination under Tax Code, §111.009, of a determination under this section is a contested case as defined by Government Code, §2001.003.

(j) In no event shall a penalty imposed under this section exceed the amount of the ad valorem tax benefit received by the agreement holder under the agreement.

(k) The comptroller shall deposit a penalty collected under this section and any interest on the penalty to the credit of the foundation school fund.

§9.5009. Biennial Compliance Report.

(a) Each agreement holder must submit a biennial compliance report with the supportive documents required by Government Code, §403.616 in the manner and form prescribed by the comptroller. The comptroller may require the report to be submitted electronically.

(b) The report must be submitted by June 1 of every even numbered year from the start to the conclusion of the incentive period.

(c) The report must include the minimum number of required jobs described in Government Code, §403.604(b) for every tax year throughout the duration of the incentive period.

(d) The report must include the signature of agreement holder's authorized representative(s) by which the representative confirms and attests to the truth and accuracy of the information submitted in the form to the best knowledge and belief of the agreement holder and its representative(s).

(e) Agreement holders must segregate confidential information described by Government Code, §403.621(b) or information that is confidential as a matter of law from other information within the biennial report. A cover sheet marked "Confidential" with the legal justification for confidential treatment must accompany all information that is considered confidential.

(f) For trainees identified in the report, the agreement holder must also submit documentation confirming its approval to take part in the Texans Work Program as set forth in Labor Code, §308.003, along with proof of the trainee's participation in the program including the beginning and ending dates of the trainee's participation.

§9.5010. Biennial Report to Legislature.

(a) Each agreement holder must submit information for the report described in Government Code, §403.617(b), in the form and manner prescribed by the comptroller.

(b) Not later than December 1 of each even year, the comptroller may electronically submit the report under Government Code, §403.617(b), to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature.

§9.5011. Conflicts.

To comply with Government Code, §403.619, both applicant and applicable school district must disclose any potential conflicts of interest related to a submitted application or an agreement, as mandated by state and federal laws, before executing the same agreement.

§9.5012. Electronic Submission; Notices.

Unless otherwise required by law, the comptroller may require forms, notices and other documents to be submitted electronically (including via web form).

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

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For further information, please call: (512) 475-2220



CHAPTER 16. COMPTROLLER GRANT PROGRAMS
SUBCHAPTER D. RURAL LAW ENFORCEMENT SALARY ASSISTANCE PROGRAM

34 TAC §§16.300 - 16.306

The Comptroller of Public Accounts adopts new §16.300, concerning definitions, §16.301, concerning applications, §16.302, concerning review by comptroller, §16.303, concerning awards; grant agreement, §16.304, concerning authorized uses of grant funds; limitations, §16.305, concerning reporting and compliance; §16.306, concerning provisions applicable to fiscal year 2024, with changes to the proposed text as published in the October 13, 2023, issue of the *Texas Register* (48 TexReg 5964). The rules will be republished. These new sections will be located in 34 Texas Administrative Code Chapter 16, new Subchapter D (Rural Law Enforcement Salary Assistance Program). The new sections are required by Local Government Code, §§130.911, 130.912 and 130.913 which were enacted by Senate Bill 22, 88th Legislature, R.S., (2023). Senate Bill 22 establishes a new grant program to provide financial assistance to qualified sheriff's offices, constable's offices, and prosecutor's offices in rural counties.

Section 16.300 provides definitions.

Section 16.301 describes the application process.

Section 16.302 describes review by the comptroller.

Section 16.303 describes award decisions and the requirement for grant agreements.

Section 16.304 describes the authorized uses of grant funds and limitations on uses of grant funds.

Section 16.305 describes reporting requirements and available remedies for noncompliance.

Section 16.306 describes provisions applicable to Fiscal Year 2024.

The comptroller received comments regarding adoption of the proposed rules from The Honorable Carl Squyres, Runnels County Sheriff; Mr. Chase Goetz, Assistant Criminal District Attorney, Caldwell County; Ms. Cheryll Jones, County Auditor, Wichita County; Mr. Clinton Fielder; The Honorable Jeff Swain, District Attorney, Parker County; Mr. John Wren, Chief Investigator, Grimes County District Attorney's Office; The Honorable Kyle Schmalzried, Swisher County Sheriff; Ms. Lisa Constant Wylie, County Auditor, Rockwall County; Ms. Melissa Jeter, County Auditor, Houston County; Ms. Misti

Hayes, Administrative Assistant, Coke County Sheriff's Office; The Honorable Stephen Wadsworth, Gillespie County Attorney; Mr. Steve Lilley, First Assistant District Attorney, Hunt County; The Honorable Tammy Brown, Shackelford County Treasurer; The Honorable Terry Bouchard, Ochiltree County Sheriff; Mr. Timothy Poynter, First Assistant District Attorney, 24th Judicial District; and The Honorable Bill Helwig, Yoakum County Criminal District Attorney.

Mr. Helwig asked that the definition of applicant in §16.300(1) be revised to clarify that prosecutor's offices are the entities authorized to apply for grants related to their offices. The comptroller thanks Mr. Helwig for this comment. The comptroller agrees with this comment and adopts the proposed definition with changes to clarify this distinction and adopts §16.301 with a conforming change.

Ms. Constant Wylie asked what data will be used to determine the population under §16.300(9). The comptroller thanks Ms. Constant Wylie for this question. The definition of population indicates the most recent federal decennial census will be used, so no change to the rule is required.

Ms. Brown asked whether a person performing dispatch duties who holds a jailer's license is eligible for salary increases as a county jailer. The comptroller thanks Ms. Brown for this comment and adopts a definition of county jailer in §16.300(2) with the additional requirements stated in Local Government Code, §130.911(e)(1)(C).

Two commenters asked about the definition of deputy sheriff in §16.300(4). Ms. Constant Wylie asked if the definition of deputy sheriff would include detectives, court bailiffs, and other types of deputies. Ms. Jeter asked whether the definition of deputy sheriff would include deputies who do not make motor vehicle stops except in rare instances and deputies who have the authority to perform motor vehicle stops but do not perform motor vehicle stops. The comptroller thanks Ms. Constant Wylie and Ms. Jeter for these questions and the opportunity to address them. To comply with the statute, deputy sheriffs will only meet the definition if those deputies perform motor vehicle stops in the routine performance of their duties. However, in contrast with the Local Government Code, §130.912 requirement for constables, Local Government Code, §130.911, does not require motor vehicle stops to be a deputy sheriff's primary duty. The comptroller does not believe any action is necessary as a result of these comments.

Sheriff Bouchard and Sherriff Schmalzried questioned whether software could be included in the definition of safety equipment in §16.300(13). The comptroller notes that in most instances, software cannot be treated as safety equipment because it is not tangible equipment. For example, personnel software used for scheduling shifts would not meet the definition of safety equipment. However, tangible electronic systems that are permanently affixed to a patrol vehicle could meet the definition if installed to protect the health and physical safety of a sheriff, deputy sheriff or jailer while performing their duties. The comptroller thanks Sheriff Bouchard and Sherriff Schmalzried for these comments, but declines to modify the definition of safety equipment in response to these comments.

Sherriff Bouchard asked that the definition of safety equipment in §16.300(13) be expanded to include radio equipment, in-car camera systems and body cameras. The comptroller notes that the definition of safety equipment is not limited to the specific items listed and may include other items as long as they are tan-

gible equipment used by a sheriff's office that are necessary to protect the health and physical safety of a county sheriff, deputy sheriff or county jailer while performing their duties. While the comptroller cannot make a blanket determination that a specific item is always an allowable cost because each purchase is subject to the rules, grant agreement and grant management standards, the comptroller thanks Sheriff Bouchard for this comment, agrees that radio equipment, in-car camera systems and body cameras are tangible equipment that can be used to protect the health and safety of a county sheriff, deputy sheriff or county jailer while performing their duties, and adopts the definition with the addition of these items.

Ms. Jones asked if a sheriff's office could purchase any kind of vehicle, for example, an expensive sports car. The comptroller thanks Ms. Jones for this question and the opportunity to address it. The comptroller adds subsection (g) to §16.304 in response to this and other comments. The new subsection implements the legislative directive from Senate Bill 22 that, for sheriffs and constables, grant funds are to be used to "support the state purpose of ensuring professional law enforcement throughout the state", and, for prosecutor's offices, grant funds are to be used "to support the state purpose of ensuring professional legal representation of the people's interests throughout the state."

Two commenters sought clarification of the term victim assistance coordinator in §16.300(14). Ms. Jeter asked if victim assistance duties are divided among the whole staff of a prosecutor's office, all positions would then qualify for salary increases using grant funds. Ms. Constant Wylie asked whether paralegals who carry out the duties of victim assistance coordinators would be eligible to receive salary increases as victim assistance coordinators. The comptroller thanks Ms. Jeter and Ms. Constant Wylie for these questions and the opportunity to clarify this issue. The legislature explicitly included victim assistance coordinator in Local Government Code, §130.913(e)(1), in contrast with the term "staff" used in Local Government Code, §130.913(e)(1). The legislature did not contemplate treating all staff of a prosecutor's office as victim assistance coordinators. While it is likely that every employee of a rural prosecutor's office frequently assists crime victims, and that assistance often overlaps with a victim assistance coordinator's list of responsibilities under Code of Criminal Procedure, art. 56A.202, a person must be designated under Code of Criminal Procedure, art. 56A.201, and must be responsible for the duties listed in Code of Criminal Procedure, art. 56A.202, to be a victim assistance coordinator. In response to these comments, the comptroller adopts §16.300 with an added definition of victim assistance coordinator that references the Code of Criminal Procedure requirements.

Sheriff Bouchard, Sheriff Squyres and Mr. Fielder commented that the sheriff rather than the commissioner's court should have authority to apply for grant funds and determine how the funds are spent. The comptroller appreciates Sheriff Bouchard, Sheriff Squyres and Mr. Fielder for raising this important topic. The proposed rule mirrors the statutory language contained in Local Government Code, §130.911(c). Senate Bill 22 did not change the Government Code and Local Government Code provisions related to the budget process. The comptroller does not believe that, absent a statutory amendment or a court or attorney general opinion to the contrary, it has the authority to receive applications from the office of the sheriff. Therefore, the comptroller declines to make changes to the proposed rule based on this comment.

Ms. Jones commented on proposed §16.301, asking whether the application will require an exact breakdown per employee,

vehicle or safety equipment or if it will be based on broad categories. The application does not require this level of detail. This information will be required as set out in the grant agreement rather than in the application. Under §16.305, compliance with grant terms will be reported and monitored, and reports and financial records, including payroll records, invoices and receipts, will be required. Although the comptroller thanks Ms. Jones for this comment, no change to the rule is needed in response.

Ms. Jones asked whether the proposed use of grant funds could be changed subsequent to the submission of the application. As an example, she asked whether salary funds that are not fully used due to a vacancy could be used for safety equipment. The comptroller thanks Ms. Jones for this comment. The application itself will not include budgets. Information confirming grant funds are used in compliance with the statute and rules will be submitted under §16.305, and reports and financial records, including payroll records, invoices and receipts, will be required. No change to the rule is needed in response to this comment.

Ms. Jones asked whether errors in a rejected application can be corrected and the application resubmitted. The comptroller thanks Ms. Jones for raising this issue. If an application is incomplete or contains errors, §16.302 allows the comptroller to request additional information and provides 14 days for the applicant to respond. No change to the rule is needed in response to this comment.

Two commenters asked about legislative intent. Ms. Constant Wylie asked whether the intent of grant funding is to ensure salaries are competitive in the market. Mr. Helwig commented that a statement should be added to the rule about the intent of the legislature. The comptroller thanks Ms. Constant Wylie and Mr. Helwig for these comments and adds subsection (g) to §16.304 in response to these and other comments. The new subsection implements the legislative directive from Senate Bill 22 that, for sheriffs and constables, grant funds are to be used to "support the state purpose of ensuring professional law enforcement throughout the state", and, for prosecutor's offices, grant funds are to be used "to support the state purpose of ensuring professional legal representation of the people's interests throughout the state."

Mr. Lilley sought clarification on whether grant funds may be used to pay legally required benefits for salary increases described by §16.304(a)(2)(A) and (c)(1), or if grant funds may only be used to pay legally required benefits for increases required to bring a salary to the minimum annual salary required by §16.304(a)(1) and (b)(1). The comptroller thanks Mr. Lilley for this comment and notes that several smaller rural counties would find it impossible to provide the salary increases described by §16.304(a)(2)(A) and (c)(1) without grant funding to pay the increase in legally required benefits. The comptroller adopts §16.304 with changes to clarify that grant funds may be used to pay for salary increases described by §16.304(a)(2)(A) and (c)(1) as well as for increases required to bring a salary to the minimum annual salary required by §16.304(a)(1) and (b)(1).

