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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER D. UNIFORM GUIDANCE FOR RECIPIENTS OF FEDERAL AND STATE FUNDS

10 TAC §1.401

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7477), the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.401 Effective Date and Definitions. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule. The rule will not be republished.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to updates to reflect changes made by the Texas Comptroller of Public Accounts to the Texas Grant Management Standards (TxGMS).

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will not expand, limit, or repeal an existing regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be a rule in compliance with the newest version of the Texas Grant Management Standards. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the proposed repeal and also requested information related to the cost, benefit, or effect of the proposed repeal, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period was held November 21, 2025 to December 21, 2025, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

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 January 15, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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Proposal publication date: November 21, 2025
For further information, please call: (512) 475-3959

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10 TAC §1.401

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7478), new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.401 Effective Date and Definitions. The purpose of the new section is to make updates that relate to the newest version of the Texas Grant Management Standards released in October 2025 by the Texas Comptroller of Public Accounts. The rule will not be republished.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to updates to new changes to the Texas Grant Management Standards.

2. The new section does not require a change in work that would require the creation of new employee positions, C are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section is not creating a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new section will not expand, limit, or repeal an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a clearer rule relating to compliance with Texas Grant Management Standards, version 2.1. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the new section and also requested information related to the cost, benefit, or effect of the proposed new section, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period was held November 21, 2025 to December 21, 2025, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

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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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §1.403

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7480). The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule. The rule will not be republished.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: requirements relating to single audits.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will not expand, limit, or repeal an existing regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively effect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the proposed repeal and also requested information related to the cost, benefit, or effect of the proposed repeal, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period was held November 21, 2025 to December 21, 2025, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

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 January 15, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §1.403

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7481). The rule will not be repub-

lished. The purpose of the new section is to provide greater clarity in relation to the findings that may be identified in a single audit that would warrant the Department to not fund, or to stop funding, a given contract.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to updates to existing requirements for recipients of Department funds.

2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section is not creating a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new section will not expand, limit, or repeal an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a clearer rule relating to when single audit findings are significant enough to warrant not funding, or stopping funding, a contract. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the proposed new rule and also requested information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period was held November 21, 2025 to December 21, 2025, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

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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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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Proposal publication date: November 21, 2025
For further information, please call: (512) 475-3959

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10 TAC §1.406

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.406 Fidelity Bond Requirements, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7483). The rule will not be republished. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that provides greater risk mitigation for the Department as it relates to fidelity bond coverage of the Department's subrecipients.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: fidelity bond requirements.

2. The repeal does not require a change in work that creates new employee positions nor does it generate savings that would eliminate any employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal is not considered to expand an existing regulation.

7. The repeal does not increase the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively effect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule, and greater risk mitigation or the Department. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held November 21 to December 21, 2025, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

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 January 15, 2026.

TRD-202600152
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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Proposal publication date: November 21, 2025
For further information, please call: (512) 475-3959

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10 TAC §1.406

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.406 Fidelity Bond Requirements, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7484). The rule will not be republished. The purpose of the rule is to eliminate the outdated rule and replace it simultaneously with a new rule that provides greater risk mitigation for the Department as it relates to fidelity bond coverage of the Department's subrecipients.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no costs associated with this action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221. Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: fidelity bond requirements.

2. The rule does not require a change in work that creates new employee positions nor does it generate savings that would eliminate any employee positions.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section is not creating a new regulation.

6. The new section does expand on an existing regulation.

7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a rule that provides clarity around fidelity bond requirements and better mitigates Department risk. There may be minimal costs to some program participant organizations that could be readily absorbed by the administrative funds provided by TDHCA.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the section will not have costs to the state to implement. No additional funds will be required.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held November 21 to December 21, 2025, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

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 January 15, 2026.

TRD-202600153

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: February 4, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 475-3959

10 TAC §1.410

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries, without changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7485). The rule will not be republished. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that more closely aligns with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump; A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in 2025 grant agreements from the Unites States Department of Housing and Urban Development (HUD), and with Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Department programs, which provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for repeal because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: the implementation of Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

2. The repeal does not require a change in work that creates new employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal is not considered to expand an existing regulation.

7. The repeal does not increase the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held November 21 to December 21, 2025, to receive input on the proposed action. No comment was received on the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

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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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959

10 TAC §1.410

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries, with changes to the text previously published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7486). The rule will be republished. The purpose of the rule is to eliminate the outdated rule and replace it simultaneously with a new rule that more closely aligns with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in 2025 grant agreements from the Unites States Department of Housing and Urban Development (HUD), and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Department programs, which provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does apply to the rule because there are some costs associated with this action. However, in order to ensure compliance with Executive Order 14218, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal HUD grant agreements, and PRWORA this rule is being revised. Sufficient existing state and/or federal administrative funds associated with the applicable programs are available to offset costs. No additional funds will be needed to implement this rule.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the verification of program participant eligibility as it relates to the implementation of Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in the Department's 2025 grant agreements from HUD, and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

2. The rule may require a change in work that could require the creation of approximately 2 new employee positions to perform the client verifications.

3. The new section does not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section is not creating a new regulation.

6. The new section does expand on an existing regulation.

7. The new section will increase the number of individuals subject to the rule's applicability as well as increase the number of Department subrecipients subject to the rule in an effort to ensure that public benefits are being used only for qualified households.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a rule that is in alignment with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, in compliance with direction provided by HUD for the HOME and NHTF programs, and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and therefore ensures that public benefits are not received by unqualified aliens. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the sections may have some costs to the state to implement the verification process and to the Department's subrecipients in administering the rule changes. However, sufficient state or federal administrative funds associated with the applicable programs are already available to offset costs. No additional funds will be required.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held November 21 to December 21, 2025, to receive input on the proposed action. Public comment was received from six commenters as follows: (1) Bay Area Turning Point, (2) Texas Housers, (3) Proyecto Azteca, (4) Safe Alliance, (5) Tahirih Justice Center, and (6) Texas Council on Family Violence. Comments are summarized and responded to below.

Comment on the Applicability of the Rule to Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence:

Commenters (1), (4), (5), and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They note that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenter (5) notes that nondiscrimination provisions in VAWA provide that programs may not discriminate on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, or disability; and the Office for Victims of Crime VOCA has generally held that this provision means that programs should not deny services solely because of immigration status and covered services are not subject to PRWORA.

Commenter (6) provided statistics and detailed information on the impact of domestic violence and notes that reductions in available housing, which would undoubtedly occur because of this rule change, would exacerbate this instability and danger

Staff Response: TDHCA generally concurs with the comments and is specifying in the rule that the rule will not apply to VAWA or FVPSA covered populations unless federal guidance requires it.

Comments on Requiring Provision of Personal Information for Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence

Commenter (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (6) notes that conditioning victims' access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees

"ensure that no person is denied services because of actual or perceived immigration status."

Commenter (4) also notes that requiring survivors to provide names, dates of birth, or other personally identifying information for entry into an external verification system violates the safety and confidentiality requirements of VAWA and FVPSA. The commenter relayed that best practices shared by experts on VAWA and FVPSA recommend limiting the sharing of survivors' personal information to avoid security breaches that would compromise safety of survivors of domestic or sexual violence. The commenter stated the concern that implementing this rule without explicit exemptions for survivors of domestic violence, sexual assault, stalking, and/or dating violence creates additional and potentially lethal barriers for survivors to access shelter, homelessness prevention, and rapid rehousing services, undermining ESG's goal of low-barrier access to housing stability. Commenter (1) echoed this question of whether services would be denied for survivors lacking documentation.

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Commenter (5) also comments on documentation specifically as it relates to survivors of domestic violence, sexual assault, human trafficking, and other forms of violence. They note that there is a strong connection between domestic violence and homelessness and that TDHCA's Emergency Solutions Grant programs and other homelessness prevention programs play a critical role in survivor safety and healing. Commenter is concerned that cutting off survivors due to lack of documentation from programs that provide support for utilities and homeless intervention will keep survivors reliant on abusers and vulnerable to further violence. Per the commenter, the proposed rule will not only impact immigrant survivors, but also any survivor who is unable to provide proof of status.

Staff Response: TDHCA generally concurs with the comments and is specifying in the rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Comment Requesting for Rule to be Withdrawn:

Multiple commenters requested that the rule be withdrawn.

Commenter (2) points out that HUD has indicated that further guidance will be released from both HUD and DHS and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released. They note that to their knowledge, Texas appears to be the only state that is not waiting until further federal guidance is available. They note that the proposed rule changes will have a significant impact on low-income Texans who receive assistance through TDHCA programs and the providers that serve them. Commenter notes that this rule change represents a large expansion of the applicability of PRWORA verification requirements that will result in loss of assistance for vulnerable people in need of help. Commenter (2) noted that activities like emergency rental assistance, where delays could result in evictions and housing instability for low-income tenants, are a particular concern that could lead to eligible beneficiaries losing the benefit of the assistance. Because of this significant impact, Commenter cautions TDHCA to be very cautious to not implement rule changes without adequate federal guidance and regulation to shape the implementation of federal requirements. Texas Housers strongly recommends delaying rulemaking on the updated federal interpretation of PRWORA verification requirements until key federal guidance necessary for implementation is released.

Commenter (5) suggests that the current rule is sufficient and federally compliant as-is, and urges that the Department recommend withdrawing the notice at this time. They note that A.G. Order No. 6335-2025 withdrew the 2001 rule providing detailed guidance on the different kinds of programs that are exempt from PRWORA under 8 U.S.C. § 1611(b)(1)D, which covers services that are provided in-kind by public or nonprofit organizations, are available regardless of income, and are necessary for the protection of life and safety. Notably, per the commenter, this order did not change PRWORA's exemptions, nor did it require any action on the part of recipient states. Barring further guidance from the federal government, many of TDHCA's programs - including the Emergency Solutions Grant Program, the Homeless Housing and Services Program, and the Low Income Home Energy Assistance Program (LIHEAP) - play a critical role in keeping Texan survivors of violence, children, and families safe from the dangers of homelessness and extreme weather, and are therefore are necessary for the protection of life and safety. Additionally, PRWORA also exempts programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development (HUD). This provision is not subject to specification by the Attorney General and therefore not impacted by A.G. Order No. 6335-2025.

Commenter (6) also believes that TDHCA should rescind this rule. Should that not occur, TCFV urges substantial revisions to uphold Texas' long-standing commitment to crime victims and ensure compliance with federal law. They note that the proposed rule is vague, inconsistent, and unclear leaving substantial room for misapplication and confusion that will foster implementation challenges for subrecipients and housing providers. These issues include, but are not limited to, unclear verification procedures and conflicting statements regarding legal authority. Specifically, the proposed rule runs counter to federal laws governing nondiscrimination and confidentiality for victim service providers.

Commenter (5) They believe that Community Development Block Grant Program, Emergency Solutions Grant Program, HOME Investment Partnerships Program, National Housing Trust Fund, and the Neighborhood Stabilization Program, all fall under the exceptions in PRWORA. They request that the rule exempt programs that provide emergency housing or other crisis services as well as community development programs

administered by the Department of Housing and Urban Development. Lastly, they note that while Texas is not a party to the ongoing litigation against A.G. Order No. 6335-2025, the rule is currently stayed in plaintiff states, and it is possible that the order will be overturned or the DOJ will issue new regulations or instructions that would require Texas to make changes again.

Commenter (5) comments that the rule will have long-term consequences for Texas children as TDHCA's programs provide critical support for both emergency intervention as well as long-term affordable housing, which are both critical for low-income families with children. Commenter states that restricting immigrant parents from TDHCA programs will cause more Texas children to grow up in poverty. According to the commenter, over one million U.S. Citizen children in Texas have at least one undocumented family member; and for the majority of them, that is a parent. Per the commenter, the proposed rule would cut many families off from assistance and would have a profound impact childhood poverty rates across the state.

Commenter (2) also suggests it is difficult for service providers and advocates to understand the impact of these rule changes and provide thoughtful comment when the full scope of federal reinterpretation of PRWORA requirements is not yet clear.

Staff Response: The Department addresses the concern regarding those protected by VAWA and FVPSA by clarifying their exemption in the rule as noted above. Staff does not recommend withdrawing the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. As it relates to Commenter (5) suggesting that the rule is not applicable to ESG, HOME and NHTF, the Department does not agree that those programs are exempted from guidance to date particularly in light of the 2025 Grant Agreement executed between HUD and the Department, which specifies their applicability.

Comment on Nonprofit Applicability

Commenter (5) and (6) note that the draft rule extends the requirement to verify immigration status to all subrecipients of funding in the affected programs, despite the fact that PRWORA explicitly exempts nonprofit entities that receive funds from the requirement to verify the immigration status of their program beneficiaries. Commenter (2) is concerned that subrecipients may not be fully aware that this proposed rule requires nonprofits that were formerly or otherwise exempt to elect a method of verification for beneficiaries. Commenter (3) also asks that the Department clarify the nonprofit exemption language and ensure it does not create conflicting compliance duties. The proposed rule references that certain nonprofit charitable organizations may not be required to verify status in some contexts, while also describing circumstances in which TDHCA must ensure verification to prevent confusion and uneven practices across the state.

Staff Response: Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients- because they do not have direct access to the SAVE system used for verification - did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute. Administrators that are nonprofit entities- including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit - but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment.

Comment on Clear Guidance for Programs:

Commenter (3) requests that the Department clarify the scope and applicability of the rule by program and "activity type," including where PRWORA does and does not apply. They suggest that in rule text (or incorporated guidance referenced in rule) a clear, program-by-program applicability matrix for TDHCA Single Family, Homeless, and Community Affairs programs, including which activity types require verification and which are explicitly exempt. This will reduce inconsistent implementation across Administrators.

Commenter (3) also notes concern for mixed status households and requests that because the application of this rule is central to homelessness prevention and single family stabilization outcomes, the rule (or companion guidance) should specify a standardized method for benefit calculation/proration and explicitly state that benefits for eligible household members (including U.S. citizen children) may not be categorically denied solely due to another household member's inability to verify status, unless the governing federal program specifically requires otherwise.

Staff Response: Staff notes that more detailed applicability of this rule is provided in a subsequent rulemaking that was released for public comment and will be out for comment until January 26, 2026. That rulemaking includes revisions to five sections of the Department's rules in 10 TAC to be amended to implement changes: 1) §6.204 Use of Funds for the Community Services Block Grant Program, 2) §7.28 Program Participant Eligibility and Program Participant Files for the Homeless Housing and Services Program, 3) §7.44 Program Participant Eligibility and Program Participant Files for the Emergency Solutions Grant Program, 4) §20.4 Eligible Single Family Activities in the Single Family Programs Umbrella Rule, and 5) §20.6 Administrator Applicant Eligibility in the Single Family Programs Umbrella Rule. Those rules add program-specific clarity to mixed status household calculations. Staff encourages the commenter to make comments on those more specific rules. Additionally, staff will, upon adoption of those five other rules, release a matrix reflecting rule applicability. However, as a result of this comment the Department has changed the effective date to April 1, 2026.

Comment on Terminology:

Commenter (3) requests that the rule define "legal status" and align terms consistently throughout the rule (and correct apparent drafting errors). The proposed rule uses "U.S. Citizen, U.S. National, or Qualified Alien status ('legal status')" and defines "Qualified Alien" by reference to 8 U.S.C. §1641(b) or (c). They request that the Department ensure definitions are consistent throughout and correct a noted typographical issues confirm that

the rule's terminology matches the controlling federal definitions and any HUD program-specific language.

Staff Response: Staff has used the terms applicable in PRWORA and is using the term legal status to describe U.S. Citizen, U.S. National, or Qualified Alien status. No changes to the rule are recommend in response to this comment.

Comment on Security and Privacy of Documentation:

Commenter (3) requests that relating to verification mechanics, the Department provide minimum required standards for privacy, security, and record retention before requiring electronic transmission or SAVE use. The proposed rule contemplates verification through "established documents" first and then use of SAVE if unable to verify through those documents. It also contemplates that some Subrecipients may transmit documentation to TDHCA (or a contractor) for verification and requires "a sufficient method of electronic transmittal" and "secure safekeeping." They ask for greater specificity and that baseline security standards (examples given in comment) for any electronic transmittal/recordkeeping methods, especially when personal immigration documentation is collected or transmitted.