Ms. Constant Wylie and Ms. Jones asked whether grant money may be used to pay overtime wages or may be used to pay the incremental amount of legally required nonmonetary benefits for paying an increased overtime rate. Ms. Jones also asked whether the amounts of the minimum annual salaries exclude any overtime. The comptroller thanks Ms. Constant Wylie and Ms. Jones for these comments and states that neither overtime, nor increases in the legally required nonmonetary benefits for

overtime payments, are eligible for Senate Bill 22 funding, and confirms that minimum annual salaries exclude any overtime. The program seeks to raise the salary of existing law enforcement officers and to recruit new law enforcement officers rather than requiring more work hours of existing personnel. The comptroller adopts §16.304 with a clarification that overtime payments are excluded.

Ms. Jeter commented that many counties in Texas adopt an extended work period for certain law enforcement employees as authorized by section 7(k) of the Fair Labor Standards Act, 29 U.S.C.A. § 207. The comptroller appreciates this comment and adopts §16.304 with an alternate formula to convert a minimum annual salary to a minimum hourly wage for these employees.

Mr. Goetz noted that proposed §16.304(d) only covers the use of grant funds to pay the increase in legally required nonmonetary benefits if used in conjunction with reaching a minimum annual salary, and suggested similar authority where minimum salaries are not required. The comptroller thanks Mr. Goetz for this comment and adopts §16.304(d) with added language to implement this comment.

Two commenters address grant funding for sheriff support staff. Sheriff Bouchard commented that sheriff dispatchers and control room operators should be funded under the grant as they are the lifeline for deputies and jailers. Ms. Hayes commented that sheriff support staff including secretaries and dispatchers should be funded due to their crucial support duties. The comptroller appreciates Sheriff Bouchard and Ms. Hayes for raising this important issue. The comptroller agrees that sheriff dispatchers, secretaries, control room operators and other staff provide critical support to sheriff's offices throughout the state. However, the proposed rule mirrors the statutory language contained in Local Government Code, §130.911(e)(2), and the comptroller does not believe that it has the authority to stretch the statute beyond its plain and ordinary meaning to include additional staff not described by §130.911(e)(1). Therefore, the comptroller declines to make changes to the proposed rule based on these comments. The comptroller notes that while these positions are not eligible for salary increases, grant funds may be used for additional staff hired under §16.304(a)(2)(B) so long as those staff support the purpose described §16.304(g).

Mr. Wren commented on the §16.304(c) requirement for the victim assistance coordinator to be employed at the prosecutor's office, stating the victim assistance coordinator in his county has a stand-alone budget. The proposed rule mirrors the statutory language contained in Local Government Code, §130.913(e). The comptroller does not believe that it has the authority to approve a prosecutor's use of grant funds for a victim assistance coordinator who is not an employee of the prosecutor's office. Therefore, the comptroller declines to make changes to the proposed rule based on this comment.

Mr. Wadsworth sought clarification regarding whether salary increases under proposed §16.304(c) will be eligible for grant funding in subsequent grant years. The comptroller thanks Mr. Wadsworth for this comment and adopts §16.304 with an added clarification that salary increases will be measured based on the salary provided on the last day of the entity's fiscal year ending in 2023. Mr. Wadsworth also sought confirmation that funds can be used for both salary and hourly wages. The comptroller appreciates this comment and adopts §16.304 with new subsection (h) to clarify that grant funds may be used to pay salary increases for employees who are paid an hourly wage.

Mr. Wadsworth asked whether additional staff described in §16.304(c)(2) must be an assistant prosecutor, investigator, or victim assistance coordinator, or if any additional staff for the prosecutor's office will qualify. The comptroller thanks Mr. Wadsworth for this question and the opportunity to address it. While additional staff hired under §16.304(c)(2) are not explicitly limited to certain types of positions, the position must support the purpose described in Local Government Code, §130.913(b). The comptroller adds subsection (g) to §16.304 in response to this and other comments. The new subsection implements the legislative directive from Senate Bill 22 that, for sheriffs and constables, grant funds are to be used to "support the state purpose of ensuring professional law enforcement throughout the state", and, for prosecutor's offices, grant funds are to be used "to support the state purpose of ensuring professional legal representation of the people's interests throughout the state."

Mr. Helwig commented that additional staff under §16.304(c)(2) should encompass remote workers and contract services such as word processing services. The comptroller appreciates this comment but notes that the proposed rule complies with the statutory language contained in Local Government Code, §130.913 which applies to staff, i.e., employees, of the prosecutor's office and does not impose restrictions on whether work is performed at the office or remotely. Additional staff hired under §16.304(c)(2) must be employees of the prosecutor's office. Therefore, the comptroller declines to make changes to the proposed rule based on this comment.

Ms. Jones asked whether a single deputy prosecutor may receive all of the funds. The comptroller notes that Senate Bill 22 did not alter the roles and authority of a county commissioner's court, county auditor, county treasurer or other county officer provided in Local Government Code, Title 4, Subtitle B and Title 5, Subtitle B, and in Government Code Title 2, Subtitle C. The use of grant funds is subject to existing authority, as well as the requirement in §16.304(g) that grant funds must be used to support the program's statutory purpose. New subsection (g) is added to §16.304 in response to this and other comments.

Regarding reporting and compliance, Ms. Brown asked whether the comptroller will check to see whether deputies are making motor vehicle stops, and also asked whether there will be accountability. The comptroller responds that under §16.305, grant recipients must certify compliance and submit reports and financial records, including payroll records, invoices and receipts, and any other information necessary to substantiate that grant funds are being used for the intended purpose and the grant recipient has complied with the terms. Compliance with the requirements of the grant agreement is also subject to audit by the comptroller and by the State Auditor.

The comptroller received several comments regarding the Fiscal Year 2024 provisions in §16.306. Mr. Goetz and Ms. Constant Wylie sought clarification on whether §16.306 would violate the constitutional prohibitions against extra compensation. The comptroller thanks Mr. Goetz and Ms. Constant Wylie for these questions and the opportunity to address them. To comply with article III, §44 of the Texas Constitution, the program must have a pre-existing valid law to support the appropriation. And to comply with article III, §53 of the Texas Constitution, the program may not grant extra compensation to a public officer or servant after service has been rendered. Because Senate Bill 22 was effective beginning September 1, 2023, the program has been supported by pre-existing law since that date. While counties may not grant retroactive salary increases for work performed,

§53 does not prohibit the use of grant funds to support a county budget that increased a salary prior to the grant award. For example, a county whose sheriff was paid a salary of \$50,000 in 2023, after meeting all of the statutory prerequisites, grants the sheriff a salary of \$75,000 for the fiscal year beginning October 1, 2023, and, prior to the grant award pays the salary using county funds. The county may apply a portion of grant funds received to the pre-award costs of the salary increase that would have been allowable if incurred during the grant period. In response to these comments, §16.303 is adopted as modified to clarify this issue. The comptroller notes that Senate Bill 22 was effective beginning September 1, 2023 and its requirements apply to actions taken after that date.

Mr. Swain commented that a provision should be added to §16.306 to clarify authority to use grant funds for costs incurred prior to the grant award date but during the entity's fiscal year 2024. Mr. Swain notes the legislature intended this result by giving Senate Bill 22 a September 1, 2023, effective date and appropriating the amount required to fund the grant program for the entire fiscal year including the months prior to January 2024 for entities whose fiscal years begin October 1, 2023. The comptroller agrees with this comment and adopts §16.303 and §16.306 with changes to clarify this issue.

Mr. Helwig commented that the rules should address the authority to use funds received after the beginning of the fiscal year. The comptroller notes that Local Government Code, §§130.911, 130.912 and 130.913 do not create exceptions to a county's budget making process and statutory authority to adopt a special budget to expend grant funds received during the fiscal year. The comptroller does not believe it has the authority to change the rule in response to this comment.

Ms. Constant Wylie sought clarification on whether a salary increase may be awarded to a county sheriff if the statutory prerequisites were not met at the beginning of the county's fiscal year. The comptroller thanks Ms. Constant Wylie for submitting this comment. The comptroller notes that Local Government Code, §§130.911, 130.912 and 130.913 do not create exceptions to the ordinary budget making process and the statutory prerequisites for granting salary increases to elected county officers. The comptroller does not believe it has the authority to change the rule in response to this comment.

Ms. Jones asked whether a prosecutor will need commissioner's court approval and whether a prosecutor may delegate responsibility for compliance reporting. The comptroller thanks Ms. Jones for raising this issue. The comptroller notes that Senate Bill 22 did not alter the roles and authority of a county commissioner's court, county auditor, county treasurer or other county officer provided in Local Government Code Title 4, Subtitle B and Title 5, Subtitle B, and in Government Code Title 2, Subtitle C. Local Government Code, §§130.911, 130.912 and 130.913 do not create exceptions to the ordinary budget making process and do not create exceptions to a county commissioner's court's authority to set budgets or to accept grants. The comptroller does not believe it has the authority to change the rule in response to this comment.

Mr. Poynter suggested adding language to address how grant funds should be managed in districts that include multiple counties. The comptroller notes that Local Government Code, §130.913 does not create exceptions to the ordinary budget making process and authority related to multi-county prosecutor's offices such as the provision cited by Mr. Poynter. The comptroller does not believe it has the authority to change the

rule in response to this comment, but thanks Mr. Poynter for this comment.

Mr. Helwig commented that the rules should address the authorized signatory for the application and authority to bind the applicant, address a role for the county auditor, and address the procedures for the delivery and administration of funds. The comptroller thanks Mr. Helwig for raising this issue. The comptroller notes that Senate Bill 22 did not alter the roles and authority of a county commissioner's court, county auditor, county treasurer or other county officer provided in Local Government Code Title 4, Subtitle B and Title 5, Subtitle B, and in Government Code Title 2, Subtitle C. The comptroller does not believe it has the authority to change the rule in response to this comment.

The new sections are adopted under Local Government Code, §§130.911, 130.912 and 130.913, which require the comptroller to adopt rules to implement a new grant program to provide financial assistance to qualified sheriff's offices, constable's offices, and prosecutor's offices in rural counties.

The new sections implement Local Government Code, §§130.911, 130.912 and 130.913.

§16.300. Definitions.

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

(1) Applicant--For an entity that applies for a grant under Local Government Code, §130.911 or §130.912, a qualified county, or, for an entity that applies for a grant under Local Government Code, §130.913, a qualified prosecutor's office.

(2) County jailer--A person employed by the county sheriff as a licensed county jailer, under the provisions and requirements of Local Government Code, §85.005 and Occupations Code, §1701.301 whose duties include the safekeeping of prisoners and the security of a jail operated by the county.

(3) County sheriff--A person elected or appointed as the county sheriff and who performs the duties of the office after complying with Local Government Code, §85.001.

(4) Deputy sheriff--A person appointed as deputy sheriff pursuant to Local Government Code, §85.003 who performs motor vehicle stops in the routine performance of their duties.

(5) Fiscal year--The twelve consecutive calendar months during which an applicant tracks its finances for budget and accounting purposes.

(6) Grant--A grant awarded under this subchapter that is a rural sheriff's office salary assistance grant under Local Government Code, §130.911, a rural constable's office salary assistance grant under Local Government Code, §130.912, or a rural prosecutor's office salary assistance grant under Local Government Code, §130.913.

(7) Grant agreement--An agreement between the comptroller and a grant recipient that governs the terms of a grant.

(8) Grant recipient--A qualified county or a qualified prosecutor's office that receives a grant under this subchapter.

(9) Population--The population shown by the most recent federal decennial census.

(10) Qualified constable--A constable who meets the following standards:

(A) is elected to, and currently holds, an office created on or before January 1, 2023;

(B) performs motor vehicle stops in the routine performance of their duties for the majority of their time on duty; and

(C) meets all eligibility requirements to serve under Local Government Code, §86.0021, and Code of Criminal Procedure, article 2.12(2).

(11) Qualified county--A county with a population of 300,000 or less.

(12) Qualified prosecutor's office--An office of a district attorney, criminal district attorney, or county attorney with criminal prosecution duties whose jurisdiction has a population of 300,000 or less.

(13) Safety equipment--Any tangible equipment used by a sheriff's office that is necessary to protect the health and physical safety of a county sheriff or deputy sheriff or county jailer while performing their duties, and may include radio equipment or in-car camera systems added to previously owned vehicles, ballistic helmets, ballistic plates, ballistic shields, entry tools, body armor, medical gear & masks, outer carriers, pepper spray, plate carriers, personal alarm, riot batons, riot helmets, riot shields, body cameras, and miscellaneous safety gear which consists of door jams, disposable cuffs and knee pads.

(14) Victim Assistance Coordinator--The person designated to serve as victim assistance coordinator under Code of Criminal Procedure, article 56A.201, by a district attorney, criminal district attorney, or county attorney who prosecutes criminal cases and who is responsible for the duties listed in Code of Criminal Procedure, article 56A.202.

(15) Vehicle--A law enforcement vehicle used by a sheriff's office for transportation while performing duties of the office such as patrols, responses to calls for service, and transport of persons in custody, and includes equipment affixed to the vehicle for law enforcement purposes.

§16.301. Applications.

(a) In order to receive payment under this subchapter, an applicant must submit a completed application.

(b) An application for funding under this subchapter shall be submitted electronically. The electronic form may require information the comptroller determines is necessary to make an award determination including a certification that the county has not and will not reduce the amount of funds provided to the sheriff's office, constable's office or prosecutor's office, as applicable, because of the award of grant funds under this subchapter. The electronic application process may require a signed grant agreement contingent on approval of a grant award by the comptroller.

(c) An application under this subchapter must be submitted during the period that begins 60 days prior to the first day of the applicant's fiscal year and ends on the 30th day of the applicant's fiscal year.

(d) The application must be electronically signed by an official of the applicant that is authorized to bind the applicant. The authorized official must certify that all information in the application is true and correct.

§16.302. Review by Comptroller.

(a) Upon receipt of an application, the comptroller shall review the application to ensure that it is complete. If the application is incomplete, as determined by the comptroller, the comptroller may contact the applicant and request any required information. Any required information requested by the comptroller must be submitted by the applicant within 14 calendar days of the request.

(b) An application shall be rejected by the comptroller if the application is submitted:

(1) by an applicant that does not meet the definition of a qualified county or qualified prosecutor's office;

(2) before 60 days prior to the first day of the applicant's fiscal year for which the applicant is seeking a grant;

(3) after the 30th day of a fiscal year for which the applicant is seeking a grant; or

(4) on a form other than the electronic form prescribed by the comptroller.

(c) The comptroller may reject an application if the applicant or the application does not comply with this subchapter, or does not comply with Local Government Code, §§130.911, 130.912, or 130.913, as applicable.

(d) The comptroller shall make a determination of award not later than 90 days after the date the application is received.

§16.303. Awards; Grant Agreement.

(a) All funding is contingent upon the appropriation of funds by the Texas Legislature and upon approval of a grant application by the comptroller.

(b) If the comptroller makes an award, the comptroller shall notify the applicant of the award decision and shall provide a grant agreement to the applicant for signature if the grant agreement was not already submitted as part of the application.

(c) All award decisions shall be made at the sole discretion of the comptroller and are not appealable or subject to protest.

(d) A grant agreement shall require the comptroller to disburse funds as soon as practicable and shall require funds to be expended during the grant period except the agreement may provide for the reimbursement of certain pre-award costs. Funds for purchases are considered expended when the grant recipient is legally obligated to expend the funds.

(e) Grant award payments are subject to Government Code, §403.055 and §403.0551.

§16.304. Authorized uses of Grant Funds; Limitations.

(a) A rural sheriff's office salary assistance grant awarded under this subchapter and Local Government Code, §130.911, may only be used:

(1) to provide a minimum annual salary of at least:

(A) \$75,000 for the county sheriff;

(B) \$45,000 for each deputy sheriff who performs motor vehicle stops in the routine performance of their duties; and

(C) \$40,000 for each jailer whose duties include the safekeeping of prisoners and the security of a jail operated by the county; and

(2) provided that each county sheriff that meets the definition in §16.300(3) of this title, and each deputy sheriff that meets the definition in §16.300(4) of this title, and county jailer that meets the definition in §16.300(2) of this title that is employed by the county sheriff receives the minimum salary described by paragraph (1) of this subsection,

(A) to increase the salary of a person described by paragraph (1) of this subsection;

(B) to hire additional deputies or staff for the sheriff's office; or

(C) to purchase vehicles, firearms, and safety equipment for the sheriff's office.

(b) A rural constable's office salary assistance grant awarded under this subchapter and Local Government Code, §130.912:

(1) may only be used to provide a minimum annual salary of \$45,000 to a qualified constable; and

(2) for each qualified constable whose salary is funded in part by the grant awarded under this subchapter, the county must contribute at least 75% of the money required to meet the minimum annual salary requirement.

(c) A rural prosecutor's office salary assistance grant awarded under this subchapter and Local Government Code, §130.913, may only be used:

(1) to increase the salary of an assistant attorney, an investigator, or a victim assistance coordinator employed at the prosecutor's office; or

(2) to hire additional staff for the prosecutor's office.

(d) A minimum annual salary as described in subsections (a)(1) and (b)(1) of this section does not include any overtime compensation. A salary increase includes increases required to bring a salary to the minimum annual salary as described by subsections (a)(1) and (b)(1) of this section, and salary increases described by subsections (a)(2)(A) and (c)(1) of this section, and will be measured based on the salary provided on the last day of the entity's fiscal year ending in 2023, excluding any overtime. The cost of a salary increase as described in this section includes the increase of legally required nonmonetary benefits and taxes for that salary. A salary increase does not include overtime and the cost of a salary increase does not include an increase of legally required nonmonetary benefits and taxes for overtime compensation. For example, in Fiscal Year 2023, a county sheriff's minimum annual salary is \$50,000 and the county pays \$3825.00 for the employer's share of payroll taxes, pays \$2500 to Texas County and District Retirement System (TCDRS) for an employer's matching retirement contribution, and \$2500 for health insurance premiums. In Fiscal Year 2024, because of the grant, the annual salary is \$75,000, the employer's share of payroll taxes is \$5737.50, the employer's matching contribution to TCDRS is \$3750, and health insurance premiums are \$2500. The county may use grant funds to increase the sheriff's annual budget by $\$25,000 + \$1912.50 + \$1250 = \$28,162.50$. A county may only use grant funds for the legally required nonmonetary benefits and taxes for a salary if the county provides the minimum annual salary required by subsections (a)(1) and (b)(1) of this section, if applicable. A county may not reduce a salary below a minimum salary required by subsection (a)(1) or (b)(1) of this section in order to use grant funds for legally required nonmonetary benefits and taxes for that salary.

(e) For the purpose of subsection (a)(1) of this section, if a grant recipient does not have sufficient grant funding to fund the minimum annual salaries required by this subsection, the grant recipient may use grant funds to increase the salaries of the persons described in that subsection on a pro-rata basis.

(f) If a person described by subsection (a)(1) or (b)(1) of this section is a part-time or hourly employee, or holds a dual office or otherwise divides work hours between a position described in this section and another position, the minimum annual salary required by this section may be converted to a minimum hourly wage and will apply only to the hours of work performed for a position described in this section.

(1) for an employee with a 40-hour work week, the minimum hourly wage shall be the product of:

(A) the minimum annual salary described in this section; and

(B) a quotient:

(i) the numerator of which is equal to the number of hours the employee normally works performing duties for a position described in this section each week, not to exceed 40; and

(ii) the denominator of which is equal to 40; and

(2) for an employee with a county adopted work period as authorized by the Fair Labor Standards Act, 29 U.S.C.A. § 207(k), the minimum hourly wage shall be the product of:

(A) the minimum annual salary described in this section; and

(B) a quotient:

(i) the numerator of which is equal to the number of hours the employee normally works performing duties for a position described in this section each period, not to exceed the number of hours that are nonovertime as determined under the Fair Labor Standards Act; and

(ii) the denominator of which is equal to the number of hours that are nonovertime as determined under the Fair Labor Standards Act.

(g) For grants awarded under Local Government Code, §130.911 or §130.912, grant funds may only be used for the state purpose of ensuring professional law enforcement throughout the state. For grants awarded under Local Government Code, §130.913, grant funds may only be used for the state purpose of ensuring professional legal representation of the people's interests throughout the state.

(h) A person whose salary increase may be paid with grant funds under subsections (a)(2)(A) or (c)(1) of this section may be paid an increase in hourly wages if they are paid an hourly wage rather than an annual salary.

§16.305. Reporting and Compliance.

(a) A grant recipient shall submit a compliance report certifying compliance and detailing expenditures of grant funds using the comptroller's electronic form. The comptroller may request supporting documentation regarding expenditures and any other information required to substantiate that grant funds are being used for the intended purpose and that the grant recipient has complied with the terms, conditions, and requirements of the applicable statute, the grant agreement and this subchapter. Any information requested by the comptroller must be submitted by the grant recipient within 14 calendar days of the request.

(b) Grant recipients must comply with:

(1) the terms and conditions of the grant agreement;

(2) the requirements of Local Government Code, §§130.911, 130.912, or 130.913, as applicable;

(3) the relevant provisions of the Texas Grant Management Standards and the State of Texas Procurement and Contract Management Guide, or their successors, adopted in accordance with Texas law; and

(4) all applicable state or federal statutes, rules, regulations, or guidance applicable to the grant award, including this subchapter.

(c) If the comptroller finds that a grant recipient has failed to comply with any requirement described in subsection (b) of this section, the comptroller may:

(1) require the grant recipient to return the grant award or a portion of the grant award;

(2) withhold grant award amounts from the current grant or future grants to be received by a grant recipient pending correction of the deficiency;

(3) disallow all or part of the cost of the activity or action that is not in compliance;

(4) terminate the grant award in whole or in part;

(5) bar the grant recipient from future consideration for grant funds under this subchapter; or

(6) exercise any other legal remedies available at law.

§16.306. Provisions Applicable to Fiscal Year 2024.

(a) Notwithstanding anything to the contrary in this title, the first application period for all applicants in Fiscal Year 2024 will be for a thirty day period beginning on the later of January 1, 2024 or the date the application is first made available.

(b) For the purpose of §16.304(b)(2) of this title, for a grant recipient whose fiscal year begins on October 1, 2023, the county's contribution shall include county funds used to pay an annual minimum salary from October 1, 2023 through the end of the grant agreement awarded for Fiscal Year 2024.

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 December 27, 2023.

TRD-202304968

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: January 16, 2024

Proposal publication date: October 13, 2023

For further information, please call: (512) 475-2220



TITLE 43. TRANSPORTATION

PART 3. MOTOR VEHICLE CRIME PREVENTION AUTHORITY

CHAPTER 57. MOTOR VEHICLE CRIME PREVENTION AUTHORITY

43 TAC §57.48

INTRODUCTION. The Motor Vehicle Crime Prevention Authority (Authority) adopts amendments to 57 Texas Administrative Code (TAC) §57.48 concerning Motor Vehicle Years of Insurance Calculations. The authority adopts §57.48 without changes to the proposed text as published in the September 8, 2023, issue of the *Texas Register* (48 TexReg 5017). The rules will not be republished.

REASONED JUSTIFICATION. The amended sections are necessary to implement Senate Bill (SB) 224 enacted during the 88th Legislature, Regular Session (2023). An amendment to Transportation Code §1006.153 increased the fee that insurers pay to the Authority.

Amendments to §57.48(a)(1) and §57.48(a)(4) increase the statutory fee from \$4 payable on each motor vehicle for which the insurer provides insurance coverage during the calendar year regardless of the number of policy renewals to \$5 payable on each motor vehicle for which the insurer provides insurance coverage during the calendar year regardless of the number of policy renewals to implement SB 224. SB 224 requires the additional \$1 of the fee to be deposited into the general revenue fund to be used for certain activities intended to detect and prevent catalytic converter theft.

SUMMARY OF COMMENTS.

The Authority received one comment from State Senator Carol Alvarado, the author of SB 224. Sen. Alvarado offered her appreciation to the Authority for engaging in rulemaking to further implement SB 224.

Response: The Authority agrees with the commenter and appreciates Sen. Alvarado's support in enacting this legislation. No changes were made as a result of this comment.

STATUTORY AUTHORITY. The department adopts amendments to §57.48(a)(1) and §57.48(a)(4) under Transportation Code §1006.101. Transportation Code §1006.101 authorizes the MVCPA to adopt rules that are necessary and appropriate to implement the powers and duties of the authority.

CROSS REFERENCE TO STATUTE. Art. 4413(37) §6.

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 December 21, 2023.

TRD-202304943

David Richards

General Counsel

Motor Vehicle Crime Prevention Authority

Effective date: January 10, 2024

Proposal publication date: September 8, 2023

For further information, please call: (512) 465-1423



43 TAC §57.52

INTRODUCTION. The Motor Vehicle Crime Prevention Authority (Authority) adopts new 43 Texas Administrative Code (TAC) §57.52 concerning a penalty for late payment of fee or filing of report; appeal. The authority adopts §57.52 without changes to the proposed text as published in the September 8, 2023, issue of the *Texas Register* (48 Tex Reg 5018). The rules will not be republished.