Staff Response: Staff concurs on the importance of having standards for privacy, security and record retention. It should be emphasized that all subrecipients subject to this rule will execute contracts with the Department addressing these topics and further will have executed an Information Security and Privacy Agreement as outlined in 10 TAC §1.24 that provides greater detail on securing sensitive information. No changes to the rule are recommended in response to this comment.

Comment on 'Acceptable Documents' Being Made Available:

Commenter (3) requested that reference to the "acceptable documents" will be published in a stable, version-controlled format with effective dates and a change log, because the rule currently references a website list that may be updated "from time to time."

Staff Response: The matrix of "acceptable documents" will be published on the Department's website and as requested will note effective dates when any updated versions are posted. No changes to the rule are recommended in response to this comment.

Comment Requesting Safe Harbor:

Commenter (3) requests that relating to implementation timeline and readiness, that a safe-harbor period be added during which Administrators acting in good faith under TDHCA training/guidance are not penalized for initial implementation errors.

Staff Response: Because of the federal applicability of these requirements in most cases, staff does not recommend the rule provide for a safe harbor. However, the Department and its program staff are committed to training and guidance and monitoring staff will seek to be training oriented in initial monitoring on this issue. No changes to the rule are recommended in response to this comment.

Comment Relating to Forms and Training:

Commenter (3) requested that TDHCA confirm that it will provide standardized forms, checklists, training, and helpdesk support before enforcement, especially for smaller nonprofits and rural Administrators.

Staff Response: TDHCA confirms that it will provide forms, checklists, training, and support for Administrators. No changes are recommended in response to this comment.

Comment relating to Appeal Process for Households:

Commenter (3) requests that due process be considered and that the rule or mandatory guidance should include, a clear notice process (what the applicant receives, in what language(s), and within what timeframe), a reasonable cure period to provide missing documentation, an appeal process, including how SAVE mismatches are handled and corrected, and guardrails to prevent discouraging eligible households from applying due to fear or confusion.

Staff Response: Each program's rules already require specific provisions for the handling of a client's denial of services, which will now include possible denial under this rule as well. Because those provisions may vary by program, based on federal requirements, the provisions for such due process will remain in the program specific rules, and not be added to this section. No changes are recommended in response to this comment.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

§1.410. Determination of Alien Status for Program Beneficiaries.

(a) Purpose. The purpose of this section is to provide uniform Department guidance on Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which provides that an alien who is not a Qualified Alien is not eligible for any federal or state public benefit.

(b) Definitions. The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Title that govern the program under which program eligibility is seeking to be determined or assigned by federal or state law.

(1) Administrator--An entity that receives federal or state funds passed through the Department. The term includes, but is not limited, to a Subrecipient, State Recipient, Recipient, or a Developer of single-family housing for homeownership. The term also applies to a For Profit Entity having been procured by the Department to determine eligibility for federal or state funds and as otherwise reflected in the Contract.

(2) For Profit Entity--An Administrator that is neither a Public Organization nor a Nonprofit Charitable Organization.

(3) Nonprofit Charitable Organization--An entity that is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and is organized and operated for charitable purposes.

(4) Public Organization--An entity that is a Unit of Government or an organization established by a Unit of Government.

(5) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) or (c).

(6) State--The State of Texas or the Department, as indicated by context.

(7) Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of program applicants.

(c) Applicability for Federal Funds.

(1) The determination of whether a federal program, or activity type under a federal program, is a federal public benefit for purposes of PRWORA is made by the federal agency with administration of a program or activity. Block grants have been determined to be subject to PRWORA. The only circumstance in which the Department will not apply this section is in cases in which the PRWORA statute provides, or the administering federal agency has given clear direction, that an activity is explicitly not a federal public benefit and does not require verification.

(2) At the time of the publication of this rule, this rule applies to Contracts administered in the Single Family and Homeless Division and the Community Affairs Division for applicable federally funded Department programs including Low Income Home Energy Assistance Program, Department of Energy Weatherization Assistance Program, Community Services Block Grant Program, Community Development Block Grant Program, Emergency Solutions Grant Program, and to the extent used for single-family activities National Housing Trust Fund Program, the HOME Program and other programs as provided for in Administrator's Contracts or state guidance with an initial effective date on or after April 1, 2026, or for the Community Development Block Grant Program and HOME 2025 or later year funds added to an existing Contract. For those programs that operate reservation based funding methods this rule applies to Household Commitment Contracts with an initial effective date on or after April 1, 2026.

(3) The requirements of this section are applicable to Subrecipients of federal funds passed through the Department as described in paragraph (1) of this subsection. However, certain exemptions under PRWORA may exist on a case specific, or activity specific basis as further provided by the applicable federal agency.

(d) Applicability for State Funds. The Department has determined that State funds that are provided to a Subrecipient to be distributed directly to individuals, are a state public benefit. At the time of the publication of this rule, applicable state funded Department programs include TCAP-RF (to the extent used for single-family activities), the Homeless Housing and Services Program, the Amy Young Barrier Removal Program, and the Bootstrap Program and other programs as provided for in Administrator's Contracts or state guidance with an initial effective date on or after April 1, 2026. For those programs that operate reservation based funding methods this rule applies to Activity level commitment documents with an initial effective date on or after April 1, 2026.

(e) Exemptions and Benefit Calculations under PRWORA.

(1) If no exemptions under PRWORA are applicable to the activity type, as provided for by the federal agency or by the statute, then the Subrecipient must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using the methods provided for in subsection (f) of this section and evaluate eligibility using the rules for the applicable program under this Title.

(2) Administrators should review Program Rules and Contracts for additional information, including how benefit calculations are adjusted for households in which not all members can be verified.

(3) Populations that are documented by the Administrator as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

(f) Verification Process Under PRWORA for Programs with Subrecipients.

(1) Administrators must first seek to verify legal status through the use of several established documents as described more fully in guidance provided by the Department and in the Administrator's Contract. Only if unable to verify legal status with those documents will the SAVE system be utilized as described in this subsection.

(2) Public Organizations. Administrators that are Public Organizations are required to perform the verifications through the SAVE system.

(3) An Administrator is required to ensure compliance with the verification requirement as provided for in subparagraphs (A), (B) or (C) of this paragraph. Records must be maintained as required by subparagraph (D) of this paragraph. Notification of election of method must be provided in accordance with subparagraph (E) of this paragraph.

(A) The Subrecipient requesting from the household and transmitting to the Department, or a party contracted by the Department, sufficient information or documentation so that the Department or its vendor can perform such verification and provide a determination to the Subrecipient; OR

(B) As eligible, the Administrator electing to perform the verifications through the SAVE system, as authorized through the Department's access to such system; OR

(C) The Subrecipient electing to procure an eligible qualified organization to perform such verifications on its behalf, subject to Department approval.

(D) In the administration of subparagraph (A) of this paragraph, the Administrator must provide and maintain a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its vendor, and ensures the secure safekeeping of such paper and/or electronic files, and receipt of subsequent response back from the Department or its contracted party. In the administration of subparagraphs (B) or (C) of this paragraph, the Subrecipient or its procured provider must maintain sufficient evidence and documentation that verification has taken place so that such verification can be confirmed by the Department.

(E) Notification of Election of method under subsection (f)(4)(A) through (C) of this section by Nonprofit Charitable Organizations and For Profit Entities must be provided to the Department as specified in this subparagraph.

(i) For existing Applicants, Administrators with a Contract that is subject to Automatic Renewal, and Awardees or Administrators with a Reservation Contract. No later than 60 days after the effective date of this rule, all entities shall submit their election under subsection (f)(4)(A) through (C) of this section in writing to the applicable program director or his/her designee.

(ii) A new Applicant must make its election under subsection (f)(4)(A) through (C) of this section in its application, or if there is no Application prior to Contract execution.

(iii) For Administrators with no Application or Automatic Renewal once an election is made under this subsection or was made under a prior version of this rule, it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Administrator notifies the Department otherwise in writing at least three months prior to the renewal of the Contract (as applicable).

(iv) If an Administrator does not notify the Department of the election in writing by the deadline or refuses to abide by its election the Administrator will not be eligible to perform as an Administrator in the program, which is considered good cause for nonrenewal or termination of a Contract.

(g) The Department may further describe an Administrator's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract with the Administrator or in further guidance. Nothing in this rule shall be construed to be a waiver, ratification, or acceptance of noncompliant administration of a program prior to the rule becoming effective.

(h) Regardless of method of verification, the results of the verification performed or received by the Administrator must be utilized by the Administrator in determining household eligibility, benefits, income, or other programmatic designations as required by applicable federal program guidance or as determined by other Program Rules under this Title.

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

Filed with the Office of the Secretary of State on January 15, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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Proposal publication date: November 21, 2025
For further information, please call: (512) 475-3959

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CHAPTER 2. ENFORCEMENT
SUBCHAPTER C. ADMINISTRATIVE PENALTIES

10 TAC §2.302

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text previously published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6950), the repeal of 10 TAC Chapter 2, Subchapter C, Administrative Penalties, §2.302 Administrative Penalty Process. The rule will not be republished. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that addresses elevator noncompliance.

Tex. Gov't Code §2001.0045(b) does not apply because there are no costs associated with the repeal.

The Department has analyzed this proposed rulemaking, and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221. Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: the enforcement of the Department's program rules.

2. The repeal does not require a change in work that creates new employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal is not considered to expand an existing regulation.

7. The repeal does not increase the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held October 24, 2025 to November 24, 2025, to receive input on the proposed repealed section. No comments were received relating to the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

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 January 15, 2026.

TRD-202600146

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: February 4, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 475-3959

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10 TAC §2.302

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text previously published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6950), new 10 TAC Chapter 2, Subchapter C, Administrative Penalties, §2.302 Administrative Penalty Process. The rule will not be republished. The purpose is to eliminate the outdated rule and replace it simultaneously with a new rule that addresses the enforcement of elevator noncompliance.

Tex. Gov't Code §2001.0045(b) does not apply because there are no additional costs associated with this action. Sufficient existing state and/or federal administrative funds associated with the applicable programs are available to offset costs. No additional funds will be needed to implement this rule.

The Department has analyzed this rulemaking, and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new sections would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the enforcement of the Department's program rules.

2. The rule does not require a change in work that creates new employee positions.

3. The new section will not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section is not creating a new regulation.

6. The new section does expand on an existing regulation.

7. The new section does not increase the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be improvement in the Department's ability to enforce elevator noncompliance. The rule does provide for administrative costs to properties that have no operational elevators. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the sections may have some costs to the state to implement the verification process and to the Department's subrecipients in administering the rule changes. However, sufficient state or federal administrative funds associated with the applicable programs are already available to offset costs. No additional funds will be required.

SUMMARY OF PUBLIC COMMENT. The public comment period was held October 24, 2025 to November 24, 2025, to receive input on the proposed repealed section. Two comments were received from Disability Rights Texas and Texas Housers; comment is summarized below.

10 TAC §2.302(k). Penalty schedule for Multifamily Rental Findings of Noncompliance - Elevators.

Comment Summary: Commenter 1 supports the increased penalties for inoperable elevators, stating that elevators are a critical component of safe, accessible housing, and providing examples of cases where inoperable elevators were dangerous for tenants. Commenter 2 also strongly supports the addition.

Staff Response: Staff appreciates the support. No revisions are recommended.

10 TAC §2.302(k). Penalty schedule for Multifamily Rental Findings of Noncompliance - Noncompliance with the required accessibility requirements

Comment Summary: Commenters 1 and 2 both requested implementation of a mandatory minimum daily administrative penalty for Section 504 accessibility and Fair Housing Act violations. Commenter 1 referred to a specific case presented to the Department's Board in September 2023, in which a property took more than two years to install a ramp on an accessible route. They expressed an opinion that the administrative penalty assessed was too low ($10,000.00, of which $7,500.00 was forgivable with full corrections), and that harsher administrative penalties would hold properties accountable. Commenter 1 also referenced a tax credit property currently for sale that it alleges has major accessibility problems.

Both commenters specifically request that under the Finding related to Noncompliance with required accessibility requirements, that the maximum first time administrative penalty be revised from "Up to $1,000 per violation, plus an optional $100

per day for each accessibility deficiency that remains uncorrected 6 months from the corrective action deadline" to "Up to $1,000 per violation, plus: a mandatory minimum $100 per day per violation for each accessibility deficiency that remains uncorrected between 6 and 9 months from the corrective action deadline; a mandatory minimum $125 per day per violation for each accessibility deficiency that remains uncorrected between 9 and 12 months from the corrective action deadline; and a mandatory minimum $150 per day per violation for each accessibility deficiency that remains uncorrected more than 12 months from the corrective action deadline."

Staff Response: Staff has referred the concerns regarding the property for sale to the Asset Management and Compliance Divisions. Staff understands the concerns relating to administrative penalty amounts, however, Tex. Gov't. Code §2306.042 requires TDHCA to consider the following factors for all administrative penalty assessments: seriousness of the violation, the history of previous violations, the amount necessary to deter future violations, efforts made to correct the violation, and any other matter that justice may require. The Department has a standardized penalty schedule for the maximum potential penalty amount, but individual factors must also be considered as they are not conducive to standardization. A mandatory minimum administrative penalty amount would result in a penalty being assessed without regard to the statutorily required consideration of the enumerated factors. No changes are recommended to the rule.

General Comment

Comment Summary: Commenter 2 commented generally on the availability of information relating to enforcement. Though records of enforcement actions are included in board materials, those documents are hundreds of pages long and are not easily accessible for everyday Texans. The commenter recommends that TDHCA make records on informal conferences, penalties, and debarment more publicly available, such as including this information on TDHCA's website.

Staff Response: Enforcement actions are considered by the Board during open meetings, supporting background information is posted online in the board books maintained at https://tdhca.legistar.com/Calendar.aspx, including a board action request summarizing the matter and all factors considered, and copies of Board decisions are posted online at https://www.tdhca.texas.gov/tdhca-orders. Staff perceives no need to create further summaries of that activity, and recommends no further revision to the rule.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein, the new section affects no other code, article, or statute.

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 January 15, 2026.

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959

SUBCHAPTER D. DEBARMENT FROM PARTICIPATION IN PROGRAMS ADMINISTERED BY THE DEPARTMENT

10 TAC §2.401

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text previously published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6954), the repeal of 10 TAC Chapter 2, Subchapter D, Debarment from Participation in Programs Administered by the Department, §2.401 General. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that incorporates voluntary nonparticipation agreements, incorporates elevator noncompliance, and clarifies areas of confusion.

Tex. Gov't Code §2001.0045(b) does not apply because there are no costs associated with the repeal.

The Department has analyzed this proposed rulemaking, and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: the enforcement of the Department's program rules.

2. The repeal does not require a change in work that creates new employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal is not considered to expand an existing regulation.

7. The repeal does not increase the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held October 24, 2025 to November 24, 2025, to receive input on the proposed repealed section. No comments were received relating to the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

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 January 15, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §2.401

The Texas Department of Housing and Community Affairs (the Department) adopts, with no changes to the text previously published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6954), new 10 TAC Chapter 2, Subchapter D, Debarment from Participation in Programs Administered by the Department, §2.401 General. The rule will not be republished. The purpose is to eliminate the outdated rule and replace it simultaneously with a new rule that incorporates voluntary nonparticipation agreements, incorporates elevator noncompliance, and clarifies areas of confusion.

Tex. Gov't Code §2001.0045(b) does not apply because there are no additional costs associated with this action. Sufficient existing state and/or federal administrative funds associated with the applicable programs are available to offset costs. No additional funds will be needed to implement this rule.

The Department has analyzed this rulemaking, and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new sections would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the enforcement of the Department's program rules.

2. The rule does not require a change in work that creates new employee positions.

3. The new section will not require additional future legislative appropriations.

4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new section is not creating a new regulation.

6. The new section does expand on an existing regulation.

7. The new section does not increase the number of individuals subject to the rule's applicability.

8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be improvement in the Department's enforcement abilities. There

will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the sections may have some costs to the state to implement the verification process and to the Department's subrecipients in administering the rule changes. However, sufficient state or federal administrative funds associated with the applicable programs are already available to offset costs. No additional funds will be required.

SUMMARY OF PUBLIC COMMENT. The public comment period was held October 24, 2025 to November 24, 2025, to receive input on the proposed new section. Two comments were received from Texas Housers and Disability Rights Texas, and are summarized below.

10 TAC §2.401(a) and (c). Pertaining to corrective action deadlines.

Comment Summary: Commenters 1 and 2 oppose parties in violation receiving time to correct noncompliance before administrative penalties or debarment are considered. Commenter 1 referred to a specific case presented to the Department's Board in September 2023, in which a property took more than two years to install a ramp on an accessible route. Commenter 1 stated their opinion that the administrative penalty assessed in that case was too low ($10,000.00, of which $7,500.00 was forgivable with full corrections), and that the Department should consider debarment before a corrective action period is complete. Commenter 2 stated an opinion that parties already have ample opportunities to correct before penalties or debarment are considered.

Staff Response: Staff addressed the administrative penalty concern under Department response to a separate rule, 10 §TAC 2.302. Staff understands the concerns regarding corrective action periods, however, the Department's goal is to achieve compliance, and the party's action or inaction during the corrective action period is a relevant factor that must be considered in the potential debarment term. Furthermore, this change to the rule was merely clarification; 10 TAC §2.103(c) already states that parties must receive written notice and a corrective action period prior to referral to the Enforcement Committee. No revisions are recommended.

10 TAC §2.401(a)(7). Debarment due to Bankruptcy.

Comment Summary: Commenters 1 and 2 support seeking debarment if bankruptcy results in loss of affordable units.

Staff Response: Staff appreciates the support. No revisions are recommended.

10 TAC §2.401(a)(8). Debarment for Inoperable Elevators.

Comment Summary: Commenter 1 applauds seeking debarment for developments with inoperable elevators, stating that elevators are a critical component of safe, accessible housing, and providing examples of cases where inoperable elevators were dangerous for tenants. Commenter 2 also strongly supports the addition.

Staff Response: Staff appreciates the support. No revisions are recommended.

10 TAC §2.401(a). Recommendation for Discretionary Debarment for Parties with Current Properties that are out of Compliance with Accessibility Requirements.

Commenters 1 and 2 both propose adding a new item eligible for discretionary debarment in cases where current properties do not comply with accessibility requirements. Commenter 1 alleges that multiple tax credit properties listed for sale in 2024 and 2025 had potential accessibility noncompliance, the majority of which are properties built before 2008, when TDHCA began to be involved in final construction inspections. It provided examples of potential risks associated with possible accessibility noncompliance, such as environmental controls that might be installed out of reach, or water pipes that could cause burns if they are not insulated. Commenters 1 and 2 provide a specific example of a property that is currently for sale through a ROFR, which they allege does not have any accessible units. Commenter 1 also states that two properties without any accessible units received tax credits in 2024 and 2025.

Staff Response: Staff has referred Commenter's concerns regarding older developments, including the property currently listed for sale, to the Asset Management and Compliance Divisions. The Department also responds to accessibility complaints for existing Developments in its portfolio through its complaint process in 10 TAC §1.2. The referenced 2024 and 2025 HTC awards will have standard accessibility requirements that are verified via a final construction inspection. No revisions are recommended because these concerns are outside of the scope of this rule amendment.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein, the new section affects no other code, article, or statute.

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 January 15, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

CHAPTER 12. MULTIFAMILY HOUSING REVENUE BOND RULES

10 TAC §§12.1 - 12.10

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules (the Bond Rules), without changes to the text previously published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6964). The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, the issuance of Private Activity Bonds (PAB).

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department or a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation but is associated with a simultaneous readoption making changes to an existing activity, the issuance of PABs.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX GOV'T CODE §2007.043.

The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5).

Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule for administering the issuance of PAB. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(4).

Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between October 24, 2025, and November 21, 2025, with no comments on the repeal itself received.

The Board adopted the final order adopting the repeal on January 15, 2026.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repealed sections affect no other code, article, or statute.

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 January 15, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §§12.1 - 12.11

The Texas Department of Housing and Community Affairs (the Department) adopts, with clarifying changes from the published draft, new 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules (Bond Rules), §§12.1 - 12.11. Sections 12.1 - 12.5 and 12.7 - 12.10 are adopted without changes and §12.6 and §12.11 are adopted with changes to the text previously published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6965). Sections 12.1 - 12.5 and 12.7 - 12.10 will not be republished. Sections 12.6 and 12.11 will be republished. The purpose of the new section is to provide compliance with Tex. Gov't Code §2306.359, to make minor administrative revisions, to ensure that it is reflective of changes made in the Department's Qualified Allocation Plan where applicable and in response to public comment received.

Tex. Gov't Code §2001.0045(b) does not apply to the action on this rule pursuant to item (9), which excepts rule changes necessary to implement legislation. The rule provides compliance with Tex. Gov't Code §2306.359, which requires the Department to provide for specific scoring criteria and underwriting considerations for multifamily private activity bond activities.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, the issuance of Private Activity Bonds ("PAB").

2. The rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The rule does not require additional future legislative appropriations.

4. The rule changes will not result in an increase in fees paid to the Department, but may, under certain circumstances, result in a decrease in fees paid to the Department regarding Tax-Exempt Bond Developments.

5. The rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The rule does not increase or decrease the number of individuals subject to the rule's applicability.

8. The rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.359. Although these rules mostly pertain to the filing of a bond pre-application, some stakeholders have reported that their average cost of filing a full Application is between $50,000 and $60,000; which may vary depending on the specific type of Application, location of the Development Site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average result in an increased cost of filing an application as compared to the existing program rules.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures in place for entities applying for multifamily PAB. Only those small or micro-businesses that participate in this program are subject to this rule. There are approximately 100 to 150 businesses, which could possibly be considered small or micro-businesses, subject to the rule for which the economic impact of the rule would be a flat fee of $11,000 which includes the filing fees associated with submitting a bond pre-application.

The Department bases this estimate on the potential number of Applicants and their related parties who may submit applications to TDHCA for PAB (and accompanying housing tax credits). There could be additional costs associated with pre-applications depending on whether the small or micro-businesses outsource how the application materials are compiled. The fee for submitting an Application for PAB layered with LIHTC is based on $30 per unit, and all Applicants are required to propose constructing, at a minimum, 16 Units.

These Application Fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing. Nor does this estimate include fees from the Department for Applications that successfully attain an award.

There are approximately 1,300 rural communities potentially subject to the new rule for which the economic impact of the rule is projected to be $0. 10 TAC Chapter 12 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for PAB that are located in rural areas is not more than 20% of all PAB applications received. In those cases, a rural community securing a PAB Development will experience an economic benefit, not least among which is the potential increased property tax revenue from a large multifamily Development.

3. The Department has determined that because there are rural PAB awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive PAB awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX GOV'T CODE §2007.043. The rule does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the rule may provide a possible positive economic effect on local employment in association with this rule since PAB Developments, layered with housing tax credits, often involve a total input of, typically at a minimum, $5 million in capital, but often an input of $10 million - $30 million. Such a capital investment has concrete direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to determine during rulemaking where the positive effects may occur. Furthermore, while the Department knows that any and all impacts are positive, that impact is not able to be quantified for any given community until PABs and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule…" Considering that significant construction activity is associated with any PAB Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of

the rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive PAB awards.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5). Mr. Wilkinson, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule for administering the issuance of PABs and corresponding allocation of housing tax credits. There is no change to the economic cost to any individuals required to comply with the new section because the same processes described by the rule have already been in place through the rule found at this section being repealed. The average cost of filing a pre-application and application remain unchanged based on these rule changes. The rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

f. FISCAL NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the same processes described by the rule have already been in place through the rule found at this section being repealed.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comments between October 24, 2025, and November 21, 2025. Comments from two commenters were received.

The Board adopted the final order adopting the new rule on January 15, 2026.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS

Public comments were accepted between October 24, 2025, and November 21, 2025, with comments received from: (1) Texas Housers and (2) Disability Rights Texas.

§12.6(6) and §12.6(7) - Pre-Application Scoring Criteria - Common Amenities and Resident Supportive Services (Commenter 1)

COMMENT SUMMARY:

Commenter (1) recommends removing language from §12.6(6) relating to Common Amenities, and §12.6(7), relating to Resident Supportive Services, which allows Development Owners to change the amenities and services offered at a property as long as the total number of points remains unchanged. The commenter believes that allowing changes to these items increases the difficulty for tenants to make an informed decision as to which property offers the amenities and services desired. Commenter (1) notes that 10 TAC §11.101(b)(5) of the QAP does not include language that allows Common Amenities to be changed and that §12.6(6) of the Multifamily Bond Rules does not mirror the QAP. Commenter (1) expressed strong opposition to the language in 10 TAC §11.101(b)(7) of the QAP and §12.6(7) of the Multifamily Bond Rules, as both allow changes to be made to Resident Supportive Services.

STAFF RESPONSE:

In response to commenter (1) and in light of the fact that the Bond Regulatory Agreement includes the complete list of common amenities that an owner can select from to meet the minimum point requirement, staff recommends removing the following sentence under §12.6(6). Moreover, in making the change the requirement will be consistent with the Qualified Allocation Plan.

"The common amenities include those listed in §11.101(b)(5) of this title and must meet the requirements as stated therein.

As it relates to similar requested changes to the resident supportive services by commenter (1), staff notes that tenant profiles change over time and the type of services offered initially may or may not be useful to tenants in the future. The Department's Bond Regulatory Agreement (and Housing Tax Credit Land Use Restriction Agreement) includes a list of all the possible Resident Supportive Services for this reason. Staff recommends the commenter bring up this topic during the comment period for 10 TAC Chapter 10, the Compliance Monitoring Rule, and roundtable discussions regarding the development of the 2027 Qualified Allocation Plan.

§12.6(8) - Pre-Application Scoring Criteria - Underserved Area (Commenter 1)

COMMENT SUMMARY:

Commenter (1) recommends that the language pertaining to the Underserved Area scoring item be changed to reflect the current QAP.

STAFF RESPONSE:

In response to the commenter, the Multifamily Bond Rules do not recite the exact options for this point item, but instead refer to 10 TAC §11.9(c)(6) of the QAP for the scoring criteria. There are two options included in the QAP that are excluded in the Multifamily Bond Rules because the options reference the At-Risk Set-Aside and/or subregions, which are specific to the Competitive HTC program. Moreover, the Multifamily Bond Rules clarify that regardless of the varying point options listed in the QAP, the number of points attributed to this point item shall be four points.

Staff believes there is an additional option under 10 TAC §11.9(c)(6) that could be applicable, and therefore added to the Underserved Area scoring criteria. Specifically, option (H) under 11.9(c)(6) of the QAP allows the election of points for Underserved Area if the Development Site is located entirely within a Census tract with a median household income in the highest quartile among Census tracts within the uniform service region, according to the Site Demographics Characteristics Report.

Staff recommends adding the following to §12.6(8) of the Multifamily Bond Rules, "An Application may qualify to receive up to four (4) points if the Development Site meets the criteria described in §11.9(c)(6)(A)-(E), or (H) of this title."

§12.11(g) - Qualified 501(c)(3) Bonds - Accessibility Requirements (Commenters 1 and 2)

COMMENT SUMMARY:

Commenters (1) and (2) strongly oppose the exemption from visitability requirements and 10 TAC §11.101(b)(8)(D) of the QAP, relating to Development Accessibility Requirements, for rehabilitation applications requesting Qualified 501(c)(3) Bonds. Specifically, the commenters oppose the exemption from visitability and Section 504 of the Rehabilitation Act of 1973, which requires that developments provide 5% of the units to be mobility accessible and 2% of the units to be audio/visual accessible. Commenter (1) understands that federal requirements differ for de-

velopments funded with bonds exclusively, however, the commenter believes that the Department should promote accessibility and visitability requirements, regardless of the funding source. Commenter (2) is alarmed that the proposed language will exclude too many persons that are part of the aging and/or the low-income populations in Texas.

STAFF RESPONSE:

In response to the commenters, staff has accepted the suggestion that the accessibility requirements in the QAP apply to New Construction, Reconstruction, and Adaptive Reuse. Furthermore, the Department has clarified that Rehabilitation Development only is exempt from the construction requirements in 24 CFR §8.23, if the Development does not already have to follow Section 504 of the Rehabilitation Act of 1973.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new sections affect no other code, article, or statute.

§12.6. Pre-Application Scoring Criteria.

This section identifies the scoring criteria used in evaluating and ranking pre-applications, including pre-applications requesting Qualified 501(c)(3) Bonds to the extent applicable. Any scoring items that require supplemental information to substantiate points must be submitted in the pre-application, as further outlined in the Multifamily Bond Pre-Application Procedures Manual. Applicants proposing multiple sites will be required to submit a separate pre-application for each Development Site, unless staff determines that one pre-application is more appropriate based on the specifics of the transaction. Each individual pre-application will be scored on its own merits and the final score will be determined based on an average of all of the individual scores. Ongoing requirements, as selected in the pre-application, will be reflected in the Bond Regulatory and Land Use Restriction Agreement and must be maintained throughout the State Restrictive Period, unless otherwise stated or required in such Agreement.

(1) Income and Rent Levels of the Tenants. Pre-applications may qualify for up to ten (10 points) for this item.

(A) Priority 1 designation includes one of clauses (i) - (iii) of this subparagraph. (10 points)

(i) set aside 50% of Units rent capped at 50% AMGI and the remaining 50% of Units rent capped at 60% AMGI; or

(ii) set aside 15% of Units rent capped at 30% AMGI and the remaining 85% of Units rent capped at 60% AMGI; or

(iii) set aside 100% of Units rent capped at 60% AMGI for Developments located in a census tract with a median income that is higher than the median income of the county, MSA, or PMSA in which the census tract is located.

(B) Priority 2 designation requires the set aside of at least 80% of the Units rent capped at 60% AMGI (7 points).

(C) Priority 3 designation. Includes any qualified residential rental development. Market rate Units can be included under this priority (5 points).

(2) Cost of Development per Square Foot. (1 point) For this item, costs shall be defined as the Building Cost as represented in the Development Cost Schedule, as originally provided in the pre-application. This calculation does not include indirect construction costs or site work. Pre-applications that do not exceed $160 per square foot of Net Rentable Area will receive one (1) point. Rehabilitation Developments will automatically receive this point.

(3) Unit Sizes. (6 points) The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction).

(A) Five-hundred (500) square feet for an Efficiency Unit;

(B) Six-hundred (600) square feet for a one Bedroom Unit;

(C) Eight-hundred-fifty (850) square feet for a two Bedroom Unit;

(D) One-thousand-fifty (1,050) square feet for a three Bedroom Unit; and

(E) One-thousand, two-hundred-fifty (1,250) square feet for a four Bedroom Unit.

(4) Extended Affordability. A pre-application may qualify for up to three (3) points under this item.

(A) Development Owners that agree to extend the State Restrictive Period for a Development to a total of 40 years (3 points).

(B) Development Owners that agree to extend the State Restrictive Period for a Development to a total of 35 years (2 points).

(5) Unit and Development Construction Features. A pre-application may qualify for nine (9) points, as certified in the pre-application, for providing specific amenity and quality features in every Unit at no extra charge to the tenant. The amenities and corresponding point structure is provided in §11.101(b)(6)(B) of this title (relating to Unit, Development Construction, and Energy and Water Efficiency Features), which includes a minimum number of points that must come from Energy and Water Efficiency Features. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of (5 points).

(6) Common Amenities. All Developments must provide at least the minimum threshold of points for common amenities based on the total number of Units in the Development as provided in subparagraphs (A) - (F) of this paragraph. An Applicant may choose to exceed the minimum number of points necessary based on Development size; however, the maximum number of points under this item which a Development may be awarded shall not exceed 22 points. The common amenities include those listed in §11.101(b)(5) of this title and must meet the requirements as stated therein.