REASONED JUSTIFICATION. New §57.52 implements House Bill (HB) 3514 enacted during the 87th Legislature, Regular Session (2021). Transportation Code §1006.153, Fee Imposed on

Insurers, provides "motor vehicle years of insurance" means the total number of years or portions of years during which a motor vehicle is covered by insurance. Insurers are required to pay the authority a fee equal to five dollars multiplied by the total number of years of insurance policies delivered, issued for delivery, or renewed by the insurer. Transportation Code §1006.153(b), requires insurers to pay the fee not later than: (1) March 1 of each year for a policy delivered, issued, or renewed from July 1 to December 31 of the previous calendar year; and (2) August 1 of each year for a policy delivered, issued, or renewed from January 1 through June 30 of that year.

New §57.52 provides that a penalty shall be imposed on an insurer for the delinquent payment of the required fee or the delinquent filing of the report of a fee that is required by law. The penalty shall be assessed in the same manner as the assessment of a penalty for a delinquent tax payment or a report under Tax Code §111.061(a). Interest accrues in the manner described in Tax Code §111.060 on any fee paid after the due date required under Transportation Code §1006.153(b). HB 3514 provides the authority with the ability to audit or contract for the audit of fees paid under Transportation Code §1006.153(b-2) and requires the authority to establish procedures by rule that provide a right of appeal to an insurer assessed a penalty or interest under this section. The final decision regarding an insurer's appeal is decided by a majority vote of the authority. The appeal of the assessment of a penalty or interest is not a contested case under Government Code, Chapter 2001.

SUMMARY OF COMMENTS.

No comments were received by the authority on this rule proposal.

STATUTORY AUTHORITY. The department adopts new section §57.52 under Transportation Code §1006.101. Transportation Code §1006.101 authorizes the MVCPA to adopt rules that are necessary and appropriate to implement the powers and duties of the authority.

CROSS REFERENCE TO STATUTE. Art. 4413(37) §6.

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 December 21, 2023.

TRD-202304944

David Richards

General Counsel

Motor Vehicle Crime Prevention Authority

Effective date: January 10, 2024

Proposal publication date: September 8, 2023

For further information, please call: (512) 465-1423



REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re Adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code:

- Chapter 353, Medicaid Managed Care
 - Subchapter A General Provisions
 - Subchapter B Provider and Member Education Programs
 - Subchapter C Member Bill of Rights and Responsibilities
 - Subchapter E Standards for Medicaid Managed Care
 - Subchapter F Special Investigative Units
 - Subchapter G STAR+PLUS
 - Subchapter H STAR Health
 - Subchapter I STAR
 - Subchapter J Outpatient Pharmacy Services
 - Subchapter K Children's Medicaid Dental Services
 - Subchapter L Texas Dual Eligibles Integrated Care Demonstration Project
 - Subchapter M Home and Community Based Services In Managed Care
 - Subchapter N STAR Kids
 - Subchapter O Delivery System and Provider Payment Initiatives
 - Subchapter P Mental Health Targeted Case Management And Mental Health Rehabilitation
 - Subchapter Q Process to Recoup Certain Overpayments
 - Subchapter R Telecommunications in Managed Care Service Coordination and Assessments

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 353, Medicaid Managed Care, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing com-

ments, please indicate "Comments on Proposed Rule Review Chapter 353" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the chapter being reviewed will not be published, but may be found in Title 1, Part 15, of the Texas Administrative Code on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202304990

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: December 27, 2023



Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re Adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 554, Nursing Facility Requirements for Licensure and Medicaid Certification

- Subchapter A Basis and Scope
- Subchapter B Definitions
- Subchapter C Nursing Facility Licensure Application Process
- Subchapter D Facility Construction
- Subchapter E Resident Rights
- Subchapter F Admission, Transfer, And Discharge Rights in Medicaid-Certified Facilities
- Subchapter G Freedom from Abuse, Neglect, And Exploitation
- Subchapter H Quality of Life
- Subchapter I Resident Assessment
- Subchapter J Quality of Care
- Subchapter K Nursing Services
- Subchapter L Food and Nutrition Services
- Subchapter M Physician Services
- Subchapter N Rehabilitative Services
- Subchapter O Dental Services

Subchapter P Pharmacy Services
 Subchapter Q Infection Control
 Subchapter R Physical Plant and Environment
 Subchapter T Administration
 Subchapter U Inspections, Surveys, And Visits
 Subchapter V Enforcement
 Subchapter W Certification of Facilities for Care of Persons with Alzheimer's Disease and Related Disorders
 Subchapter X Requirements for Medicaid-Certified Facilities
 Subchapter Y Medical Necessity Determinations
 Subchapter AA Vendor Payment
 Subchapter BB Nursing Facility Responsibilities Related to Preadmission Screening and Resident Review (PASRR)

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 554, Nursing Facility Requirements for Licensure and Medicaid Certification may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 554" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202400031
 Jessica Miller
 Director, Rules Coordination Office
 Health and Human Services Commission
 Filed: January 3, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re-adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 744, Minimum Standards for School-Age and Before or After-School Programs
 Subchapter A Purpose, Scope, and Definitions
 Subchapter B Administration and Communication
 Subchapter C Record Keeping
 Subchapter D Personnel
 Subchapter E Child/Caregiver Ratios and Group Sizes
 Subchapter F Developmental Activities and Equipment
 Subchapter G Discipline and Guidance
 Subchapter H Naptime
 Subchapter I Field Trips

Subchapter J Nutrition and Food Service
 Subchapter K Health Practices
 Subchapter L Safety Practices
 Subchapter M Physical Facilities
 Subchapter N Indoor and Outdoor Active Play Space and Equipment
 Subchapter O Swimming Pools, Wading/Splashing Pools, and Sprinkler Play
 Subchapter P Fire Safety and Emergency Practices
 Subchapter Q Transportation

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 744, Minimum Standards for School-Age and Before or After-School Programs, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 744" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202304999
 Jessica Miller
 Director, Rules Coordination Office
 Health and Human Services Commission
 Filed: December 28, 2023



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re-adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 746, Minimum Standards for Child-Care Centers
 Subchapter A Purpose, Scope, and Definitions
 Subchapter B Administration and Communication
 Subchapter C Record Keeping
 Subchapter D Personnel
 Subchapter E Child/Caregiver Ratios and Group Sizes
 Subchapter F Developmental Activities and Activity Plan
 Subchapter H Basic Care Requirements for Infants
 Subchapter I Basic Care Requirements for Toddlers
 Subchapter J Basic Care Requirements for Pre-Kindergarten Age Children
 Subchapter K Basic Care Requirements for School-Age Children
 Subchapter L Discipline and Guidance
 Subchapter M Naptime

- Subchapter N Field Trips
- Subchapter O Get-Well Care Programs
- Subchapter P Nighttime Care
- Subchapter Q Nutrition and Food Service
- Subchapter R Health Practices
- Subchapter S Safety Practices
- Subchapter T Physical Facilities
- Subchapter U Indoor and Outdoor Active Play Space And Equipment
- Subchapter V Swimming Pools, Wading/Splashing Pools, And Sprinkler Play
- Subchapter W Fire Safety and Emergency Practices
- Subchapter X Transportation

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 746, Minimum Standards for Child-Care Centers, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 746" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1 of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202305000
 Jessica Miller
 Director, Rules Coordination Office
 Health and Human Services Commission
 Filed: December 28, 2023



Adopted Rule Reviews

Health and Human Services Commission

Title 26, Part 1

The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code:

- Chapter 87, Ombudsman Services
- Subchapter A Office of the Ombudsman
- Subchapter B Ombudsman Managed Care Assistance
- Subchapter C Ombudsman for Children and Youth in Foster Care
- Subchapter D Ombudsman for Behavioral Health
- Subchapter E Intellectual or Developmental Disability Ombudsman

Notice of the review of this chapter was published in the November 3, 2023, issue of the *Texas Register* (48 TexReg 6396). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 87 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 87. Any amendments or repeals to Chapter 87 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 87 as required by the Government Code, §2001.039.

TRD-202304993
 Jessica Miller
 Director, Rules Coordination Office
 Health and Human Services Commission
 Filed: December 27, 2023



The Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code:

- Chapter 357, Independent Living Services
- Subchapter A General Rules
- Subchapter B Allocation of Funds
- Subchapter C Independent Living Services
- Subchapter D Consumer Participation
- Subchapter E Consumer Rights
- Subchapter F Technical Assistance and Training
- Subchapter G Referrals

Notice of the review of this chapter was published in the November 3, 2023, issue of the *Texas Register* (48 TexReg 6471). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 357 in accordance with §2001.039 of the Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 357. Any amendments or repeals to Chapter 357 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 357 as required by the Government Code, §2001.039.

TRD-202304992
 Jessica Miller
 Director, Rules Coordination Office
 Health and Human Services Commission
 Filed: December 27, 2023



Office of Injured Employee Counsel

Title 28, Part 6

The Office of Injured Employee Counsel (OIEC) will readopt all sections and subchapters of Chapter 276 of Title 28, Part 6, of the Texas Administrative Code, pursuant to the Administrative Procedure Act, Texas Government Code §2001.039. The notice of intention to review Chapter 276 was published in the *Texas Register* on November 17, 2023, (48 TexReg 6752). APA §2001.039 requires that each state agency review its rules every four years and readopt, readopt with

amendments, or repeal the rules adopted by that agency pursuant to the Texas Government Code, Chapter 2001. Such reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting or readopting the rules continues to exist. OIEC has completed the review of the rules in Chapter 276 pursuant to APA §2001.039 and finds that the reasons for adopting the rules in Chapter 276 continue to exist.

OIEC requested comments on whether the reasons for adopting the rules in Chapter 276 continue to exist. OIEC received no comments.

This concludes the review of Chapter 276.

TRD-202304989

Robert Rucker

General Counsel

Office of Injured Employee Counsel

Filed: December 27, 2023



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of 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, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/08/24 - 01/14/24 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/08/24 - 01/14/24 is 18.00% for commercial² credit.

The monthly ceiling as prescribed by §303.005³ and §303.009 for the period of 01/01/24 - 01/31/24 is 18.00%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

³ Only for variable rate commercial transactions, as provided by §303.004(a).

TRD-202400030

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 3, 2024



Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Waconized Federal Credit Union (Waco) seeking approval to merge with 1st University Credit Union (Waco), with the latter being the surviving credit union. In accordance with the Finance Code §122.005(b) and 7 TAC §91.104(b), the Commissioner has the authority to waive or delay public notice an action.

TRD-202304994

Michael S. Riepen

Commissioner

Credit Union Department

Filed: December 28, 2023



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity

to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 13, 2024**. 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 **February 13, 2024**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: AYDEN and ALIYAH INCORPORATED dba Chevron Food Mart; DOCKET NUMBER: 2022-0986-PST-E; IDENTIFIER: RN102249448; LOCATION: Arlington, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; PENALTY: \$1,875; ENFORCEMENT COORDINATOR: Celicia Garza, (512) 239-2095; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: City of Clifton; DOCKET NUMBER: 2021-1201-MWD-E; IDENTIFIER: RN102183191; LOCATION: Clifton, Bosque County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010043001, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(1) and (17) and §319.7(d) and TPDES Permit Number WQ0010043001, Monitoring and Reporting Requirements Number 1, by failing to timely submit monitoring results at intervals specified in the permit; PENALTY: \$20,185; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$16,148; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 289-3759; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(3) COMPANY: DONS LAWN SERVICE LLC; DOCKET NUMBER: 2023-1736-WR-E; IDENTIFIER: RN111805057; LOCATION: Blum, Hill County; TYPE OF FACILITY: operator; RULES VIOLATED: 30

TAC §297.11 and TWC, §11.081 and §11.121, by failing to obtain authorization prior to diverting, storing, impounding, taking, or using state water, or beginning construction of any work designed for the storage, taking, or diversion of water; PENALTY: \$350; ENFORCEMENT COORDINATOR: Nancy Sims, (512) 239-5053; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: E.J.C., Jr., LTD and EJC PROPERTIES, LTD.; DOCKET NUMBER: 2022-0264-PWS-E; IDENTIFIER: RN111426367; LOCATION: Del Rio, Val Verde County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e) and (h)(1) and Texas Health and Safety Code, §341.035(a), by failing to submit plans and specifications to the Executive Director for review and approval prior to the construction of a new public water supply; and 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; PENALTY: \$2,475; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (361) 881-6990; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(5) COMPANY: Endurance Lift Solutions, LLC; DOCKET NUMBER: 2023-1086-AIR-E; IDENTIFIER: RN103060380; LOCATION: Big Spring, Howard County; TYPE OF FACILITY: sucker rod manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 74335, Special Conditions Number 1, Federal Operating Permit Number O3453, General Terms and Conditions and Special Terms and Conditions Number 6, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: Caleb Martin, (512) 239-2091; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(6) COMPANY: Equinix LLC; DOCKET NUMBER: 2023-0131-AIR-E; IDENTIFIER: RN108987058; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: data storage center; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(1) and (2), Federal Operating Permit (FOP) Number O4157, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 9, and Texas Health and Safety Code (THSC), §382.085(b), by failing to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance, and failing to submit a permit compliance certification within 30 days of any certification period; and 30 TAC §122.143(4) and §122.144(1)(a), FOP Number O4157, GTC and STC Number 3.A.(iv)(1), and THSC, §382.085(b), by failing to conduct quarterly visible emissions observations; PENALTY: \$13,703; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: HAWKINS FAMILY PARTNERS, L.P. and Hawkins and Mayo, LLC; DOCKET NUMBER: 2021-1609-MLM-E; IDENTIFIER: RN111354346; LOCATION: Camp Wood, Uvalde County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §213.23(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone; and 30 TAC §281.25(a)(4), TWC, §26.121, and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$15,000; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(8) COMPANY: Lazy River RV and Trailer Park, LLC; DOCKET NUMBER: 2020-0876-PWS-E; IDENTIFIER: RN101276301; LOCATION: Columbus, Colorado County; TYPE OF FACILITY:

public water supply; RULES VIOLATED: 30 TAC §290.39(1)(5), by failing to meet the conditions for an issued exception; 30 TAC §290.42(1), by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.45(b)(1)(A)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 1.5 gallons per minute per connection; 30 TAC §290.45(b)(1)(A)(ii) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 50 gallons per connection; 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds a minimum of a Class D or higher groundwater license; 30 TAC §290.46(f)(2) and (3)(A)(i) and (ii)(III), and (iv), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(k), by failing to receive approval of a physical connection between the distribution system of a public drinking water supply and that of any other water supply; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's two pressure tanks annually; 30 TAC §290.46(n)(1), by failing to maintain at the facility accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 30 TAC §290.46(n)(2), by failing to provide an accurate and up-to-date map of the distribution system so that valves and mains can easily be located during emergencies; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meter at least once every three years; 30 TAC §290.110(c)(4)(A), by failing to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days; and 30 TAC §290.110(d)(1), by failing to measure the free chlorine residual within the distribution system using a color comparator and a sample cell that is not discolored or stained; PENALTY: \$11,181; ENFORCEMENT COORDINATOR: Daphne Greene, (903) 535-5157; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: PERMIAN LODGING ORLA LLC; DOCKET NUMBER: 2022-0335-MLM-E; IDENTIFIER: RN111242798; LOCATION: Orla, Reeves County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e) and (h)(1) and Texas Health and Safety Code, §341.035(a), by failing to submit plans and specifications to the Executive Director for review and approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's public drinking water well into service; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 30 TAC §305.1(b)(2) and TWC, §26.121(a)(1), by failing to obtain authorization to discharge wastewater into or adjacent to any water in the state; 30 TAC §305.42(a) and TWC, §26.121(a)(1), by failing to obtain authorization to discharge wastewater into or adjacent to any water in the state; and 30 TAC §305.125(1) and (17) and §319.7(d) and Texas Pollutant Discharge Elimination System Permit Number WQ0015976001, Monitoring and Reporting Requirement Number 1, Outfall Numbers 001A and 001Q, by failing to submit monitoring results at intervals specified in the permit; PENALTY: \$60,880; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(10) COMPANY: Roger Allen Lund; DOCKET NUMBER: 2022-1170-MWD-E; IDENTIFIER: RN102078953; LOCATION: Palestine, Anderson County; TYPE OF FACILITY: domestic wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014801001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202400008

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 2, 2024



Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for Water Quality Land Application Permit for Municipal Wastewater New Proposed Permit No. WQ0016335001

APPLICATION AND PRELIMINARY DECISION. Clancy Utility Holdings LLC, 4143 Maple Avenue, Suite 400, Dallas, Texas 75219, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Proposed TCEQ Permit No. WQ0016335001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 39,000 gallons per day via public access subsurface area drip dispersal system with a minimum area of 16.20 acres. This permit will not authorize a discharge of pollutants into waters in the State. TCEQ received this application on May 1, 2023.

The wastewater treatment facility and disposal site will be located approximately 0.8 miles southwest of the intersection of Hamilton Pool Road and Stagecoach Ranch Road, in Hays County, Texas 78620. The wastewater treatment facility and disposal site will be located in the drainage basin of Pedernales River in Segment No. 1414 of the Colorado River Basin. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-98.1375,30.328888&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Dripping Springs Community Library, 501 Sportsplex Drive, Dripping Springs, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments about this application. The TCEQ will hold a public meeting on this application because it was requested by a local legislator.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, February 12, 2024 at 7:00 p.m.

Dripping Springs Ranch Park

1042 Event Center Drive

Drippings Springs, Texas 78620

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Clancy Utility Holdings LLC at the address stated above or by calling Mrs. Andrea Wyatt, P.E., Murfee Engineering Company, Inc., at (512) 327-9204.

Issuance Date: December 28, 2023

TRD-202400024

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 3, 2024



Notice of an Application to Amend a Certification of Adjudication Application No. 12-4082A

The Vaughn Living Trust, 12200 Mitchell Bend Court, Granbury, Texas 76048, Applicant, seeks to add a place of use and to add a diversion point on the Brazos River, Brazos River Basin in Somervell County. More information on the application and how to participate in the permitting process is given below.

The application was received on October 16, 2023 and fees were received on October 17, 2023. Additional information was received on November 21, 2023. The application was declared administratively complete and filed with the Office of the Chief Clerk on November 28, 2023.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, maintaining a measurement device. The application and the Executive Director's draft amendment are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps.

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by January 16, 2024. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by January 16, 2024. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by January 16, 2024.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 4082 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. Gen-

eral information regarding the TCEQ can be found at our web site at <http://www.tceq.texas.gov> Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202400026

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 3, 2024



Notice of Correction to Agreed Order Number 3

In the December 1, 2023, issue of the *Texas Register* (48 TexReg 7087), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 3, for KING, BRANDON; Docket Number 2023-1582-WQ-E. The error is as submitted by the commission.

The reference to the Docket Number should be corrected to read: "2023-1582-WR-E."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202400009

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 2, 2024



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

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 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 **February 13, 2024**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 13, 2024**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission **in writing**.

(1) COMPANY: Clean Harbors Deer Park, LLC; DOCKET NUMBER: 2018-1539-IHW-E; TCEQ ID NUMBER: RN102184173; LOCATION: 2027 Independence Parkway South, La Porte, Harris County; TYPE OF FACILITY: industrial and hazardous waste management facility; RULES VIOLATED: 30 TAC §305.125(1) and Solid Waste Registration (SWR) Permit Number 50089, Provision II.A.6 - Standard Permit Conditions, by failing to obtain authorization prior to managing hazardous waste (HW); and 30 TAC §37.31(a) and SWR Permit Number 50089, Provision VII.B.1.a - Submission of Documents, by failing to provide financial assurance for all HW storage tanks at least 60 days prior to the initial acceptance of wastes; PENALTY: \$108,619; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: San Dario Retail, LLC dba Pump N Shop 15; DOCKET NUMBER: 2021-1582-PST-E; TCEQ ID NUMBER: RN101876977; LOCATION: 3419 San Dario Avenue, Laredo, Webb County; TYPE OF FACILITY: underground storage tank system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the agency within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 (relating to Reporting of Suspected Releases) within 30 days; PENALTY: \$10,527; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(3) COMPANY: Shiloh Retail, LLC dba Pump N Shop 33; DOCKET NUMBER: 2021-1581-PST-E; TCEQ ID NUMBER: RN105683882; LOCATION: 101 Shiloh Drive, Laredo, Webb County; TYPE OF FACILITY: underground storage tank system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the agency within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 (relating to Reporting of Suspected Releases) within 30 days; PENALTY: \$21,027; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(4) COMPANY: Ursula Retail, LLC dba Pump N Shop 12; DOCKET NUMBER: 2021-1579-PST-E; TCEQ ID NUMBER: RN101749927; LOCATION: 2002 Santa Ursula Avenue, Laredo, Webb County; TYPE OF FACILITY: underground storage tank system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the agency within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 (relating to Reporting of Suspected Releases) within 30 days; PENALTY: \$13,152; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

TRD-202400017

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 2, 2024



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 13, 2024**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 13, 2024**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Texas Concrete Sand and Gravel, Inc.; DOCKET NUMBER: 2021-1362-WQ-E; TCEQ ID NUMBER: RN108298225; LOCATION: 100 County Road 397, Cleveland, Liberty County; TYPE OF FACILITY: sand and gravel mining operation; RULES VIOLATED: TWC, §26.121(a), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit (MSGP) Number TXR05DH80, Part V, Section J, Number 5(b), by failing to install and maintain best management practices at the facility which resulted in a discharge of pollutants into or adjacent to any water in the state; and 30 TAC §305.125(1) and TPDES MSGP Number TXR05DH80, Part III, Section E, Number 6(b)(1), by failing to report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division, within five days of becoming aware of the noncompliance; PENALTY: \$10,075; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Zuly Rondon dba Texas Star Trucks; DOCKET NUMBER: 2022-1042-MSW-E; TCEQ ID NUMBER: RN111481362; LOCATION: 608 South Baird Street, Unit B, Midland, Midland County (company location); approximately 100 yards south of the intersection located at Camino Real-Highway 21 and Ganado Drive, Umland, Caldwell County (spill location); TYPE OF FACILITY: cargo and freight

shipping company; RULE VIOLATED: 30 TAC §327.5(c), by failing to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill; PENALTY: \$2,625; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753, (512) 339-2929.

TRD-202400018

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 2, 2024



Notice of Public Meeting Air Permit Renewal Permit Number 55353

APPLICATION. Martin Marietta Materials Southwest, LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for renewal of Air Quality Permit Number 55353, which would authorize continued operation of a Rock Crushing Facility located at 3600 Schalker Drive, Houston, Harris County, Texas 77026. **AVISO DE IDIOMA ALTERNATIVO.** El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/air/newsourcereview/airpermits-pendingpermit-apps>. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-95.346378,29.798115&level=15>. The existing facility is authorized to emit the following air contaminants: particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less. This application was submitted to the TCEQ on July 17, 2023.

The executive director has determined the application is administratively complete and will conduct a technical review of the application. Information in the application indicates that this permit renewal would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. **The TCEQ may act on this application without seeking further public comment or providing an opportunity for a contested case hearing if certain criteria are met.**

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides

a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, February 1, 2024 at 7:00 p.m.

Fifth Ward Multi-Service Center Auditorium

4014 Market Street

Houston, Texas 77020

(Please note, parking for the Center is at the overflow lot across the street from the Center.)

INFORMATION. Members of the public are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database (CID) at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the link, enter the permit number at the top of this form.

The application will be available for viewing and copying at the TCEQ central office, TCEQ Houston regional office, and the Carnegie Neighborhood Library and Center for Learning, 1050 Quitman Street, Houston, Harris County, Texas. The facility's compliance file, if any exists, is available for public review in the Houston regional office of the TCEQ.

Further information may also be obtained from Martin Marietta Materials Southwest, LLC, 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234-6007 or by calling Ms. Kelsey Worley, Environmental Engineer at (346) 323-1675.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Notice Issuance Date: December 28, 2023

TRD-202400025

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 3, 2024



Notice of Public Meeting for TPDES Permit for Municipal Wastewater New Permit No. WQ0016273001

APPLICATION. Clear Utilities, LLC, 5451 Farm-to-Market Road 1488, Magnolia, Texas 77354, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016273001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. TCEQ received this application on December 12, 2022.

The facility will be located approximately 0.95 miles southwest of the intersection of Risinger Road and Interstate Highway 45, in Ellis County, Texas 75125. The treated effluent will be discharged to a pond, thence to an unnamed tributary, thence to a second order unnamed tributary, thence to Brushy Creek, thence to Red Oak Creek, thence to Upper Trinity River in Segment No. 0805 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for the pond, the unnamed tributary #1 (~0.14 mi. downstream of the pond) and Brushy Creek; minimal aquatic life use for the unnamed tributary (second order); and high aquatic life use for Red Oak Creek. The designated uses for Segment No. 0805 are primary contact recreation and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Red Oak Creek and Upper Trinity River, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.676388,32.474166&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, February 15, 2024 at 7:00 p.m.