(A) Developments with 16 to 40 Units must qualify for (2 points);

(B) Developments with 41 to 76 Units must qualify for (4 points);

(C) Developments with 77 to 99 Units must qualify for (7 points);

(D) Developments with 100 to 149 Units must qualify for (10 points);

(E) Developments with 150 to 199 Units must qualify for (14 points); or

(F) Developments with 200 or more Units must qualify for (18 points).

(7) Resident Supportive Services. A pre-application may qualify for up to ten (10) points for this item. By electing points, the Applicant certifies that the Development will provide supportive services, which are listed in §11.101(b)(7) of this title, appropriate for the residents and that there will be adequate space for the intended services. The Owner may change, from time to time, the services offered; however, the overall points as selected at pre-application must remain the same. Should the QAP in subsequent years provide different services than those listed in §11.101(b)(7)(A) - (E) of this title, the Development Owner may be allowed to select services as listed therein upon written consent from the Department and any services selected must be of similar value to the service it is intending to replace. The Development Owner will be required to substantiate such service(s) at the time of compliance monitoring, if requested by staff. The services provided should be those that will directly benefit the Target Population of the Development and be accessible to all. No fees may be charged to the residents for any of the services. Unless otherwise specified, services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. These services are intended to be provided by a qualified and reputable provider in the specified industry such that the experience and background of the provider demonstrates sufficient knowledge to be providing the service. In general, on-site leasing staff or property maintenance staff would not be considered a qualified provider. Where applicable, the services must be documented by a written agreement with the provider. Unless otherwise noted in a particular clause, courses and services must be offered by an onsite instructor(s).

(A) The Development Owner shall provide resident services sufficient to substantiate ten (10) points; or

(B) The Development Owner shall provide resident services sufficient to substantiate eight (8) points.

(8) Underserved Area. An Application may qualify to receive up to four (4) points if the Development Site meets the criteria described in §11.9(c)(6)(A) - (E), or (H) of this title. The pre-application must include evidence that the Development Site meets this requirement. Regardless of the varying point options listed under §11.9(c)(6) of this title, the number of points attributed to this scoring item shall be four (4) points.

(9) Development Support/Opposition. (Maximum +24 to -24 points) Each letter will receive a maximum of +3 to -3 points and shall be received 10 business days prior to the Board's consideration of the pre-application. Letters must clearly state support or opposition to the specific Development. State Representatives or Senators as well as local elected officials must be in office when the pre-application is submitted and represent the district containing the proposed Development Site. Letters of support from State or local elected officials that do not represent the district containing the proposed Development Site will not qualify for points. Neutral letters that do not specifically refer to the Development or do not explicitly state support will receive (zero points). A letter that does not directly express support but expresses it indirectly by inference (i.e., "the local jurisdiction supports the Development and I support the local jurisdiction") counts as a neutral letter except in the case of State elected officials. A letter from a State elected official that does not directly indicate support by the official, but expresses support on behalf of the official's constituents or community (i.e., "My constituents support the Development and I am relaying their support") counts as a support letter. A resolution specifically expressing support that is adopted by the applicable Governing Body will count as support under this scoring item for a maximum of 3 points.

(A) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

(B) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(C) Elected member of the Governing Body of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction) who represents the district in which the Development Site is located;

(D) Presiding officer of the Governing Body of the county in which the Development Site is located;

(E) Elected member of the Governing Body of the county who represents the district in which the Development Site is located;

(F) Superintendent of the school district in which the Development Site is located; and

(G) Presiding officer of the board of trustees of the school district in which the Development Site is located.

(10) Preservation Initiative. (2 points) Preservation Developments, including Rehabilitation proposals on Properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past 10 years may qualify for points under this item. Evidence must be submitted in the pre-application.

(11) Declared Disaster Areas. (7 points) A pre-application may receive points if the Development Site is located in an area declared a disaster area under Tex. Gov't Code §418.014 at the time of submission, or at any time within the two-year period preceding the date of submission.

(12) Waiting List. (5 points) A pre-application that is on the Department's waiting list with the TBRB and does not have an active Certificate of Reservation at the time of the Private Activity Bond Lottery may receive points under this item if participating in the Lottery for the upcoming program year. These points will be added by staff once all of the scores for Lottery applications have been finalized. A pre-application for Qualified 501(c)(3) Bonds is not eligible for these points.

(A) For pre-applications that participated in the prior year Private Activity Bond Lottery (5 points); or

(B) For pre-applications that had an Inducement Resolution adoption date of November of the prior calendar year through March of the current calendar year (3 points); or

(C) For pre-applications that had an Inducement Resolution adoption date of April through July of the current calendar year (1 point).

(13) Assisting Households with Children. (42(m)(1)(C)(vii)) A pre-application may receive one point under this item if at least 15% of the Units in the Development contain three or more bedrooms. The specific number of three or more bedrooms may change from pre-application to full Application, but the minimum percentage must still be met. Applications proposing Rehabilitation (excluding Reconstruction) and Elderly Developments will automatically receive this point.

(14) Sponsor Contribution. This scoring item is only applicable to pre-applications requesting an issuance of Qualified 501(c)(3) Bonds. A pre-application may qualify for up to ten (10) points for this item based on the amount of sponsor contribution as reflected in the pre-application. The contribution shall be in the form of cash or

land contribution or other contribution acceptable to the Department. A contribution in the form of deferred developer fee will not qualify for points.

(A) A contribution of at least 10% will qualify for 10 points; or

(B) A contribution of at least 5% will qualify for 7 points.

§12.11. Qualified 501(c)(3) Bonds.

(a) General. The Department may issue Qualified 501(c)(3) Bonds under §145 of the Code to provide residential rental property. Such Bonds are not eligible for an allocation of Housing Tax Credits.

(b) Rule Applicability. Qualified 501(c)(3) Bond Developments shall meet the applicable requirements of Chapter 1 of this title (relating to Administration), Chapter 2 (relating to Enforcement), Chapter 10 (relating to Uniform Multifamily Rules), Chapter 11 Subchapter B of this title (except for §11.101(b)(3) (relating to Rehabilitation Costs), Chapter 11 Subchapter C of this title, and this Chapter (except for §12.9(b) (relating to Federal Set-Asides) and §12.10 (relating to Fees)).

(c) Maximum Amount to be Issued. The annual amount of Qualified 501(c)(3) Bonds to be issued shall be in accordance with Tex. Gov't Code §2306.358(b) pursuant to a Memorandum of Understanding with the Bond Review Board and further subject to §2306.358(a) whereby not more than 25% of the total annual issuance amount specified in the Memorandum of Understanding will be used for projects in any one metropolitan area and at least 15% of the total annual issuance amount specified in the Memorandum of Understanding is reserved for projects in rural areas, as both metropolitan and rural area is defined in the Memorandum of Understanding.

(d) Borrower Eligibility. A borrower must be an organization exempt from federal income tax by virtue of being described in §501(c)(3) of the Code. In addition to having a "determination letter" issued by the Internal Revenue Service confirming the borrower's Section 501(c)(3) status, an "unqualified" legal opinion from a practitioner experienced in tax-exempt organizations must be delivered in connection with a financing. The ownership of the multifamily Development financed with proceeds from Qualified 501(c)(3) Bonds must further the organization's exempt purposes, which shall include providing affordable housing pursuant to standards promulgated by the Internal Revenue Service and the Safe Harbor for Relieving the Poor and Distressed under Revenue Procedure 96-32. The borrower or its nonprofit parent organization shall have at least five years in operation with demonstrated experience in affordable housing development and management and/or ownership of other similar projects. The Borrower must maintain its Section 501(c)(3) status while the bonds are outstanding. Borrower must be registered with the Texas Secretary of State throughout the term of the Regulatory Agreement.

(e) Minimum Set-Asides and Rent and Income Requirements (§2306.358). The federal Safe Harbor for Relieving the Poor and Distressed requires that at least 75% of the units must be at or below 80% of Area Median Gross Income. The state law requirements, as identified in subparagraphs (1) and (2) below, may alternatively be elected for a Development, regardless of whether New Construction or Rehabilitation. Units intended to satisfy set-aside requirements must be distributed proportionally throughout the Development.

(1) At least 60% of the units serve individuals and families at 80% of the Area Median Gross Income and below (§2306.358(c)(2)); AND

(A) At least 20% of the Units are both rent restricted and occupied by individuals whose income is 50% or less of the Area Median Gross Income, adjusted for family size; OR

(B) At least 40% of the Units are both rent restricted and occupied by individuals whose income is 60% or less of the Area Median Gross Income, adjusted for family size; AND

(2) 100% of the Units must be occupied by individuals whose income does not exceed 140% of the Area Median Gross Income such that all tenants are eligible tenants.

(f) Mandatory Development Amenities (§2306.187). The Development must include those amenities identified under §11.101(b)(4) of this title (relating to Mandatory Development Amenities).

(g) Accessibility Requirements. New Construction, Reconstruction, and Adaptive Reuse Developments shall be subject to 10 TAC §11.101(b)(8) (relating to Development Accessibility Requirements).Rehabilitation (excluding Reconstruction) Developments shall be exempt from the construction standards of Section 504 of the Rehabilitation Act of 1973, as further detailed in §8.23 unless the Development is required to follow §11.101(b)(8)(D) by another source in the transaction, or there is or will be another use agreement requiring the Development to follow the construction standards of Section 504 of the Rehabilitation Act of 1973.

(h) Minimum Rehabilitation Costs. In the case of Rehabilitation Developments, a Scope and Cost Report or Capital Needs Assessment must be submitted. Any health and safety findings identified must be corrected as part of the acquisition and rehabilitation following closing, and a timeline of the repairs must be included in the Application. For deferred maintenance indicated in such report as needing to be remedied within the first three years, the Department will require an adequate reserve account to be funded at closing. Alternatively, the Department may rely on reserve amounts required by the senior lender.

(i) Underwriting Standards (§2306.358(c)). In addition to meeting the requirements of §§141 through 150 of the Code, the borrower must demonstrate to the Department that the Development is carefully and conservatively underwritten to ensure that the project is well run, well maintained, financially viable, and will minimize the risk of the Borrower's default. Developments financed by Qualified 501(c)(3) Bonds shall generally be underwritten pursuant to §11.302 of the QAP, except that for Developments that do not have any other Department funding or an ongoing Department use agreement, in recognition of differences in financing structures, the Executive Director or authorized designee may approve minor deviations where consistent with prudent industry standards or senior lender requirements, provided they do not jeopardize the financial viability of the Development, are determined by Real Estate Analysis to be necessary to maintain financial feasibility, and if such deviation is requested as part of the application process.

(j) Fees. The fees noted in paragraphs (1) - (5) of this subsection will be required as part of a Qualified 501(c)(3) Bond issuance by the Department.

(1) Pre-Application/Inducement Fee. A pre-application fee of $1,000 shall be submitted, payable to the Department and an Inducement Fee as noted on the Schedule of Fees posted on the Department's website specific to the Department's bond counsel. These fees cover the costs of pre-application review by the Department and its bond counsel. For Developments proposed to be structured as a portfolio, either or both fees may be reduced on a case-by-case basis at the discretion of the Executive Director.

(2) Application Fee. An application fee of $20 per Unit based on the total number of Units must be submitted, with an allow-

able 10% discount off the calculated Application fee. For Developments proposed to be structured as a portfolio, the bond Application fee may be reduced by the Executive Director to reflect the Department's projected costs.

(3) Closing Fees. The origination fee shall be equal to 25 basis points of the issued principal amount of the Bonds, unless otherwise modified by the Executive Director. The Applicant will also be required to pay at closing of the Bonds the first two years of the administration fee equal to 20 basis points of the issued principal amount of the Bonds, with the first year prorated based on the actual closing date, and a Bond compliance fee equal to $25 per Unit (excluding market rate Units as defined in the Regulatory Agreement). Such compliance fee shall be applied to the third year following closing.

(4) Ongoing Administration Fee. The annual administration fee is equal to 10 basis points of the outstanding bond amount at the inception of each payment period and is paid as long as the bonds are outstanding.

(5) Ongoing Bond Compliance Fee. The compliance monitoring fee is equal to $25 per Unit (excluding market rate Units as defined in the Regulatory Agreement) and is paid for the duration of the State Restrictive Period under the Regulatory Agreement, regardless of whether the Bonds have been paid off and are no longer outstanding. For Developments for which (1) the Department's Bonds are no longer outstanding and (2) new bonds or notes have been issued and delivered by the Department, the bond compliance monitoring fee may be reduced on a case-by-case basis at the discretion of Department staff.

(6) Professional Fees. The Department engages outside firms to provide professional services with respect to its multifamily bond program. These firms include bond counsel, financial advisor and disclosure counsel. Applicants are encouraged to review the Department's Schedule of Fees on its website for more details regarding these fees.

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 January 15, 2026.

TRD-202600139
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: February 4, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 475-3959

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 3. ADVISORY COMMITTEES, COUNCILS, AND BOARDS

25 TAC §3.8

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts new §3.8, concerning Youth Camp Advisory Committee (YCAC).

Section 3.8 is adopted without changes to the proposed text as published in the November 28, 2025, issue of the *Texas Register* (50 TexReg 7676). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

New §3.8 is necessary to improve public access to DSHS advisory committee, council, and board rules by moving all advisory committee, council, and board rules into a single chapter. Section 265.29, concerning Youth Camp Committee, is repealed from 25 Texas Administrative Code (TAC) Chapter 265, concerning General Sanitation. The repeal is adopted elsewhere in this issue of the *Texas Register*.

The YCAC provides an important function advising DSHS and the executive commissioner regarding youth camp standards and rules. New Section 3.8 amends the membership composition of the YCAC to provide the agency with valuable insights to improve health and safety standards for campers.

COMMENTS

The 21-day comment period ended December 19, 2025.

During this period, DSHS received comments regarding the proposed rule from 27 commenters. DSHS received comments from Beloved and Beyond, Camp Aranzazu, Camp Liberty, Camp Summit, Camp Zephyr, Camping Association for Mutual Progress (C.A.M.P.), Forest Glen Camps and Retreats, His Hill Ranch Camp, Lake Brownwood Christian Retreat, Latham Springs Camp and Retreat Center, Morgan's Camp, Mt. Lebanon Camp, Riverbend Retreat Center, Sandy Creek Bible Camp, Scouting America - Circle Ten Council, Tejas Camp and Retreat, University of Houston, and three individual commenters. A summary of comments relating to the rule and DSHS's responses follows.

Comment: One commenter inquired if the Youth Camp Safety Multidisciplinary Team (YCSMT) and YCAC work together.

Response: No revision is made to the rule in response to this comment. The rule does not specify that the YCSMT and the YCAC work together. They perform different functions. The purpose of the YCAC as stated in §3.8(b) is to advise the executive commissioner and DSHS on the development of youth camp standards and procedures. The function of the YCSMT as stated in §265.29(c) is to develop proposed minimum standards for youth camps to present to the executive commissioner as recommendations for adoption.

Comment: One commenter inquired about representation from a Texas public university on the YCAC.

Response: No revision is made to the rule in response to this comment. The definition of youth camp in §265.11(30)(H) specifically excludes "a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Texas Education Code §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards." Texas Education Code §51.976(a)(2) defines campus program for minors as a program that: "(A) is operated by or on the campus of an institution of higher education or a private or independent institution of higher education; (B) offers recreational, athletic, religious, or educational activities for at least 20 campers who: (i) are not enrolled at the institution; and (ii) attend or temporarily reside at the camp

for all or part of at least four days; and (C) is not a day camp or youth camp as defined by Texas Health and Safety Code (HSC) §141.002, or a facility or program required to be licensed by the Department of Family and Protective Services."

HSC §141.010(b) requires the advisory committee to have no more than nine total members. HSC §141.010(b) requires at least two members from the general public. Section 3.8(f) outlines the membership of the YCAC and is consistent with the statutory requirement.

Comment: One commenter suggested that the YCSMT and YCAC review and determine appropriate local emergency management versus state oversight.

Response: DSHS declines to revise the rule in response to this comment. Section 265.29(c) outlines that the YCSMT will meet regularly to develop proposed minimum standards for youth camps. The YCSMT presents the proposed minimum standards to the executive commissioner as recommendations for adoption. Additionally, §3.8(b) outlines that the YCAC advises the executive commissioner and DSHS on the development of youth camp standards and procedures.

Comment: One commenter questioned if the renewal licensing fee increases were to support the YCAC. The commenter stated they disagree with the formation of the YCAC if the licensing fee increases are to support the committee.

Response: No revision is made to the rule in response to this comment. The licensing fee increases in §265.28 are not related to the YCAC established in 25 TAC Chapter 265. The purpose of relocating the YCAC into 25 TAC Chapter 3 is to improve public access to DSHS advisory committee, council, and board rules by moving all advisory committee, council, and board rules into a single chapter. Section 265.29, concerning Youth Camp Committee, is repealed as a result of this move. The YCAC provides an important function advising DSHS and the executive commissioner regarding youth camp standards and rules. Section 3.8 does not affect fees paid to DSHS. Senate Bill 5, 89th Legislature, Second Special Session, 2025, Section 4(a) requires DSHS to adjust licensing fees established under HSC §141.0035 as necessary to recover the costs of the appropriations made. DSHS will reevaluate licensing fees periodically to ensure that fees do not exceed the amount required to administer the program.

Comment: Ten commenters suggested revising §3.8(f) to include a rental or group camp operator. Nine commenters suggested revising §3.8(f) to add a camper parent, a safety expert, and a youth mental health expert. One commenter suggested revising §3.8(f) to have a greater representation of camp professionals. One commenter suggested revising §3.8(f) to have representation from day and residential camps. One commenter suggested revising §3.8(f) to add a residential camp and special needs professional. One commenter suggested that the YCAC include youth camp representation.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.010(b) requires the advisory committee to have no more than nine total members. HSC §141.010(b) requires at least two members from the general public. Section 3.8(f) outlines the membership of the YCAC and is consistent with the statutory requirement.

Comment: One commenter suggested revising §3.8(f)(1)(H) to specify that the waterfront safety expert on the YCAC must not be employed by or have any affiliation with a camp.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.010(b) sets the membership composition of the YCAC and stipulates at least two of the members must be from the general public. The new proposed YCAC in §3.8(f) meets the membership composition set by statute. By stipulating more exclusive membership requirements for the YCAC as suggested by the commenter, the YCAC may have a less qualified applicant pool. Section 3.8(f)(1)(H) does not prevent a waterfront safety expert that is not employed or affiliated with a youth camp from serving on the YCAC.

Comment: One commenter inquired about the abolishment date of the YCAC in §3.8(j).

Response: Texas Government Code §2110.008(a) mandates that an advisory committee may continue in existence after being designated to be abolished only if the agency amends the rule to provide for a different abolishment date. The repealed §263.29(b)(8) set a date for the abolishment of the advisory committee, and as such, a new date in §3.8(j) was set to comply with the statute.

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.035 and §141.010, which authorize the executive commissioner to establish an advisory committee and appoint committee members necessary to assist and advise DSHS and the executive commissioner in performing duties related to youth camps, and HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001.

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 January 13, 2026.

TRD-202600091
Cynthia Hernandez
General Counsel
Department of State Health Services
Effective date: February 2, 2026
Proposal publication date: November 28, 2025
For further information, please call: (512) 231-5727

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CHAPTER 265. GENERAL SANITATION

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts amendments to §§265.11, 265.18, 265.23, 265.24, 265.28, and 265.30; the repeal of §265.29, and Subchapter C, consisting of §§265.31 - 265.35; and new §265.29 and §§265.31 - 265.34, concerning Texas Youth Camps Safety and Health.

Sections 265.18, 265.23, and 265.24 are adopted with changes to the proposed text as published in the November 28, 2025, issue of the *Texas Register* (50 TexReg 7678). These rules will be republished. Sections 265.11 and 265.28 - 265.35 are adopted

without changes to the proposed text as published in the November 28, 2025, issue of the *Texas Register* (50 TexReg 7678). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The adoption is necessary to implement Senate Bill (SB) 1 and House Bill (HB) 1, 89th Legislature, Second Special Session, 2025, that amend Texas Health and Safety Code (HSC) Chapter 141. SB 1 and HB 1 require DSHS to update definitions, add requirements for implementation and submission of emergency plans for emergency preparedness and response, and establish minimum camper and counselor overnight ratios. The bills also add a requirement for youth camps to notify DSHS of structure modifications, submit renewal applications for certain camp updates, implement DSHS and youth camp operator website information requirements, and create a new Youth Camp Safety Multidisciplinary Team (YCSMT). The adoption also implements SB 5, 89th Legislature, Second Special Session, 2025, which requires DSHS to increase license fees for day and residential youth camps to meet the cost of administering the program.

The proposed repeal of §265.29 is necessary as all DSHS advisory committee, council, and board rules are moving into a single chapter. The proposed new Youth Camp Advisory Committee (YCAC) section is published elsewhere in this issue of the *Texas Register*.

The proposed repeal of §§265.31 - 265.35 is necessary because responsibility for Migrant Labor Housing Facilities was transferred to Texas Department of Housing and Community Affairs (TDHCA) in 2005 in accordance with House Bill 1099, 79th Legislature, Regular Session, 2005. The TDHCA rules are located in Title 10 Texas Administrative Code (TAC), Chapter 90.

COMMENTS

The 21-day comment period ended December 19, 2025.

During this period, DSHS received comments regarding the proposed rule from 188 commenters. DSHS received comments from Allaso Ranch, American Camp Association (ACA), Bandina Christian Youth Camp, Beloved and Beyond, Broadband Fabric Partners, Buffalo Trail Scout Ranch, Camp Aranzazu, Camp Copass, Camp Doublecreek, Camp El Ranchito, Camp Liberty, Camp Longhorn, Camp Peniel, Camp Summit, Camp Wilderness Ridge, Camp Zephyr, Camping Association for Mutual Progress (C.A.M.P.), Cho-Yeh Camp and Conference Center, Cross Trails Ministry, Forest Glen Camps and Retreats, Frontier Camp, Girl Scouts of Central Texas, Girl Scouts of Northeast Texas, Girl Scouts of San Jacinto, Heart of Texas Baptist Camp, His Hill Ranch Camp, John Knox Ranch, Lake Brownwood Christian Retreat, Lake Lavon Baptist Encampment, Lakeview Camp, Latham Springs Camp and Retreat Center, Lower Colorado River Authority (LCRA), Morgan's Camp, Mt. Lebanon Camp, Outdoor Texas Camps, Pine Springs Baptist Camp, Plains Baptist Camp and Retreat Center, Riverbend Retreat Center, Sandy Creek Bible Camp, Scouting America - Alamo Area Council, Scouting America - Bay Area Council, Scouting America - Capitol Area Council, Scouting America - Circle Ten Council, Scouting America - East Texas Area Council, Scouting America - Golden Spread Council, Scouting America - Longhorn Council, Scouting America - Sam Houston Area Council, Slumber Falls Camp, Southwestern Texas Synod, Sun Communities, Inc., T Bar M Camps & Retreats, Tejas Camp and Retreat, the Texas Association of Campground Owners (TACO), Texas Brigades, Texas Travel Alliance, Timberline Baptist Camp, University of Houston, Victory Camp, Villa Sport, and 82 individual commenters. A summary of comments relating to the rules and DSHS's responses follows.

Comment: One commenter suggested an opportunity for an in-person hearing to allow stakeholders to provide input and to seek clarification on specific elements of the proposed rules.

Response: DSHS did not revise the rules in response to this comment. An in-person Executive Council meeting was held at 10 a.m. on December 11, 2025. The Executive Council meeting allowed the public to pre-register to provide comments on the agenda items, which included the youth camp rule projects. Additionally, DSHS held another public hearing on October 10, 2025, where the public had the opportunity to publicly comment on the implementation of SB 1 and HB 1 prior to the publication of the proposed youth camp rules in the *Texas Register*.

Comment: One commenter suggested inclusion of stakeholders in the proposed youth camp rules.

Response: DSHS declines to revise the rules in response to this comment. DSHS has included stakeholders in the rulemaking process. DSHS held a public hearing on October 10, 2025, and gathered public comments and statements. Additionally, DSHS sent a survey to youth camp operators from October 23, 2025, to November 6, 2025. The survey gathered data on youth camps as well as requested feedback on potential issues. An Executive Council meeting was held on December 11, 2025, which allowed the public to pre-register to provide comments on the agenda items, including the youth camp rule projects. Lastly, stakeholders were able to submit formal comments on the proposed rules from November 28, 2025, through December 19, 2025.

Comment: One commenter suggested adding alternative compliance pathways for rural and nonprofit camps. One commenter suggested adding provisions to the rules to allow for exemptions for faith-based and rural camps.

Response: DSHS declines to revise the rule in response to this comment. The statute does not create separate standards for rural, faith-based, or nonprofit camps. Therefore, all youth camp operators are subject to the same requirements. DSHS rules are required to be consistent with statutory requirements.

Comment: Six commenters suggested allowing youth camps to demonstrate compliance with the new rule requirements through performance-based alternatives.

Response: DSHS declines to revise the rule in response to this comment. The statute does not allow this. DSHS rules must be consistent with statutory requirements.

Comment: One commenter suggested revising the rules to prevent the implementation of the new requirements for summer camps.

Response: DSHS declines to revise the rule in response to this comment. Under HSC §§141.002(6) and 141.0035, and 25 TAC Chapter 265, Subchapter B, all licensed youth camps must comply with the same statutory and regulatory requirements regardless of the type of camp. Neither the statute nor the rules create a separate category for compliance for different camp types. As such, all youth camp operators must comply with all requirements outlined in the statute.

Comment: Seven commenters suggested revising the rules to establish a reasonable phased implementation schedule that prioritizes immediate life safety requirements while allowing additional time for other improvements and upgrades required by the

rules. Three commenters suggested adding a phased timeline to the rules so that upgrades can be funded reasonably at youth camps. One commenter suggested that DSHS set realistic timelines for youth camps during rule implementation. One commenter disagreed with the implementation timeline of the new requirements within the rules.

Response: DSHS declines to revise the rule in response to this comment. DSHS must adopt the rules to comply with the requirements added to HSC Chapters 141 and 762 from HB 1 and SB 1, 89th Legislature, which were effective September 5, 2025.

Comment: Eight commenters suggested adding provisions to the rules for grant programs or funding assistance for safety-related infrastructure. Two commenters suggested adding provisions to the rules for grant funding for nonprofit camps, small camps, and camps with a limited budget.

Response: DSHS declines to revise the rule in response to this comment. Section 4(a) of SB 5 requires DSHS to adjust licensing fees established under HSC §141.0035 as necessary to recover the costs of the appropriations made. The increased licensing fees in §265.28 are to recover these costs and to administer the program.

Comment: One commenter suggested revising the rules to mandate that DSHS conduct scheduled reviews of youth camp rules every five years and introduce regulatory updates in stages to support clarity, consistency, and sustainable implementation.

Response: DSHS declines to revise the rule in response to this comment. DSHS is already required to review and evaluate the agency's rules for readoption every four years as outlined in Texas Government Code §2001.039. Furthermore, the YCAC outlined in §3.8 advises DSHS and the executive commissioner regarding youth camp standards and rules. Additionally, §265.29 establishes the YCSMT, which is required to meet regularly to develop proposed minimum standards for youth camps. DSHS must adopt the rules to comply with the requirements added to HSC Chapters 141 and 762 from HB 1 and SB 1, 89th Legislature, which were effective September 5, 2025.

Comment: One commenter inquired about the applicability of the new rules and amendments to university academic enrichment programs, day-only youth programs, and other university-based offerings. Specific new requirements and amendments mentioned by the commenter include emergency warning systems, counselor to camper ratios, modification notifications, fee increases, and the advisory committee.

Response: DSHS declines to revise the rule in response to this comment. The definition of youth camp in §265.11(30)(H) specifically excludes "a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Texas Education Code §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards."

Texas Education Code §51.976(a)(2) defines campus program for minors as a program that: "(A) is operated by or on the campus of an institution of higher education or a private or independent institution of higher education; (B) offers recreational, athletic, religious, or educational activities for at least 20 campers who: (i) are not enrolled at the institution; and (ii) attend or temporarily reside at the camp for all or part of at least four days; and (C) is not a day camp or youth camp as defined by Section 141.002, Health and Safety Code, or a facility or program required to be licensed by the Department of Family and Protective Services."

25 TAC Chapter 265 establishes minimum requirements for youth camps. If a program does not meet the definition of a youth camp as outlined above, then requirements for youth camps outlined in the rules do not apply.

Comment: One commenter inquired about how the cost to comply with the emergency preparedness and response requirements will vary based on whether the camp is a day camp or a residential camp as outlined in Chapter 265 Public Benefit and Costs statement.

Response: No revision is made to the rule in response to this comment. The Chapter 265 Public Benefit and Costs statement evaluates that costs will vary based on the different operational capabilities of certain day and residential camps. For example, to comply with the emergency preparedness and response requirements, a day camp that does not operate at night will not be required to illuminate evacuation routes as outlined in §265.31(k)(2) whereas a residential camp will need to. Furthermore, residential camps have higher licensing fees on average than day camps.

Comment: Five commenters suggested that DSHS establish a DSHS youth camp assistance program to answer questions, review draft emergency plans, provide guidance on infrastructure, and conduct pre-application consultations. The commenters suggested this program also publish detailed guidance documents, FAQs, and templates and conduct regional workshops and webinars.

Response: DSHS declines to revise the rule in response to this comment. The rule establishes baseline regulatory requirements and does not specify the establishment of a DSHS youth camp assistance program. The existing DSHS Youth Camp Program may provide guidance, provide educational materials, answer questions, or offer other means of technical assistance as a resource outside of rulemaking to help youth camps comply with the requirements.

Comment: One commenter suggested that DSHS reduce the adverse economic effects of the new rule requirements as required by Texas Government Code.

Response: DSHS declines to revise the rule in response to this comment. DSHS determined that alternative methods to achieve the purpose of the proposed rules for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of children attending youth camps. Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas, are adopted in response to a natural disaster, and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

Comment: Three commenters suggested DSHS provide an initial implementation period where youth camps are not fined at least for one summer to make the required improvements to playgrounds required by the "Public Playground Safety Handbook," July 2025 outlined in §265.11(19).

Response: DSHS declines to revise the rule in response to this comment. DSHS does not have authority to establish a grace period where an operator would not be subject to enforcement or fines. DSHS cannot delay the implementation of enforcement of "Public Playground Safety Handbook," July 2025 as compliance

with this version of the handbook best protects the health and safety of campers at a youth camp playground.

Comment: One commenter inquired if a Letter of Map Revision (LOMR) is considered "a substantially similar process" to a Letter of Map Amendment (LOMA) or a Letter of Map Revision based on fill (LOMR-F) as presented in the definition of a floodplain in §265.11(12).

Response: No revision is made to the rule in response to this comment. For purposes of the definition of floodplain in §265.11(12), a LOMR is considered a substantially similar administrative process to a LOMA or LOMR-F.

Comment: One commenter suggested adding a definition of "qualified supervision" to §265.11 and implementing this term into §265.32 for purposes of determining camper to counselor ratios.

Response: DSHS declines to revise the rule in response to this comment. A supervisor or counselor is already defined in §265.11(24) as "a person, at least 18 years of age or older, who is responsible for the immediate supervision of campers." Furthermore, "supervision" is defined in §265.11(23). As such, a person who meets this definition as well as other requirements outlined in 25 TAC Chapter 265 qualifies as a counselor for purposes of the counselor to camper ratios outlined in §265.32. No revision to the rule is necessary.

Comment: One commenter suggested adding a definition of "modification" in §265.11.

Response: DSHS declines to revise the rule in response to this comment. The term "modification" is only used twice in §265.31 in relation to a youth camp operator notifying DSHS of any modification to a structure intended to facilitate youth camp activities or the location of a camp activity on the camp's premises.