Jack Lummus Memorial VFW Post 7106

3100 N. Interstate 45

Ennis, Texas 75119

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our web site at <https://www.tceq.texas.gov>.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Ferris Public Library, 301 East 10th Street, Ferris, Texas. Further information may also be obtained from Clear Utilities, LLC at the address stated above or by calling Mrs. Lesley Reel, P.E., L Squared Engineering, at (936) 647-0420.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: January 03, 2024

TRD-202400027

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 3, 2024

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Office of the Governor

Notice of Available Funding Opportunities

Office of the Governor, Public Safety Office (PSO)

The Public Safety Office is announcing the following funding opportunities for State Fiscal Year 2025. Details for these opportunities, including the open and close date for the solicitation, can be found on the eGrants Calendar (<https://egrants.gov.texas.gov/fundingopp>).

Body-Worn Camera Grant Program - The purpose of this announcement is to solicit applications from law enforcement agencies to equip peace officers with body-worn cameras.

Border Zone Fire Departments Program - The purpose of this announcement is to solicit grant application from professional fire departments along the Texas-Mexico border region for specialized equipment, maintenance, and medical supplies to support emergency services associated with the execution of border security activities associated with deterring crimes occurring in the geographic area defined in Article IX, Section 7.10 of the General Appropriations Act.

Bullet-Resistant Shield Grant Program - The purpose of this announcement is to solicit applications from law enforcement agencies to equip peace officers with bullet-resistant shields.

Community-Based Services for Commercially Sexually Exploited Youth - The purpose of this funding opportunity is to support programs for children and transition-age youth through age 24 who have

experienced commercial sexual exploitation and support their healing through community-based direct services.

County Solutions to Address Commercial Sexual Exploitation - The purpose of this funding opportunity is to support solution-driven projects from county governments to prevent, investigate, and prosecute commercial sexual exploitation in Texas. This solicitation is specific to county projects that are not specialty court programs.

Crime Stoppers Assistance Fund - The purpose of this announcement is to solicit applications to strategically support, expand, and fund local certified Texas Crime Stoppers organizations that help protect our communities.

Criminal Justice Grant Program - The purpose of this announcement is to solicit applications for projects that promote public safety, reduce crime, and improve the criminal justice system.

District Attorney Testing of Forensic Evidence Grant Program - The purpose of this announcement is to solicit applications from district attorney offices for costs associated with the forensic analysis of physical evidence.

First Responder Mental Health Program - The purpose of this program is to provide services and assistance directly to peace officers and first responders to address direct and indirect trauma that occurs in the course of their normal duties either as the result of the commission of crimes by other persons or in response to an emergency.

General Victim Assistance Grant Program - The purpose of this program is to provide services and assistance directly to victims of crime to speed their recovery and aid them through the criminal justice process.

Internet Crimes Against Children Grant Program - The purpose of this announcement is to solicit applications for projects that develop an effective response to technology-facilitated child sexual exploitation and Internet crimes against children that encompasses forensic and investigative components, training and technical assistance, victim services, and community education.

Juvenile Justice & Truancy Prevention Grant Program - The purpose of this announcement is to solicit applications for projects that prevent violence in and around school; and to improve the juvenile justice system by providing mental health services, truancy prevention and intervention through community-based and school programs.

Local Border Security Program (LBSP) - The purpose of this announcement is to solicit applications to support Operation Border Star.

Nonprofit Security Grant Program (NSGP) - The purpose of this announcement is to solicit applications for projects that support physical security enhancements and other security activities to nonprofit organizations that are at high risk of a terrorist attack based on the nonprofit organization's ideology, beliefs or mission.

Operation Lone Star Grant Program - The purpose of this announcement is to solicit program that enhance interagency border security operations supporting Operation Lone Star including the facilitation of directed actions to deter and interdict criminal activity

Paul Coverdell Forensic Sciences Improvement Grant Program - The purpose of this announcement is to solicit applications for projects that improve the quality and timeliness of forensic science or medical examiners services as well as projects seeking to address emerging forensic science. Specific funding has been reserved for projects that support responses to the opioid epidemic.

Project Safe Neighborhoods Grant Program - The purpose of this announcement is to solicit applications for projects that are designed to create and foster safer neighborhoods through a sustained reduction in

violent crime, including, but not limited to, addressing criminal gangs and felonious possession and use of firearms.

Rifle-Resistant Body Armor Grant Program - The purpose of this announcement is to solicit applications from law enforcement agencies to equip peace officers with rifle-resistant body armor.

Residential Substance Abuse Treatment Grant Program - The purpose of this announcement is to solicit applications to provide residential substance abuse treatment within local correctional and detention facilities.

Sexual Assault Evidence Testing Grant Program - The purpose of this announcement is to solicit applications from law enforcement agencies for costs associated with the forensic analysis of physical evidence in relation to sexual assault or other sex offenses.

Sexual Assault Forensic Exam (SAFE)-Ready Facilities Program - The purpose of this announcement is to solicit applications from hospital facilities seeking to achieve or maintain a Sexual Assault Forensic Exam (SAFE)-Ready designation, as well as non-profit corporations seeking to operate or maintain a SAFE Program as defined in Chapter 323 of the Texas Health and Safety Code.

Specialized Advocacy for Commercially Sexually Exploited Youth - The purpose of this funding opportunity is to support Commercially Sexually Exploited Youth (CSEY) Advocacy programs. CSEY Advocacy programs provide individualized 24/7 crisis response, ongoing trust-based relational support, and case management for children and transition-age youth who are survivors of commercial sexual exploitation. For this solicitation, children are considered individuals 0-17 years of age and transition-age youth are individuals 18-24 years of age.

Specialty Courts Grant Program - The purpose of this announcement is to solicit applications for specialty court programs as defined in Chapters 121 through 130 of the Texas Government Code as well as the continuation of a training and technical assistance resource center.

State Homeland Security Program - Competitive National Priority Area Projects (SHSP-NPA) - The purpose of this announcement is to solicit applications for projects that support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of Texas citizens. The Office of the Governor (OOG), Public Safety Office (PSO) provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving a secure and resilient state. Funding under this announcement will be awarded on a competitive basis for projects supporting FEMA designated SHSP National Priority Areas.

State Homeland Security Program - LETPA Projects (SHSP-L) - The purpose of this announcement is to solicit applications for projects that support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of Texas citizens. PSO provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving a secure and resilient state.

State Homeland Security Program - Regular Projects (SHSP-R) - The purpose of this announcement is to solicit applications for projects that support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of Texas citizens. The Office of the Governor (OOG), Public Safety Office (PSO) provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving a secure and resilient state.

Statewide Emergency Radio Infrastructure - The purpose of this announcement is to solicit applications for projects that support state and regional efforts to improve or sustain interoperable emergency radio infrastructure.

Statewide Solutions to Address Commercial Sexual Exploitation Grant Program - The purpose of this funding opportunity is to support a select number of projects to provide statewide training and technical assistance to service providers on the topic of commercial sexual exploitation, and to support statewide tools to aid in the identification of victims of commercial sexual exploitation. Please note, this grant program does *not* support projects for the provision of direct services to survivors of commercial sexual exploitation. Funding is intended for statewide training and technical assistance and tools.

Texas Anti-Gang Program - The purpose of this announcement is to solicit applications for preselected projects that support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

Violence Against Women Justice and Training Program - The purpose of this announcement is to solicit applications for projects that promote a coordinated, multi-disciplinary approach to improve the justice system's response to violent crimes against women, including domestic violence, sexual assault, dating violence, and stalking.

TRD-202304995

Angie Martin

Director of Grants Administration

Office of the Governor

Filed: December 28, 2023

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Texas Department of Housing and Community Affairs

Correction of Error

The Texas Department of Housing and Community Affairs proposed amendments to 10 TAC §§2.101 - 2.104, 2.301, 2.302, and 2.401 in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8082). Due to an error by the Texas Register, the figures included in 10 TAC §2.302(k) were incorrectly identified. The correct text for subsection (k) is as follows:

(k) Penalty Schedules.

Figure 1: 10 TAC §2.302(k)

[Figure 1: 10 TAC §2.302(k)]

Figure 2: 10 TAC §2.302(k)

[Figure 2: 10 TAC §2.302(k)]

Figure 3: 10 TAC §2.302(k)

[Figure 3: 10 TAC §2.302(k)]

Additionally, due to an error by the Texas Register, the figures included in 10 TAC §2.302(k) were inadvertently omitted from the publication. The correct text for all figures is as follows:

Figure 1: 10 TAC §2.302(k)

Penalty table for Chapters 6 and 7 Findings of Noncompliance These are the maximum potential administrative penalty amounts possible for each finding of noncompliance. When an administrative penalty is to be considered, the matrix below must be considered in conjunction with the statutory factors at Tex. Gov't Code §2306.042.		
Finding of Noncompliance	Maximum first time administrative penalty assessment	Maximum Administrative penalty assessment for a Responsible Party that has previously paid a penalty for the same finding type
Lack of financial duties or material inventory segregation of duties	Up to \$500	Up to \$1,000
No Cost Allocation/Not allocating costs properly	Up to \$500 for each instance	Up to \$1,000 for each instance
Violation of Conflict of Interest policies	Up to \$500	Up to \$1,000
Lack of Insurance or Fidelity Bond coverage	Up to \$1,000 + up to \$100 a day for each day not in compliance	Up to \$1,000 + up to \$200 a day for each day not in compliance
Failure to submit Inventory Report within 45 days (end Contract Term)	Up to \$500	Up to \$1,000
Unallowable/Unreasonable expenditure	Up to \$1,000 for each instance	Up to \$1,000 for each instance
Violation of Procurement Requirements	Up to \$1,000 for each service or product not properly procured	Up to \$1,000 for each service or product not properly procured
Lack of Subcontractor contract	Up to \$250 for each instance	Up to \$500 for each instance
Lack of prior approval for purchase(s)	Up to \$500 for each instance	Up to \$1,000 for each instance

Instance of Fraud, Waste and/or Abuse	Up to \$1,000	Up to \$1,000
Commingling of funds, Misapplication of funds	Up to \$1,000	Up to \$1,000
Failure to timely submit Audit Certification Form	Up to \$250	Up to \$1,000 per violation
Failure to timely submit Single Audit	Up to \$1,000	Up to \$1,000 + up to \$100 for each day not in compliance
Lack of providing requested documentation/item(s) for monitoring	Up to \$500 per day for each item or documentation not provided	Up to \$150 per day for each item or documentation not provided
Failure to timely respond to Report/provide required correspondence	Up to \$100 for first violation	Up to \$1,000 per day per violation
Failure to report/record program income	Up to \$500 for each instance	Up to \$1,000 for each instance
Noncompliance with record retention requirements	Up to \$100 for each instance	Up to \$1,000 for each instance
Providing assistance to income or SAVE ineligible applicants	Up to \$500 for each instance	Up to \$1,000 for each instance
Service provided to clients not according to poverty population makeup	Up to \$500	Up to \$1,000
Failure to meet Tri-Partite Board Requirements	Up to \$1,000 + up to \$100 for each the entity failed to comply	Up to \$1,000 + up to \$250 for each day the entity failed to com
Failure to comply with Department minimum applicant/client denials and appeals	Up to \$250 for each instance	Up to \$500 for each instance
Failure to Prioritize applicants	Up to \$250 for each instance	Up to \$500 for each instance
Failure to complete or to properly complete	Up to \$250 for each instance	Up to \$750 for each instance

required program documents		
Payment to Vendor without a Vendor Agreement	Up to \$500 for each instance	Up to \$1,000 for each instance
Failure to perform Outreach activities	Up to \$500	Up to \$1,000
Weatherized unit expenditure over maximum cost per unit w/o prior approval	Up to \$500 for each instance	Up to \$1,000 for each instance
Failure to input Ending Homelessness, HHSP, or ESG client data into the Homeless Management Information System	Up to \$500 for each instance	Up to \$1,000 for each instance
Other noncompliance with a contract requirement	Up to \$1,000	Up to \$1,000
Failure to comply with case management requirements	Up to \$500	Up to \$750
Noncompliance with applicable OMB or state financial management requirements	Up to \$500	Up to \$1,000
Noncompliance with Texas Prompt Payment Act	Up to \$500	Up to \$750
Noncompliance with Historical Commission requirements	Up to \$500	Up to \$75
Failure to comply with Limited English Proficiency (“LEP”) policies in accordance with program rule, policy or agreement	Up to \$500	Up to \$1000
Failure to meet accessibility requirements	Up to \$1,000 per violation	Up to \$1,000 per violation

Failure to submit Inventory Report within 45 days (end of contract term)	Up to \$500	Up to \$1,000
Failure to timely enter into an ISPA (Information Privacy and Security Agreement)	Up to \$1,000 per violation	Up to \$1,000 per violation
Failure to attend required training as required by program rule, policy or agreement	Up to \$100 per violation	Up to \$200 per violation
Failure to comply with Section 3 requirements in <u>24 CFR Part 75</u> in accordance with program rule, policy, or agreement (ESG only)	Up to \$500	Up to \$1,000

Figure 2: 10 TAC §2.302(k)

<p>Penalty table for Multifamily Rental Findings of Noncompliance. These are the maximum potential administrative penalty amounts possible for each finding of noncompliance. When an administrative penalty is to be considered, the matrix below must be considered in conjunction with the statutory factors at Tex. Gov't Code §2306.042:</p>		
Finding of Noncompliance	Maximum First Time Administrative Penalty assessment	Maximum Administrative Penalty Assessment for a Responsible Party that has previously paid a penalty for the same finding type
Violations of the Uniform Physical Condition Standards	Up to \$500 for level 3 deficiencies, up to \$250 for level 2 deficiencies, up to \$125 for level 1 deficiencies, plus an optional \$100 per day [if] <u>for each level 2 or level 3 [deficiencies remain] deficiency that remains uncorrected 6 months from the corrective action deadline</u>	Up to \$1,000 for level 3 deficiencies, up to \$500 for level 2 deficiencies, up to \$250 for level 1 deficiencies, plus an optional \$200 per day [if] <u>for each level 2 or level 3 [deficiencies remain] deficiency that remains uncorrected 6 months from the corrective action deadline</u>
<u>Violations of National Standards for Physical Inspections of Real Estate</u>	<u>Up to \$500 for life threatening and severe deficiencies, up to \$250 for moderate deficiencies, up to \$125 for low deficiencies, plus an optional \$100 per day for each life threatening or severe deficiency that remains uncorrected 6 months from the corrective action deadline</u>	<u>Up to \$1,000 for life threatening and severe deficiencies, up to \$500 for moderate deficiencies, up to \$250 for low deficiencies, plus an optional \$200 per day for each life threatening or severe deficiency that remains uncorrected 6 months from the corrective action deadline</u>

Noncompliance related to Affirmative Marketing requirements described in §10.801 of this title.	Up to \$250	Up to \$500
TDHCA has received notice from HUD, the DOJ, the TWC, or another party of a judgement from a court of competent jurisdiction regarding a Fair Housing Violation and/or reported general public use violations, unless such violation has already been disclosed in the Annual Owner's Compliance Report.	Up to \$1,000	Up to \$1,000
TDHCA has referred unresolved Fair Housing design and construction issues to the Texas <u>[workforce]</u> Commission Civil Rights division	Up to \$1,000	Up to \$1,000
Development is not available to the general public because of leasing issues	Up to \$1,000 per day per violation	Up to \$1,000 per day per violation
Development is never expected to comply due to failure to report or allow monitoring	Up to \$1,000 per day	Up to \$1,000 per day
Owner did not allow on-site monitoring or failed to notify residents, resulting in inspection cancellation	Up to \$1,000 per day	Up to \$1,000 per day

(including failure to appear for review)		
LURA not in effect	Up to \$1,000 per day	Up to \$1,000 per day
Project failed to meet minimum set aside	Up to \$1,000 per day	Up to \$1,000 per day
No evidence of, or failure to certify to material participation and/or ownership by a non-profit or HUB, if required by LURA	Up to \$750	Up to \$1,000
Development failed to meet additional state required rent and occupancy restrictions	Up to \$250 per day per violation	Up to \$500 per day per viola
Noncompliance with social service requirements (provision of services)	Up to \$250 per violation, with each required service considered a separate violation	Up to \$500 per violation, with each required service considered a separate violation
Noncompliance with social service requirements (expenditure amounts)	Double the monthly expenditure deficiency, up to a maximum of \$1,000 per day	Triple the monthly expenditure deficiency, up to a maximum of \$1,000 per day.
Development failed to provide housing to the elderly as promised at application	Up to \$5 per day per violation	Up to \$10 per day per violation
Failure to provide special needs housing as required by LURA	Up to \$1,000	Up to \$1,000
Changes in Eligible Basis or Applicable percentage in violation of the IRS 8823 Audit Guide or other IRS guidance	Up to \$1,000 per day per violation	Up to \$1,000 per day per violation

Failure to submit all or parts of the Annual Owner's Compliance Report	Up to \$500	Up to \$1,000
Failure to respond to Compliance Division requests for clarification regarding answers on the Annual Owner's Compliance Report	Up to \$250	Up to \$750
Failure to submit quarterly reports as required by §10.607 of this title	Up to \$100, then and additional \$250 for each subsequent quarter that the report is not received	Up to \$250, then an additional \$500 for each subsequent quarter that the report is not submitted
Noncompliance with utility allowance requirements described in §10.614 of this title and/or Treasury Regulation 26 CFR §1.42-10	Up to \$50 per unit	Up to \$100 per unit
Noncompliance with lease requirements described in §10.613 of this title (relating to failure to execute required lease provisions)	Up to \$500	Up to \$1,000
Noncompliance with lease requirements described in §10.613 of this title (relating to failure to provide lease brochures, guides or notices described in §10.613 currently including but not limited to the	Up to \$250	Up to \$500

Tenant Rights and Resources Guide)		
Asset Management has reported that Development has failed to establish and maintain a reserve account in accordance with §10.404 of this title	Up to \$1,000	Up to \$1,000
Failure to provide a notary public as promised at application	Up to \$500	Up to \$750
Violation of the Unit Vacancy Rule	Up to \$250 per violation	Up to \$500 per violation
Failure to provide pre-onsite documentation	Up to \$250 per pre-onsite documentation item	Up to \$500 per pre-onsite documentation item
Failure to provide amenity as required by LURA	Up to \$1,000 per violation	Up to \$1,000 per violation, plus \$100 for each subsequent day the violation continues
Failure to pay asset management, compliance monitoring or other required fee	Up to \$250 for the first day plus \$10 per day for each subsequent day the violation continues	Up to \$500 for the first day plus \$50 per day for each subsequent day the violation continues
Change in ownership without department approval (other than removal of a general partner in accordance with §10.406 of this title)	Up to \$1,000 for the first day plus \$100 per day for each subsequent day the violation continues	Up to \$1,000 for the first day plus \$200 per day for each subsequent day the violation continues
Noncompliance with written policy and procedure requirements	Up to \$500 per violation	Up to \$1,000 per violation

described in §10.802 of this title (written policy violations)		
Noncompliance with written policy and procedure requirements described in §10.802 of this title (notice of termination language requirements)	Up to \$250 per violation	Up to \$500 per violation
Noncompliance with Reasonable Accommodation Policy requirements as described in §10.802 of this title	Up to \$500 per violation	Up to \$1,000 per violation
Program Unit not leased to Low-Income household (either because the household's income exceeds the allowable limit or because the owner did not gather adequate documentation to establish household eligibility)	Up to \$1,000 per violation	Up to \$1,000 per violation
Program unit occupied by nonqualified full-time students	Up to \$1,000 per violation	Up to \$1,000 per violation
Low-Income units used on a transient basis	Up to \$500 per violation	Up to \$1,000 per violation
Violation of the Available Unit Rule	Up to \$500 per violation	Up to \$1,000 per violation
Gross rent exceeds the highest rent allowed under the LURA or other deed restriction	Up to \$50 per unit per day	Up to \$150 per unit per day

Failure to provide Tenant Income Certification and documentation	Up to \$100 per violation	Up to \$250 per violation
Unit not available for rent	Up to \$50 per unit per day	Up to \$100 per unit per day
Failure to collect data required by §10.612(b)(1) and/or (2) of this title (Annual Eligibility Certifications)	Up to \$50 per violation	Up to \$100 per violation
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	Up to \$1,000 per violation	Up to \$1,000 per violation
Household income increased above 80 percent at recertification and Owner failed to properly determine rent	Up to \$500 per violation	Up to \$1,000 per violation
Violation of the Integrated Housing Rule in 10 TAC 1.15	Up to \$500	Up to \$500
Failure to resolve final construction deficiencies within corrective action period	Up to \$1,000 per violation	Up to \$1,000 per violation
Noncompliance with the required accessibility requirements such as §504 of the Rehabilitation Act of 1973, the 2010 ADA standards or other accessibility related requirements of a Department Rule,	Up to \$1,000 per violation, <u>plus an optional \$100 per day for each accessibility deficiency that remains uncorrected 6 months from the corrective action deadline</u>	Up to \$1,000 per violation, <u>plus an optional \$100 per day for each accessibility deficiency that remains uncorrected 6 months from the corrective action deadline</u>

including but not limited to those described in Chapter 1, Subchapter B (except those only under the Fair Housing Act for which there is a separate category)		
Noncompliance with the notice to the Department requirements described in §10.609 of this title	Up to \$500	Up to \$500
Failure to provide a reasonable accommodation under 10 TAC, Chapter 1, Subchapter B	Up to \$1,000 per violation	Up to \$1,000 per violation
Violation of the Fair Housing Act and §1.205 of this Title	Up to \$1,000	Up to \$1,000
Failure to reserve units for Section 811 participants (Section 811 PRA only)	Up to \$750 <u>per violation</u>	Up to \$1,000 <u>per violation</u>
Failure to notify the Department of the availability of Section 811 units (Section 811 PRA only)	Up to \$750 <u>per violation</u>	Up to \$1,000 <u>per violation</u>
Owner failed to check criminal history and drug use of household (as required by Department Rule)	Up to \$250	Up to \$500
Failure to use Enterprise Income Verification System (section 811 PRA only)	Up to \$250	Up to \$500
Failure to properly document and calculate adjusted	Up to \$500 per violation	Up to \$1,000 per violation

income (section 811 PRA only)		
Failure to use required HUD forms (Section 811 PRA only)	Up to \$250	Up to \$500
Accepted funding that limits 811 PRA participation	Up to \$1,000	Up to \$1,000
Failure to properly calculate resident portion of rent (Section 811 PRA and <u>HOME ARP Qualified Population Units only</u>)	Up to \$50 per unit per day	Up to \$150 per unit per day
Failure to use HUD model Lease (Section 811 PRA only)	Up to \$500	Up to \$1,000
Failure to disperse 811 PRA Units according to program requirements (relates to disbursement throughout the Development. Section 811 PRA only)	Up to \$500	Up to \$1,000
Failure to conduct interim certifications (Section 811 PRA only)	Up to \$100 per violation	Up to \$250 per violation
Failure to conduct annual income recertification (Section 811 PRA only)	Up to \$100 per violation	Up to \$250 per violation
Asset Management Division has reported that Development has failed to submit rents for review on an annual basis in accordance with §10.403 of this Title	Up to \$750	Up to \$1,000

Failure to maintain status as a qualified Community Housing Development Organization (CHDO)	Up to \$1,000 + up to \$100 for each day the entity failed to comply	Up to \$1,000 + up to \$250 for each day the entity failed to comply
Failure to submit Audit Certification Form, a Single Audit, or other programmatic audit	Up to \$1,000	Up to \$1,000 plus up to \$100 for each day not in compliance
Failure to timely enter into an Information Privacy and Security Agreement	Up to \$1,000 per violation	Up to \$1,000 per violation
Failure to comply with Labor Standards requirements in accordance with program rule, policy or agreement	Up to \$500	Up to \$1,000
Failure to comply with displacement policies as required by program rule, policy or agreement	Up to \$500	Up to \$1,000
Casualty loss not corrected during restoration period	Up to \$100 per unit per day	Up to \$500 per unit per day
Unit leased to Household that is not qualified for the Section 811 PRA program	Up to \$500	Up to \$1,000
Failure to submit documentation for mail in review	Up to \$1,000 per day	Up to \$1,000 per day
Noncompliance with CHDO requirements	Up to \$500	Up to \$1,000
Failure to properly calculate security deposit (Section 811 PRA only)	Up to [\$250] \$1,000	Up to [\$500] \$1,000

Failure to prominently display required Fair Housing Posters (Section 811 PRA only)	Up to \$250	Up to \$500
Failure to comply with Section 3 requirements in 24 CFR <u>Part 75in135.34</u> and <u>24 CFR 135.5</u> in]accordance with program rule, policy, or agreement	Up to \$500	Up to \$1,000

Figure 3: 10 TAC §2.302(k)

Penalty table for Single Family Program Findings of Noncompliance. These are the maximum potential administrative penalty amounts possible for each finding of noncompliance. When an administrative penalty is to be considered, this matrix must be considered in conjunction with the statutory factors at Tex. Gov't Code §2306.042.		
Finding of Noncompliance	Maximum first time administrative penalty assessment	Maximum administrative penalty assessment for a Responsible Party that has previously paid a penalty for the same finding type
Noncompliance related to Affirmative Marketing requirements	Up to \$500	Up to \$1,000
Program Accessibility violations	Up to \$100 per violation	Up to \$200 per violation
Failure to meet CHDO Board requirements	Up to \$1,000 + up to \$100 for each day the entity failed to comply	Up to \$1,000 + up to \$250 for each day the entity failed to comply
Repeated violations of interim loan terms or timeline	Up to \$500	Up to \$1,000
Records retention violations	Up to \$100 per violation	Up to \$200 per violation
Failure to attend required training as required by program rule, policy or agreement	Up to \$100 per violation	Up to \$200 per violation
Providing assistance to households that are not income eligible	Up to \$500	Up to \$1,000
Violations of construction standards	Up to \$500	Up to \$1,000