Comment: Fifteen commenters suggested adding a definition for "transportation emergency" in §265.11.

Response: DSHS declines to revise the rule in response to this comment. The term "transportation emergency" is only used once in §265.31 in relation to a youth camp operator developing an emergency plan that establishes procedures for responding to an emergency event. The term "transportation emergency" is used in its plain, ordinary meaning, and the rule does not intend to establish a technical definition. Existing emergency planning requirements in §265.31(a)(2) provide sufficient context for camp operators to develop appropriate procedures for responding to a transportation emergency. Section 265.31(f) allows a youth camp operator to consult with an emergency management director or coordinator when developing their emergency plan.

Comment: One commenter suggested adding a definition for "epidemic" in §265.11.

Response: DSHS declines to revise the rule in response to this comment. The term "epidemic" is only used once in §265.31 in relation to a youth camp operator developing an emergency plan that establishes procedures for responding to an emergency event. The term is used in its plain, ordinary meaning. Existing emergency planning requirements in §265.31(a)(2) provide sufficient context for camp operators to develop appropriate procedures for responding to an epidemic. Section 265.31(f) also allows a youth camp operator to consult with an emergency management director or coordinator when developing their emergency plan.

Comment: One commenter suggested adding a definition for "renovation" in §265.11.

Response: DSHS declines to revise the rule in response to this comment. The term "renovation" is used only once in §265.24(a)(2)(C). Furthermore, §265.24(a)(2)(C)(i) and (ii) already outline the requirements where renovation to one or more cabins on the premises of a camp would require a youth camp operator to submit a renewal application.

Comment: One commenter suggested adding a definition of "emergency event" in §265.11. The commenter stated that the emergency events listed in §265.31(a)(2) are not a comprehensive list of all emergency events.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(a)(2)(A)-(H) provides a minimum list of eight possible emergency events that a youth camp operator must establish procedures for when developing an emergency plan.

Comment: Six commenters suggested revising the definition of broadband service in §265.11(3) to include "or best available broadband service" in areas where the minimum requirements cannot be met.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0092(a) states that broadband service has the meaning assigned by Texas Government Code §490I.0101(a), which defines broadband service as "Internet service with the capability of providing a: (1) speed of not less than 100 megabits per second for a download; (2) speed of not less than 20 megabits per second for an upload; and (3) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements." DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested revising the definition of broadband service in §265.11(3) to specify that a distinct broadband service is a secondary connection using different physical transport technology and is provided by a different service provider.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0092(a) states that broadband service has the meaning assigned by Texas Government Code §490I.0101(a), which defines broadband service as "Internet service with the capability of providing a: (1) speed of not less than 100 megabits per second for a download; (2) speed of not less than 20 megabits per second for an upload; and (3) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements." The definition of "broadband service" in §265.11(3) is consistent with the statute. Additionally, §265.37(2) already specifies that the secondary internet connection required must be from a broadband service distinct from the service described in §265.37(1). The rule language does not require this service to be from a different service provider.

Comment: One commenter suggested revising the definition for cabin in §265.11(4) to limit the meaning to "permanent structures" to prevent tents from being defined as cabins. Three commenters also inquired about the meaning of "structure" in the definition for cabins in §265.11(4) and if tents would be considered a cabin.

Response: DSHS declines to revise the rule in response to this comment. The definition of cabin in §265.11(4) is consistent with the definition of cabin in HSC §762.001(1) and HSC §141.002(1).

DSHS rules are required to be consistent with statutory requirements. A tent is generally not considered a structure and therefore would not qualify as a cabin under the existing definition.

Comment: One commenter suggested revising the definition for cabin in §265.11(4) to include that recreational vehicle parks are defined in Water Code, §13.087 and are not considered youth and day camps.

Response: DSHS declines to revise the rule in response to this comment. 25 TAC 265 rules regulate youth camp health and safety and do not regulate recreational vehicle parks. The definition of cabin in §265.11(4) is consistent with the definition of cabin in HSC §762.001(1) and HSC §141.002(1). Recreational vehicle parks and related campgrounds are regulated separately under Texas Water Code §13.087.

Comment: One commenter suggested revising the definition of a day camp in §265.11(8) by including different categories of day camps to reflect the diversity of camps that meet these criteria.

Response: DSHS declines to revise the rule in response to this comment. The definition of a "day camp" in §265.11(8) is consistent with the definition of "day camp" in HSC §141.002(2). DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested deleting §265.11(25)(B) from the definition of swim test. The commenter stated that two levels are sufficient for the definition (non-swimmer and swimmer). One commenter suggested revising the definition of swim test to differentiate between pools and open waters. The commenter stated the differentiation is necessary to reflect the physical and safety differences between pools and open waters and not to limit participation and inclusivity in aquatic facilities.

Response: DSHS declines to revise the rule in response to this comment. The definition of a swim test in §265.11(25) is consistent with other organizations such as Scouting America (formerly Boy Scouts of America) and the Young Men's Christian Association (YMCA). These organizations classify a child's swimming ability based on a swim test as a non-swimmer, intermediate/beginner swimmer, and a swimmer. These classifications do not differentiate between pools and open water. DSHS believes these classifications and standards are necessary to ensure the safety of campers participating in aquatic activities.

Comment: One commenter suggested revising the definition for resident camp in §265.11(22) to include that recreational vehicle parks are not affected and related campgrounds do not provide residential services.

Response: DSHS declines to revise the rule in response to this comment. 25 TAC 265 rules regulate youth camp health and safety and do not regulate recreational vehicle parks. The definition of resident camp in §265.11(22) is consistent with the definition of resident youth camp in HSC §141.002(4). Recreational vehicle parks and related campgrounds are regulated separately under Texas Water Code §13.087.

Comment: Eighty-two commenters suggested revising the definition of a supervisor or counselor in §265.11(24) by decreasing the minimum age to 16 or 17 years old to align with the American Camping Association (ACA) standards. Commenters argued this would allow junior counselors to count toward the counselor to camper ratio.

Response: DSHS declines to revise the rule in response to this comment. The definition of a supervisor or counselor in §265.11(24) was not revised in this rule. The current definition of a supervisor or counselor was adopted to be effective April 16, 2006, 31 TexReg 3049. In addition, HSC §141.009(2) allows the executive commissioner to set qualifications for supervisors.

Comment: One commenter suggested revising the definition for travel camp in §265.11(27) to include that recreational vehicle parks are not affected and related campgrounds do not provide residential services.

Response: DSHS declines to revise the rule in response to this comment. 25 TAC 265 rules regulate youth camp health and safety and do not regulate recreational vehicle parks. Recreational vehicle parks and related campgrounds are regulated separately under Texas Water Code §13.087.

Comment: One commenter suggested revising the definition of a youth camp in in §265.11(30)(D) to include minors "under supervision of camp staff."

Response: DSHS declines to revise the rule in response to this comment. The definition of a "youth camp" in §265.11(30)(D) is consistent with the definition of camp in HSC §141.002(5)(C). DSHS rules are required to be consistent with statutory requirements.

Comment: Two commenters suggested removing the requirement for youth camps facilities to comply with National Fire Protection Association 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2021 Edition (NFPA 1194) outlined in §265.18(a). One commenter suggested revising §265.18(a) to allow NFPA 1194 not to apply to non-camp properties. The commenters stated the requirement is incorrect and should be revised to only require youth camps to meet local fire and safety codes. The commenters argued the NFPA 1194 was only intended to apply to recreational vehicle parks and related campgrounds and not apply to youth camps.

Response: DSHS declines to revise the rule to remove the requirement to comply with the NFPA 1194 as outlined in §265.18(a). HSC §762.003(b) requires a campground, except those owned or controlled by a governmental entity, to comply with the NFPA 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2021 Edition, other than Sections 1.1.1 and 5.1.1.1.

However, DSHS agrees with revising the rule to clarify that facilities at all youth camps that meet the definition of a campground in HSC §762.001(2), except those owned or controlled by a governmental entity, must comply with the National Fire Protection Association 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2021 Edition, other than Sections 1.1.1 and 5.1.1.1. HSC §762.001(2)(A) defines a campground as "a commercial property designed to provide cabins for transient overnight guest use...". The rule is also revised to clarify that all youth camps must meet local fire and safety codes.

Comment: Two commenters suggested removing the requirement for youth camp facilities to comply with National Fire Protection Association 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2021 Edition (NFPA 1194) outlined in §265.18(a) because §265.31(a)(2)(B) establishes procedures for responding to an emergency event that includes fire.

Response: DSHS declines to revise the rule to remove the requirement for youth camps to comply with the NFPA 1194 as outlined in §265.18(a). The procedures for responding to an emergency event that include fire outlined in §265.31(a)(2)(B) do not preclude a campground from complying with NFPA 1194

as required in HSC §762.003(b). DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested revising §265.18 to clarify that DSHS will serve as the primary inspection authority for NFPA 1194 standards as they apply to youth camps. The commenter also suggested adding inspection procedures, compliance thresholds, and a process for requesting clarification.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.006 outlines that DSHS is the principal authority on matters relating to health and safety conditions at youth camps. Additionally, §265.25 already conveys the authority of DSHS to inspect a youth camp. The adoption of NFPA 1194 does not alter DSHS's statutory inspection authority or create a new inspection framework.

Comment: One commenter suggested revising §265.18(a) to include "A governmental entity may adopt a policy, rule, ordinance or order to regulate environmental health and sanitation, electrical distribution system safety, liquefied petroleum gas storage and dispensing safety, or fire protection only if the policy, rule, ordinance or order does not impose standards more stringent than the standards describe under Subsection b." The commenter argued that this language is necessary to include the full text from SB 1.

Response: DSHS declines to revise the rule in response to this comment. §265.18(d) already includes the suggested language from the commenter.

Comment: Six commenters suggested revising §265.18(a) to detail which sections of NFPA 1194 apply to youth camps.

Response: DSHS declines to revise the rule in response to this comment. HSC §762.003(b) requires a campground, except those owned or controlled by a governmental entity, to comply with the NFPA 1194, other than Sections 1.1.1 and 5.1.1.1. DSHS rules are required to be consistent with statutory requirements, and §265.18(a) appropriately reflects which sections of NFPA 1194 apply to youth camps. DSHS does not have discretion to selectively enforce portions of NFPA 1194.

Comment: Thirteen commenters suggested that DSHS provide guidance on the appropriate implementation of various NFPA 1194 standards.

Response: DSHS declines to revise the rule in response to this comment. HSC §762.003(b) requires a campground, except those owned or controlled by a governmental entity, to comply with the NFPA 1194, other than Sections 1.1.1 and 5.1.1.1. 25 TAC Chapter 265 establishes minimum requirements for the health and safety of youth camps. DSHS may provide guidance to youth camps on compliance with the rules outside of the rulemaking process. Questions about the scope and technical meaning of certain sections of NFPA 1194 can be directed to the NFPA.

Comment: Six commenters suggested extending the license application submission window to May 31 for the first year of rule implementation so that DSHS can have adequate time to review and approve emergency plans before camp season.

Response: DSHS declines to revise the rule in response to this comment. Extending the submission deadline to May 31 would not provide DSHS with adequate time to complete the required regulatory and license application review functions before youth camps begin operations.

Comment: Thirty commenters inquired about when a youth camp license is required.

Response: No revision is made to the rule in response to this comment. Section 265.23(a) states that a person must possess a valid youth camp license prior to operating a youth camp. A youth camp is defined in §265.11(30), and a camp must meet all eight requirements in §265.11(30)(A)-(H) to be licensed as youth camp.

Comment: Fourteen commenters inquired about whether multiple youth camp licenses are needed for a single property with multiple specialized activities.

Response: No revision is made to the rule in response to this comment. A camp that meets the definition of a youth camp in §265.11(30) only needs one license per camp location. Multiple licenses are not issued based on the number of specialized activities that occur at one youth camp location.

Comment: One commenter inquired about who is responsible for licensing if a third party uses their property for their youth camp program and if a license could be shared.

Response: No revision is made to the rule in response to this comment. Section 265.11(32) defines a youth camp operator as any person who owns, operates, controls, or supervises a youth camp, whether or not for profit. Section 265.23(a) requires a person to possess a valid youth camp license prior to operating a youth camp. Furthermore, §265.23(a)(1)(A) requires a youth camp license application to include an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations. As such, a person that supervises a youth camp must submit and possess a valid youth camp license before undertaking such activities. Location information regarding camp activities would be specified in the license application.

Comment: A commenter inquired when pre-licensing inspections will be required.

Response: No revision is made to the rule in response to this comment. Section 265.23(a)(3)(B)(ii) states that a facility qualifies for a new youth camp license if the facility demonstrates compliance or a plan for compliance with the rules before operation by passing a pre-licensing inspection conducted by DSHS. Section 265.24(j) states that a youth camp applying for a license renewal may be subject to a pre-licensing inspection. DSHS may issue a deficiency notice that includes the need for a pre-licensing inspection if an incomplete renewal application is submitted.

Comment: Eighteen commenters suggested revising §265.23(j)(4) and §265.24(h) to allow a license holder whose license has been denied to reapply for a new license within two years from the date of final denial.

Response: DSHS agrees with revising the rule in response to this comment. DSHS revises §265.23(j)(4) and §265.24(h) to limit the two-year reapplication waiting period only to a license holder whose license has been revoked.

Comment: One commenter suggested reincorporating the specific timeframes for DSHS to issue licenses, deficiency notices, or inspection deficiency letters in §265.23 and §265.24.

Response: DSHS agrees with revising the rule in response to this comment. DSHS revises §265.23(b)(2)(A) and (B) to incorporate a 45-day timeframe to issue a new license or letter of application deficiency, respectively. Additionally, DSHS revises §265.24(d)(2)(A) and (B) to incorporate a 30-day timeframe to is-

sue a renewal license or letter of renewal application deficiency, respectively.

Comment: One commenter inquired about whether license renewal is required for renovation to an old cabin as outlined in §265.24(a)(2)(C).

Response: Section 265.24(a)(2)(C) should read as: "completes any renovation to one or more existing cabins located on the premises of the camp." DSHS revises the rule to correctly specify "existing" cabins rather than "new" cabins.

Comment: Five commenters suggested removing the requirement for a license holder to submit a renewal application after remodeling a cabin as outlined in §265.24(a)(2)(C). One commenter suggested removing the requirement for a license holder to submit a renewal application after constructing, modifying, or decommissioning a cabin.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.005(a)(2) requires a license holder to submit a renewal application after altering the boundaries of a youth camp, completing construction of one or more cabins on the premises, or renovating any existing cabins that increases or decreases the number of beds in a cabin or alters the method of ingress or egress to a cabin. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter inquired what type of renovation would require the submission of a renewal application and when the application should be submitted.

Response: No revision is made to the rule in response to this comment. Section 265.24(a)(2)(c) requires a youth camp operator to submit a renewal application when the operator completes any renovation to one or more existing cabins located on the premises of the camp that increases or decreases the number of beds in an affected cabin or alters the method of ingress or egress to an affected cabin. Section 265.24(a)(2) specifies this submission should occur no later than the 30th day after the operator completes any renovations described in §265.24(a)(2)(c).

Comment: Five commenters inquired if minor updates to an emergency plan are required to be submitted as part of a renewal application.

Response: No revision is made to the rule in response to this comment. Section 265.24(c)(1)(C) requires the submission of an emergency plan, including any updated emergency plan, as part of a complete renewal application.

Comment: Three commenters inquired if §265.25(a)(3), which allows a camp to correct violations while the investigation and inspection is occurring, is removed.

Response: No revision is made to the rule in response to this comment. Section 265.25(a)(3) has not been revised or repealed by this rule.

Comment: Fifty-two commenters suggested modifying the licensing fees in §265.28 based on a youth camp's nonprofit status. Five commenters suggested assessing licensing fees in §265.28 based on the number of days campers are present. Four commenters suggested assessing licensing fees in §265.28 based on a camp's size and operating type. One commenter suggested tiering the licensing fees based on a youth camp's budget, like the Christian Camp and Conference Association (CCCA). One commenter suggested assessing licensing fees in §265.28 according to a graduated tiered structure based on annual operating revenue, average weekly camper capacity, and operational scale. One commenter suggested assessing licensing fees by the maximum number of campers present at one time rather than total number of campers per year.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0035(a) authorizes DSHS to adjust licensing fees as necessary to administer and enforce the statute. DSHS determined that a youth camp with a higher number of campers per year would take more time and resources for compliance inspections. DSHS sent a survey to youth camp operators that began on October 23, 2025, and ended November 6, 2025. The survey helped DSHS gain more information about youth camps across Texas. Using data gained from the survey and comments from the public hearing on October 10, 2025, DSHS adjusted the licensing fee structure to raise fees for youth camps with a higher number of campers per year and lower fees for youth camps with a lower number of campers per year. As such, to recover costs required to administer the program, youth camps are required to pay a licensing fee based on the number of campers attending the camp per year. DSHS determined other factors do not have the same impact on compliance inspections as the number of campers attending a youth camp per year. DSHS will reevaluate licensing fees periodically to ensure that fees do not exceed the amount required to administer the program.

Comment: Sixteen commenters disagreed with the licensing fee increases in §265.28. Twelve commenters suggested that the licensing fees in §265.28 be increased incrementally over time. Six commenters suggested that DSHS should internally cover more of the costs to administer the program to reduce licensing fees.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0035(a) authorizes DSHS to adjust licensing fees as necessary to administer and enforce the statute. Additionally, §4(a) of SB 5 requires DSHS to adjust licensing fees established under HSC §141.0035 as necessary to recover the costs of the appropriations made. DSHS will reevaluate licensing fees periodically to ensure that fees do not exceed the amount required to administer the program. Licensing fee changes for youth camps were last made in 2006.

Comment: Nine commenters suggested offering a reduction in licensing fees for youth camps that are accredited by the American Camp Association (ACA).

Response: DSHS declines to revise the rule in response to this comment. DSHS does not regulate ACA accreditation requirements. As such, DSHS cannot ensure that ACA accreditation requirements will remain unchanged in the future. In addition, DSHS is required to adjust licensing fees to meet the cost of administering the program. Thus, DSHS cannot consider ACA accreditation to discount licensing fees for youth camps.

Comment: A commenter inquired where residential camps licensing fee information is located.

Response: Initial and renewal fees for residential youth camps are found in §265.28(3) and §265.28(4), respectively. No revision is made to the rule in response to this comment.

Comment: A commenter suggested revising §265.28 to specify that the fees are based on the estimated number of campers at the time of application.

Response: DSHS declines to revise the rule in response to this comment. Sections 265.23(a)(1)(c) and 265.24(c)(1)(D) specify that a complete license application includes an estimated num-

ber of campers attending the camp during the upcoming calendar year.

Comment: Five commenters suggested waiving late fees in §265.28 if the delay is due to DSHS emergency plan review and revision processes or if the camp can document good faith efforts to comply with new safety requirements.

Response: DSHS declines to revise the rule in response to this comment. The late fees in §265.28(e)(1) and (2) are only assessed for applications received after March 31. DSHS will not assess a late fee if a complete application is submitted before this time.

Comment: Twenty-four commenters suggested adding youth camp representation to the Youth Camp Safety Multidisciplinary Team (YCSMT) in §265.29.

Response: DSHS declines to revise the rule in response to this comment. The composition and membership categories of the YCSMT are established in HSC §141.0081. DSHS rules are required to be consistent with statutory requirements.

Comment: A commenter suggested revising §265.31 to specify clear review timelines for emergency plan submissions, including the expected turnaround time for approvals and corrections. The commenter also suggested that camps should be granted provisional approval when submissions are made on time, but department review is still in progress.

Response: DSHS declines to revise the rule in response to this comment. Emergency plans, as described in §265.31, are now required to be submitted as part of a new or renewal license application as outlined in §265.23 and §265.24, respectively. A new or renewal license cannot be issued unless the facility is in compliance with all the provisions of the rules. DSHS will review and process emergency plans as part of the application review process.

Comment: One commenter suggested revising the rule to allow emergency plans to be approved by local emergency management instead of DSHS.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(d) requires a youth camp operator to annually submit the initial or updated plan to the department for approval. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested revising §265.31(a) to specifically outline what is required in an emergency plan. Seven commenters suggested that DSHS provide detailed templates, examples, and guidance documents for emergency plans. These commenters also suggested DSHS designate staff for technical assistance with emergency plans.

Response: DSHS declines to revise the rule in response to this comment. 25 TAC Chapter 265 establishes baseline regulatory requirements and does not specify the format or structure for emergency plans. Section 265.31(a)(2) already provides that a youth camp operator must establish procedures in their emergency plan. The existing DSHS Youth Camp Program may provide general guidance or educational materials as a resource outside of rulemaking to help comply with the requirements. Lastly, §265.31(f) allows a youth camp operator to consult with an emergency management director or coordinator when developing their emergency plan.

Comment: One commenter suggested adding the phrase "or contains" after "borders" in §265.31(a)(2)(D). The commenter stated adding "or contains" is necessary because a youth camp may have a body of water that runs through its property without being a "border" to the property.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(b)(2)(D) requires a youth camp operator to establish procedures for responding to an emergency event such as an aquatic emergency if the camp borders a watercourse, lake, pond, or any other body of water. Section 265.31(a)(2)(D) reflects this requirement. DSHS rules are required to be consistent with statutory requirements. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter inquired about evacuation standards and procedures in §265.31. One commenter inquired if youth camps need a specified offsite evacuation gathering site.

Response: 25 TAC Chapter 265 establishes minimum requirements for the health and safety of youth camps. HSC §141.0091(b)(1) requires a youth camp operator to develop an emergency plan that specifies zones for campers and camp staff to gather in an emergency event that requires evacuation from any location within the premises of the camp. Additionally, §265.31(a)(2) outlines specific procedures a youth camp operator must develop an emergency plan for. The rules do not specify evacuation standards and procedures beyond what is outlined as these may vary by camp. Section 265.31(f) states that a youth camp operator may consult with an emergency management director or coordinator to develop the youth camp's emergency plan. No revision is made to the rule in response to this comment.

Comment: One commenter suggested adding minimum procedural requirements for a youth camp to have in their emergency plan when responding to an aquatic emergency in §265.31(a)(2)(D).

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(b)(2)(D) requires a youth camp operator to establish procedures for responding to an emergency event such as an aquatic emergency if the camp borders a watercourse, lake, pond, or any other body of water. Section 265.31(a)(2)(D) reflects this requirement. Additionally, §265.31(f) states that a youth camp operator may consult with an emergency management director or coordinator to develop the youth camp's emergency plan.

Comment: Fourteen commenters suggested revising §265.31(b)(1) to clarify that evacuation plans should identify on-premises or off-premises evacuation procedures as determined by the topographical features and location of the floodplain.

Response: DSHS declines to revise the rule in response to this comment. HSC §762.002(a)(2)(A) requires a campground operator to develop an emergency evacuation plan for evacuating on issuance of a flash flood or flood warning campground occupants who are at a campground area within the floodplain. HSC §762.002(a)(2)(A) does not distinguish between on or off premises evacuation. Section 265.31(b)(1) is consistent with the statutory requirement and appropriately allows the evacuation plan to be based on site-specific conditions including topographical features and the location of the floodplain. As such, no change to §265.31(b)(1) is necessary.

Comment: One commenter inquired if an evacuation plan is required for camps with portions of its property within a floodplain but without infrastructure within the floodplain areas.

Response: HSC §762.002(a)(2)(A) requires a campground operator to develop an emergency evacuation plan for evacuating on issuance of a flash flood or flood warning campground occupants who are at a campground area within the floodplain. As such, if campers are ever expected to be at a campground area within a floodplain, this statutory requirement would apply. Additionally, HSC §141.0091(b)(1) requires a youth camp operator to develop an emergency plan that specifies zones for campers and camp staff to gather in an emergency event that requires evacuation from any location within the premises of the camp. No revision is made to the rule in response to this comment.

Comment: One commenter inquired if the flash flood evacuation requirements in §265.31(b)(1) also apply to flash flood or flood warnings issued by the county.

Response: Section 265.31(b)(1) requires a youth camp operator to develop an emergency evacuation plan to evacuate campers who are at a camp within a floodplain on issuance of a flash flood or flood warning. Section 265.31(b)(1) does not limit the development of the plan to specific weather or emergency organizations. Furthermore, §265.31(h)(3) requires a youth camp operator to monitor safety alerts issued by the National Weather Service (NWS) or a similar professional weather service and by local river authorities, if applicable to the camp, or through other local emergency notification systems. No revision is made to the rule in response to this comment.

Comment: One commenter suggested revising §265.31(b)(1) to allow the emergency evacuation plan to shelter campers in place upon issuance of a flash flood or flash flood warning if floodwater remains more than five feet below the base flood elevation. The commenter suggested requiring evacuation only once water levels reach the flood pool elevation. The commenter argued that evacuating large groups of minors during a flash flood can place them at higher risks and that local emergency management officials should determine if the appropriate response is to evacuate or shelter in place.

Response: DSHS declines to revise the rule in response to this comment. HSC §762.002(a)(2)(A) and §762.002(b)(1) respectively require a campground operator to develop and implement an emergency evacuation plan for evacuating campground occupants who are at a campground area within the floodplain on issuance of a flash flood or flood warning. DSHS rules are required to be consistent with statutory requirements. Section 265.31(f) allows a youth camp operator to consult with an emergency management director or coordinator for the municipality or county when developing an emergency plan.

Comment: Ten commenters suggested revising §265.31(b)(1) to clarify that evacuation plans for camps on a dam-controlled lake must be in accordance with the local emergency management coordinator and dam operator.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(b)(2) already requires the youth camp operator to develop an emergency evacuation plan for evacuating campers on issuance of an evacuation order by the emergency management coordinator for the county or municipality. Additionally, §265.31(f) allows a youth camp operator to consult with an emergency management director or coordinator when developing their emergency plan.

Comment: One commenter suggested inserting "floodway" after "floodplain" in §265.31(b)(1) because the statute regulates activities in floodplains and floodways.

Response: DSHS declines to revise the rule in response to this comment. HSC §762.002(a)(2)(A) requires a campground operator to develop an emergency evacuation plan for evacuating campground occupants on issuance of a flash flood or flood warning who are at a campground area within the floodplain. Section 265.31(b)(1) reflects this requirement. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested inserting "flash flood or flood" after "wildfire" in §265.31(b)(2) because flash floods and floods are two of the emergency events addressed by the statute.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(b)(1) already encompasses evacuating campers who are at a camp within a floodplain on issuance of a flash flood or flood warning.

Comment: Five commenters suggested revising §265.31(c)(2) to allow campers and camp occupants to shelter in place after the issuance of a tornado warning for an area of a camp. Two commenters suggested that evacuation plans should allow sheltering in place in certain circumstances.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(c)(2) does not mandate an evacuation of the camp after issuance of a tornado warning for an area of the camp by the NWS. Instead, §265.31(c)(2) requires the youth camp operator to implement the emergency evacuation plan developed under §265.31(b)(3). Section 265.31(b)(3) already requires a youth camp operator to develop an emergency evacuation plan for sheltering campers in place on issuance of a tornado warning or an order to shelter in place issued by the emergency management director or coordinator for the county or, if applicable, the municipality in which the camp is located.

Comment: One commenter inquired about who the emergency management director is and who to submit their emergency plan to if their property is in two counties.

Response: Texas Government Code §418.1015 states an emergency management director is the presiding officer of the governing body of an incorporated city or a county or the chief administrative officer of a joint board is designated as the emergency management director for the officer's political subdivision. If a youth camp's property is located in two counties, the emergency plan submission requirements outlined in §265.31 would apply to both emergency management directors or coordinators. No revision is made to the rule in response to this comment.

Comment: Seven commenters suggested revising §265.31(d)-(f) to provide an established protocol to follow when an emergency management director or coordinator is unresponsive after receiving the required emergency plans.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31 does not outline specific requirements for an emergency management director or coordinator to respond to a youth camp operator when submitting an emergency plan. Instead, §265.31(d) requires a youth camp operator to send a copy of an emergency evacuation plan to the emergency management director or coordinator for the municipality or county. Section 265.31(e) requires a youth camp operator to send a copy of the approved or revised and approved emergency evacuation plan to the emergency management director

or coordinator for the municipality or county. Lastly, §265.31(f) allows a youth camp operator to consult with an emergency management director or coordinator.

Comment: Sixteen commenters suggested revising §265.31(g) to allow youth camp operators to redact portions of an emergency plan that could endanger camper safety.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(j)(1)(A) and (B) require a youth camp operator to provide the most recent version of a youth camp's emergency plan to the parent or legal guardian of a camper participating in a camp session or a prospective camper who is registered to participate in a future camp session. Redacting information from the emergency plan would not satisfy the requirements of §141.0091(j)(1)(A) and (B). DSHS rules are required to be consistent with statutory requirements. Any emergency plan submitted to, received by, or accessed by DSHS, the Texas Division of Emergency Management, an emergency management director or coordinator, or any other governmental entity is confidential and not subject to disclosure as outlined in HSC §141.0091(o).

Comment: One commenter suggested revising §265.31(g) to allow the youth camp operator to provide an emergency plan only upon request from a registered camper.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(j)(1)(A) and (B) require a youth camp operator to provide the most recent version of a youth camp's emergency plan to the parent or legal guardian of a camper participating in a camp session or a prospective camper who is registered to participate in a future camp session. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested inserting "or floodway" after "floodplain" in §265.31(g)(2) because the statute regulates activities in floodplains and floodways.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(j)(2) requires a youth camp operator to notify the parent or legal guardian of a camper or prospective camper if any area of the camp is located within a floodplain. Section 265.31(g)(2) reflects this requirement. DSHS rules are required to be consistent with statutory requirements.

Comment: Seven commenters suggested DSHS provide a standardized notification and acknowledgement form to notify parents that an area of a youth camp is located within a floodplain.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(g)(2) requires a youth camp operator to notify the parent or legal guardian of a camper if any area of the camp is located within a floodplain. Section 265.31(g)(3) requires a youth camp operator to ensure the parent or legal guardian signs and submits to the operator a statement acknowledging receipt of the notice. 25 TAC Chapter 265 establishes baseline regulatory requirements and does not specify a required format of the notification form. The existing DSHS Youth Camp Program may provide general guidance as a resource outside of rulemaking to help comply with the rule requirements.

Comment: One commenter inquired how parents who are notified that an area of a camp is in a floodplain would acknowledge receipt of the notice and questioned what would happen if the parent does not acknowledge receipt of the notice.

Response: A parent or legal guardian would acknowledge receipt of a notice that an area of a camp is in a floodplain by signing the notice and submitting it back to the youth camp operator as outlined in §265.31(g)(3). If a parent or legal guardian does not sign and submit the notice to the youth camp operator and the youth camp operator allows a camper to participate in camp activities, then the youth camp operator is in violation of §265.31(g)(3). No revision is made to the rule in response to this comment.

Comment: One commenter suggested revising §265.31(g)(2)-(3) to only require disclosure and acknowledgement if a youth camp has cabins in the floodplain.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(g)(2) already only requires a youth camp operator to notify the parent or legal guardian of a camper if any area of the camp is located within a floodplain. The same applies to the acknowledgement of receipt of the notice in §265.31(g)(3).

Comment: One commenter inquired about what qualifies as a weather radio in §265.31(h)(1).

Response: Section 265.31(h)(1) outlines that a youth camp operator must maintain an operable radio that provides real-time weather alerts issued by the NWS or a similar professional weather service at their camp. No revision is made to the rule in response to this comment.

Comment: One commenter suggested revising §265.31(h)(1) to require three operable radios to ensure adequate redundancy in the warning system.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(1) requires a youth camp operator to maintain an operable radio capable of providing real-time weather alerts issued by the NWS or a similar professional weather service at the camp. Section 265.31(h)(1) is consistent with the statutory requirement. 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp operator from maintaining additional operable radios. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: Three commenters inquired about the minimum standards for an emergency warning system outlined in §265.31(h)(2).