Violations of property condition standards	Up to \$500	Up to \$1,000
Violation of Conflict of Interest Policies	Up to \$500	Up to \$1,000
Violation of program policies regarding use of funds for sectarian or religious activity	Up to \$500	Up to \$1,000
Failure to comply with Limited English Proficiency ("LEP") policies in accordance with program rule, policy or agreement	Up to \$500	Up to \$1,000
Failure to comply with labor standards requirements in accordance with program rule, policy or agreement	Up to \$500	Up to \$1,000
Violation of Procurement Requirements	Up to \$1,000 for each service or product not properly procured	Up to \$1,000 for each service or product not properly procured
Failure to comply with Section 3 requirements in <u>24 CFR Part 75</u> in accordance with program rule, policy, or agreement	Up to \$500	Up to \$1,000
Failure to comply with displacement policies as required by program rule, policy, or agreement	Up to \$500	Up to \$1,000
Failure to provide Tenant Income	Up to \$250 per violation	Up to \$250 violation

Certification and documentation		
Failure to collect data required by program rules, policies or agreements	Up to \$50 per violation	Up to \$100 per violation
Failure to provide required documentation or corrections to documentation	Up to \$50 per day	Up to \$150 per day
Development evicted or terminated the tenancy of a low-income tenant for other than good cause	Up to \$500 per violation	Up to \$1,000 per violation
For tenant-based rental programs, Household income increased above 80 percent at recertification and Owner failed to properly determine rent	Up to \$500 per violation	Up to \$1,000 per violation
For tenant-based rental programs, gross rent exceeds the highest rent by program rule, policy or agreement	Up to \$50 per unit per day	Up to \$150 per unit per day
Failure to return or repay funds to the Department as required by rule, policy or agreements (such as contract termination, assessed penalties, disallowed costs,	Up to \$50 per day	Up to \$150 per day

overpayment, Deobligation, or recapture)		
Failure to meet accessibility requirements	Up to \$1,000 per violation	Up to \$1,000 per violation
Noncompliance with applicable OMB or state financial management requirements	Up to \$500	Up to \$1,000
Failure to timely submit Audit Certification Form	Up to \$250	Up to \$1,000 per violation
Failure to timely submit Single Audit	Up to \$1,000	Up to \$1,000 + up to \$100 for each day not in compliance
Failure to timely enter into an ISPA (Information Privacy and Security Agreement)	Up to \$1,000 per violation	Up to \$1,000 per Violation
Lack of insurance of fidelity bond coverage	Up to \$1,000 + up to \$100 a day for each day not in compliance	Up to \$1,000 + up to \$200 a day for each day not in compliance

TRD-202400029

◆ ◆ ◆
Texas Department of Insurance

Company Licensing

Application for Lombard International Assurance Company, a foreign life, accident and/or health company, to change its name to Axcelsus Financial Life Insurance Company. The home office is in Philadelphia, Pennsylvania.

Application for HDI Global Insurance Company, a foreign fire and/or casualty company, to change its name to HDI Global Select Insurance Company. The home office is in Chicago, Illinois.

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 John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202400023

Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: January 3, 2024

◆ ◆ ◆
Notice of Texas Windstorm Insurance Association Declarations Page Filings

Reference Nos. P-1223-01, P-1223-02, and P-1223-03

SERFF State Tracking Nos. S717723, S717724, and S717725

In accordance with 28 TAC §5.4911, the Texas Windstorm Insurance Association (TWIA) has filed revised declarations pages with the Texas Department of Insurance for approval:

- TWIA Tenant Declarations Page
- TWIA Condo Unit Owner Declarations Page
- TWIA Manufactured Home Declarations Page

TWIA is revising the declarations pages to reflect House Bill 3208, 88th Legislature, 2023. Under HB 3208, if an insured cancels their policy, TWIA will keep the entire annual premium unless the cancellation is for one of the reasons listed in Insurance Code §2210.204(d).

You can view the revised declarations pages, TWIA's description of the filings, and other supporting information online at www.tdi.texas.gov/submissions/indextwia.html#form. You can also get a copy of the filings from the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

Public Comment: Comments on the revised declarations page filings may be sent to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030 by 5:00 p.m., central time, on February 12, 2024.

Hearing Requests: To request a public hearing about the revised declarations page filings, you must submit a request separately by 5:00 p.m., central time, on February 1, 2024. Send the hearing request by email to ChiefClerk@tdi.texas.gov or by mail to the Texas Department of Insurance, Office of the Chief Clerk, MC: GC-CCO, P.O. Box 12030, Austin, Texas 78711-2030.

TRD-202400006
Jessica Barta
General Counsel
Texas Department of Insurance
Filed: January 2, 2024

◆ ◆ ◆
Texas Lottery Commission

Scratch Ticket Game Number 2560 "\$50, \$100 OR \$500!"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2560 is "\$50, \$100 OR \$500!". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2560 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2560.

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

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

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, MONEY BAG SYMBOL, \$50.00, \$100 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. 2560 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR

25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
MONEY BAG SYMBOL	WIN\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN

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

F. Bar Code - A twenty-four (24) 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 Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2560), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start

with 001 and end with 050 within each Pack. The format will be: 2560-000001-001.

H. Pack - A Pack of the "\$50, \$100 OR \$500!" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 050 will both be exposed.

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

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$50, \$100 OR \$500!" Scratch Ticket Game No. 2560.

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, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "\$50, \$100 OR \$500!" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-six (56) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "MONEY BAG" 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 fifty-six (56) 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 and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-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 fifty-six (56) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-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 fifty-six (56) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-six (56) 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 Game-Pack-Ticket Number must be printed in the Game-Pack-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. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. KEY NUMBER MATCH: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

D. KEY NUMBER MATCH: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

E. KEY NUMBER MATCH: A Ticket may have up to ten (10) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

F. KEY NUMBER MATCH: The "MONEY BAG" (WINS) Play Symbol may appear up to five (5) times on winning Tickets, unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$50, \$100 OR \$500!" Scratch Ticket Game prize of \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim

any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. As an alternative method of claiming a "\$50, \$100 OR \$500!" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all 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 the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. 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;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount 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 "\$50, \$100

OR \$500!" 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 "\$50, \$100 OR \$500!" 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 7,080,000 Scratch Tickets in Scratch Ticket Game No. 2560. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2560 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$50.00	566,400	12.50
\$100	177,000	40.00
\$500	7,080	1,000.00

*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 9.43. 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. 2560 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 Scratch Ticket 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. 2560, 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-202400021
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: January 2, 2024



Texas Department of Motor Vehicles

Correction of Error

The Texas Department of Motor Vehicles proposed amendments, repeals, and new sections in 43 TAC Chapter 215, concerning Motor Vehicle Distribution, in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8202). Due to a Texas Register staff error, some of the rule text is incorrect. The corrected language reads as follows:

§215.106. Time for Filing Protest.

(b) The department will reject a notice of protest if:

(1) the complete notice of protest is not filed within 15 days from the date of mailing of the department's notification to the license holder of the filing of the application; or

(2) the required filing fee is not paid when the protest is submitted in the department's designated electronic filing system or is later dishonored [remitted within 20 days from the date of mailing of the department's notification to the license holder of the filing of the application].

§215.113. Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development.

(c) A request for an extension of the initial 12-month period for manufacturer or distributor ownership or control of a franchised [new motor vehicle] dealership, in accordance with Occupations Code, §2301.476(e), must be submitted to the department in accordance with subsection (a) of this section along with a sufficient application to renew the new motor vehicle dealer's license. The request must contain a detailed explanation, including appropriate documentary support, to show the manufacturer's or distributor's good cause for failure to sell the dealership within the initial 12-month period. The director will evaluate the request and determine whether the license should be renewed for a period not to exceed 12 months or deny the renewal application. If the renewal application is denied, the manufacturer or distributor may request a hearing on the denial in accordance with Occupations Code, Chapter 2301, Subchapter O [§§2301.701 - 2301.713] and the matter will be referred to SOAH for a hearing under Chapter 224, Subchapter C of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry License Enforcement).

SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

§215.138. Use of [Metal] Dealer's License Plates.

[(e) As used in this section, "light truck" has the meaning assigned by Transportation Code, §541.201.]

§215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators.

(11) a copy of the front and back of the manufacturer's statement of origin, manufacturer's certificate of origin, or the title of the vehicle, as applicable[if the vehicle involved in the transaction is a new motor vehicle].

TRD-202400032

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Public Utility Commission of Texas

Notice of Application Under Section 56.023 of the Public Utility Regulatory Act

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on December 28, 2023, seeking a determination of need for continued support from the Texas High Cost Universal Service Plan.

Docket Title and Number: Application of Valor Telecommunications of Texas, LLC dba Windstream Communications Southwest Under PURA § 56.023, Docket Number 56056.

Valor Telecommunications of Texas, LLC dba Windstream Communications Southwest filed with the commission a request for a determination of Windstream Communications Southwest's financial need for continuing support from the Texas High Cost Universal Service Plan (THCUSP), and the establishment of monthly per-line THCUSP support amounts in the exchanges with a financial need for continued support. Under PURA § 56.023 recipients from the THCUSP may petition

the commission to initiate a contested case proceeding to determine the company's eligibility to receive continued support under the THCUSP. Windstream Communications Southwest asserts a financial need for continued support exists in all of its currently supported exchanges.

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 as a deadline to intervene may be imposed. 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 56056.

TRD-202400022

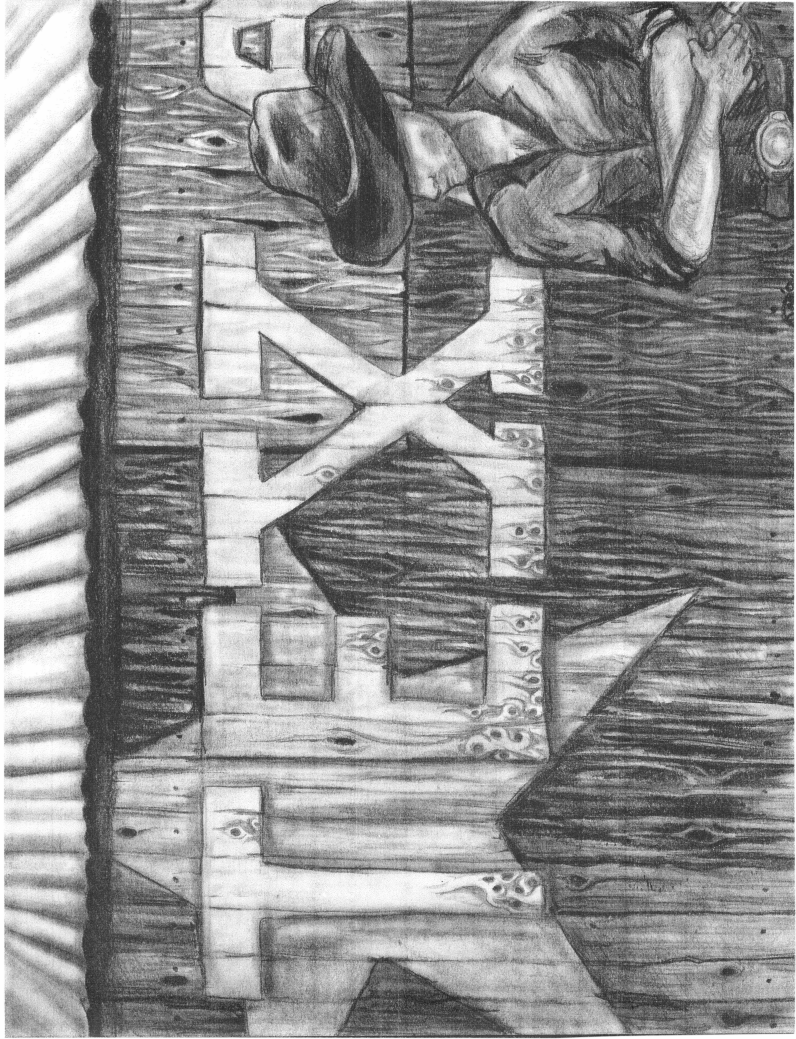
Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Filed: January 3, 2024

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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 24 of Volume 49 (2024) is cited as follows: 49 TexReg 24.

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 “49 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 49 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
26. Health and Human 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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