Response: Section 265.31(h)(2) requires a youth camp operator to install and maintain at the camp an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. Section 265.31(h)(2) does not establish other standards for the emergency warning system. DSHS will evaluate compliance with this requirement by the standards outlined in the rule. No revision is made to the rule in response to this comment.

Comment: Three commenters suggested revising §265.31(h)(2) to allow for the use of alternative tools for youth camps held at non-camp properties, such as parks.

Response: DSHS declines to revise the rule in response to this comment. Under HSC §141.002(6) and §141.0035, and 25 TAC Chapter 265, Subchapter B, all licensed youth camps must comply with the same statutory and regulatory requirements regard-

less of whether they use owned or non-owned locations. Neither the statute nor the rules create a separate category for camps held at non-camp facilities. As such, all youth camp operators must comply with all requirements outlined in the statute. HSC §141.0091(c)(2)(A) requires a youth camp operator to install and maintain an emergency warning system that is capable of alerting all campers and camp occupants of an emergency. HSC §141.0091(c)(2)(B) requires that the youth camp operator install and maintain an emergency warning system that includes a public address system operable without reliance on an internet connection. DSHS rules are required to be consistent with statutory requirements. HSC §141.0091(n) prohibits DSHS from granting a waiver from the requirements specified in §141.0091.

Comment: Seven commenters suggested revising §265.31(h)(2) to allow for alternative compliance options based on camp operational models.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2)(A) requires a youth camp operator to install and maintain an emergency warning system that is capable of alerting all campers and camp occupants of an emergency. HSC §141.0091(c)(2)(B) requires that the youth camp operator install and maintain an emergency warning system that includes a public address system operable without reliance on an internet connection. DSHS rules are required to be consistent with statutory requirements. HSC §141.0091(n) prohibits DSHS from granting a waiver from the requirements specified in § 141.0091.

Comment: One commenter suggested inserting the phrase "that is powered by an on-site electrical source such as a generator" after "warning system" in §265.31(h)(2) to ensure the warning system may operate even if third party electrical service to the campground is interrupted.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2) requires a youth camp operator to install and maintain at the camp an emergency warning system. Section 265.31(h)(2) is consistent with this requirement. 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp operator from using an on-site electrical source such as a generator to power their emergency warning system. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter suggested adding a requirement for youth camp operators to have wireless radio devices that can receive NWS weather alerts in every cabin to §265.31(h)(2). The commenter stated that this addition is necessary to specify what should be included as part of an emergency communication system.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2)(A) and (B) require a youth camp operator to install and maintain at the camp an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. Section 265.31(h)(2)(A) and (B) are consistent with the statutory requirements, and §265.31(h)(3)(A) already requires a youth camp operator to monitor safety alerts issued by the NWS. 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp operator from using wireless radio devices that can receive NWS alerts in every cabin. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter suggested adding a requirement in §265.31(h)(2) for youth camp operators to install a continuous water level measuring gauge approved by DSHS that will activate an on-site alarm when the water in a river, stream, or other water body running through or bordering a youth camp crests its banks. The commenter stated that this addition is necessary to specify what should be included as part of an emergency communication system.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2)(A) and (B) require a youth camp operator to install and maintain at the camp an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. Section 265.31(h)(2)(A) and (B) are consistent with the statutory requirements, and §265.31(h)(3)(B) already requires a youth camp operator to monitor safety alerts issued by local river authorities or through other local emergency notification systems. 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp operator from installing a continuous water level measuring gauge that will activate an on-site alarm when the water in a river, stream, or other water body of water crests its banks. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter suggested adding a requirement in §265.31(h)(2) for youth camp operators to install a public address system with speakers in every cabin. The commenter stated that this addition is necessary to specify what should be included as part of an emergency communication system.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2)(A) and (B) require a youth camp operator to install and maintain at the camp an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. Section 265.31(h)(2)(A) and (B) are consistent with the statutory requirements. 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp operator from installing speakers in every cabin as part of their public address system. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter suggested adding a requirement in §265.31(h)(2) for youth camp operators to install a backup satellite internet connection. The commenter stated that this addition is necessary to specify what should be included as part of an emergency communication system.

Response: DSHS declines to revise the rule in response to this comment. Section 265.37(2) already requires a youth camp operator to have a secondary internet connection through a broad-

band service distinct from a broadband service that connects to the internet using end-to-end fiber optic facilities.

Comment: One commenter inquired if the emergency warning system must be one complete system.

Response: No revision is made to the rule in response to this comment. HSC §141.0091(c)(2) requires a youth camp operator to install and maintain an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. The emergency warning system must be capable of meeting both requirements outlined in the statute.

Comment: Three commenters disagreed with the emergency warning system requirements in §265.31(h)(2). One commenter questioned why §265.31(h)(2)(A) and (B) are both needed as they believe that one or the other would be sufficient.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2)(A) requires a youth camp operator to install and maintain an emergency warning system that is capable of alerting all campers and camp occupants of an emergency. HSC §141.0091(c)(2)(B) requires that the youth camp operator install and maintain an emergency warning system that includes a public address system operable without reliance on an internet connection. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested revising §265.31(h)(2) to allow for the emergency system to be partially reliant on internet.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2) requires a youth camp operator to install and maintain an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. The emergency warning system must be capable of meeting both requirements outlined in the statute.

Comment: One commenter suggested revising §265.31(h)(2)(B) to also include an integrated mass notification system such as Internet Protocol (IP)-based systems that possess local network survivability or offline triggering capabilities.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(2) requires a youth camp operator to install and maintain an emergency warning system that is capable of alerting all campers and camp occupants of an emergency and includes a public address system operable without reliance on an internet connection. Section 265.31(h)(2)(B) is consistent with the statutory requirement.

Comment: One commenter suggested revising §265.31(h)(3) to state "continuously monitor safety alerts, anytime a camper is located at the camp, issued by:" The commenter stated the revision is necessary to clarify that a youth camp operator must monitor alerts on a 24-hour basis if campers are staying overnight.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(3) requires a youth camp operator to "monitor safety alerts issued." The language used in §265.31(h)(3) is consistent with the statutory requirement. Additionally, this requirement presupposes that a youth camp operator would be monitoring safety alerts as outlined in the rule anytime a camper is located at the camp.

Comment: A commenter suggested revising §265.31(h)(3)(A) to also allow a youth camp operator to monitor on-site atmospheric and water-level sensing technology that provides real-time data to camp administrators.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(3)(A) requires a youth camp operator to monitor safety alerts issued by the NWS or a similar professional weather service. The statute does not allow a youth camp operator to monitor on-site atmospheric and water-level sensing technology in place of professional weather service safety alerts. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested adding a new requirement for the youth camp operator to monitor United States Geological Survey (USGS) and River Authority stream flow gauge readings for the duration of a flash flood or flood warning under §265.31(h). The commenter stated this addition is consistent with the statutory requirement to monitor stream flow reports and warnings.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(h)(3)(B) already requires a youth camp operator to monitor safety alerts issued by local river authorities, if applicable to the camp, or through other local emergency notification systems. This is consistent with the requirement in HSC §141.0091(c)(3)(B). 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp from also monitoring USGS or River Authority stream flow gauge readings during a flash flood or flood warning. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter suggested revising §265.31(h)(4) to state "certify actions taken by the operator to ensure compliance with this subsection." The commenter argued that the current rule does not require an operator to identify the actions it took to comply with the rule.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(c)(4) requires a youth camp operator to "certify the operator's compliance with this subsection," which coincides with the language in §265.31(h)(4). DSHS rules are required to be consistent with statutory requirements.

Comment: Five commenters suggested revising §265.31(i) to allow the youth camp operator to conduct the mandatory safety orientation within 48 hours of each camper's arrival or the first scheduled activity for each camper.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(k) requires a youth camp operator or youth camp staff member to conduct a mandatory safety orientation not more than 48 hours after each youth camp session begins. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested adding a new §265.31(i)(4) that states "shall include a walk-through drill where campers are instructed on the evacuation route to be taken in the case of an emergency event." The commenter stated this addition is necessary to expand on the requirement to take appropriate actions and procedures during an emergency event.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(k)(1)-(3) details the requirements for

a youth camp's mandatory safety orientation. The requirements outlined in the statute are consistent with the requirements in §265.31(i)(1)-(3). 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp from also conducting a walk-through drill during their safety orientation. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter disagreed with the staff training requirements in §265.31(j)(2). One commenter suggested revising the staff training requirements in §265.31(j)(2) to exempt adult sponsors or volunteers for church camps.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(l)(2) requires a youth camp operator to train each staff member and volunteer on the camp's emergency plan at least once per year. DSHS rules are required to be consistent with statutory requirements.

Comment: Six commenters suggested revising §265.31(j) to allow online training modules for portions of the emergency preparedness training and to recognize certain training from nationally recognized youth-serving organizations.

Response: DSHS declines to revise the rule in response to this comment. Section 265.31(j)(2) requires youth camp operators to ensure each staff member and volunteer successfully completes training on the camp's emergency plan at least once per year. Section 265.31(j)(3) requires youth camp operators to instruct each staff member and volunteer on the proper procedures to follow in an emergency under the plan at least once per year. 25 TAC 265 outlines minimum requirements for youth camp health and safety. Section 265.31(j)(2)-(3) does not specify approved instruction or training formats or supplemental training from organizations but does outline that a youth camp operator is required to train staff and volunteers on their camp's emergency plan and proper emergency procedures annually.

Comment: One commenter suggested adding minimum requirements for the instruction of staff members and volunteers on procedures to follow in an emergency under the plan under §265.31(j)(3).

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(l)(3) details the requirement for a youth camp operator to instruct staff members and volunteers on proper procedures to follow during an emergency event under their emergency plan. The requirement outlined in the statute is consistent with the requirement in §265.31(j)(3). Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: One commenter disagreed with the requirement for a youth camp operator to post the evacuation routes as described in §265.31(k)(1). The commenter stated the requirement is unreasonable and unrealistic for their camp.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(m)(1) requires a youth camp operator to visibly post in each cabin on the youth camp premises the proper evacuation route described in the youth camp's emergency plan. DSHS rules are required to be consistent with statutory requirements.

Comment: Fourteen commenters disagreed with the requirement to illuminate an evacuation route in §265.31(k)(2). Nine commenters cited safety concerns and conflicts with active shooter protocols. Two commenters stated the requirement would create a negative impact on the environment related to conservation. Two commenters stated the requirement was unreasonable and ineffective.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(m)(2) requires a youth camp operator to ensure each evacuation route on the camp premises is illuminated at night. DSHS rules are required to be consistent with statutory requirements.

Comment: Twelve commenters inquired about the minimum standards for the illumination requirement in §265.31(k)(2). Fourteen commenters inquired if reflectors on an evacuation route were adequate to satisfy the requirement in §265.31(k)(2). One commenter inquired if spotlights could satisfy the illumination requirement in §265.31(k)(2).

Response: No revision is made to the rule in response to this comment. Section 265.31(k)(2) requires a youth camp operator to ensure each evacuation route on the camp premises is illuminated at night. For an evacuation route to be illuminated at night, a lighting system is needed. Section 265.31(k)(2) does not require a specific type of lighting system but does require adequately illuminated evacuation routes to support safe evacuation at night. Generally, a reflector is reliant on an external light source to reflect visible light. As such, reflectors alone would not satisfy the requirement of illumination in §265.31(k)(2).

Comment: Seventeen commenters suggested revising §265.31(k)(2) to specify that illumination of evacuation routes can be satisfied with reflectors, arrows with reflective paint/decals, solar lighting, or other suitable markings that can be seen in the dark. One commenter suggested revising §265.31(k)(2) to specify that evacuation routes can be illuminated with reflective signs, directional markers, or other objects that are visible in low light conditions.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(m)(2) requires a youth camp operator to ensure each evacuation route on the camp premises is illuminated at night. For an evacuation route to be illuminated at night, a lighting system is needed. Section 265.31(k)(2) does not require a specific type of lighting system but does require adequately illuminated evacuation routes to support safe evacuation at night. Generally, a reflector is reliant on an external light source to reflect visible light. As such, reflectors alone would not satisfy the requirement of illumination in §265.31(k)(2).

Comment: One commenter suggested revising §265.31(k)(2) to limit the requirement to residential camps.

Response: DSHS declines to revise the rule in response to this comment. Under HSC §141.002(6) and 25 TAC Chapter 265, Subchapter B, all licensed youth camps must comply with the same statutory and regulatory requirements. HSC §141.0091(m)(2) requires a youth camp operator to ensure each evacuation route on the camp premises is illuminated at night. DSHS rules are required to be consistent with statutory requirements. The statute and the rules do not create a separate category for limiting the illumination of evacuation routes at night to residential camps. Therefore, all youth camp operators that operate at night are subject to the illumination requirement in §265.31(k)(2).

Comment: One commenter inquired if evacuation routes need to be illuminated for day camps.

Response: No revision is made to the rule in response to this comment. A day camp, as defined in §265.11(8), is a camp that operates between 7:00 a.m. and 10:00 p.m. and offers no more than two overnight stays during each camp session. Section 265.31(k)(2) requires a youth camp operator to ensure each evacuation route on the camp premises is illuminated at night. As such, any youth camp that operates at night would be required to comply with §265.31(k)(2).

Comment: One commenter suggested inserting "that is powered by an on-site electrical source such as a generator" after "at night" in §265.31(k)(2) to ensure the evacuation routes are illuminated even if third party electrical services are interrupted at the campground.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0091(m)(2) requires a youth camp operator to ensure each evacuation route on the camp premises is illuminated at night. Section 265.31(k)(2) is consistent with this requirement. 25 TAC Chapter 265 outlines minimum requirements for Texas youth camp health and safety and does not prevent a youth camp operator from using an on-site electrical source such as a generator to power their evacuation route lighting. Furthermore, §265.29 outlines the YCSMT. Additional minimum standards not presented in the rules may be developed and proposed by the YCSMT for adoption by the executive commissioner if necessary.

Comment: Seven commenters inquired about what constitutes a reportable structural modification in §265.31(l).

Response: No revision is made to the rule in response to this comment. A modification consists of any modification to a structure intended to facilitate youth camp activities or the location of a camp activity on the camp's premises as outlined in §265.31(l)(1) and (2), respectively. The notification requirement in §265.31(l) allows DSHS to evaluate if the modification impacts any aspect of the emergency plan developed by the youth camp operator (e.g., emergency evacuation route). If so, DSHS would require the youth camp operator to update the emergency plan as required in §265.31(m).

Comment: Two commenters suggested revising §265.31(l)(1) to specify that notification is only required for major renovations such as modifications to the ingress and egress of a permanent structure intended to facilitate youth camp activities to align with §265.24(a)(2)(C)(ii). One commenter suggested revising §265.31(l)(1) to limit the notification to major modifications rather than routine maintenance.

Response: DSHS declines to revise the rule in response to this comment. The requirement of a youth camp operator to notify DSHS of any modification to a structure intended to facilitate youth camp activities is outlined in HSC §141.0093(a)(1). This requirement is separate from the requirement in HSC §141.005(a)(2)(C)(ii) that requires a license holder to submit a renewal application after renovating any existing cabins that alters the method of ingress or egress to a cabin. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter inquired if DSHS needs to be notified of modifications to any activities within the camp or only activities within a floodplain.

Response: No revision is made to the rule in response to this comment. Section 265.31(l)(1)-(2) requires a youth camp operator to notify the department of any modification to a structure intended to facilitate youth camp activities or the location of a camp activity on the camp's premises. The rule does not limit this notification requirement to structures or camp activities within a floodplain.

Comment: Four commenters disagreed with the requirement to notify DSHS of any modification to the location of a camp activity on the camp's premises in §265.31(l)(2). One commenter suggested revising §265.31(l)(2) to specify that notification is only required for modification to the location of a specialized camp activity.

Response: DSHS declines to revise the rule in response to this comment. The requirement of a youth camp operator to notify DSHS of any modification to the location of a camp activity on the camp's premises is outlined in HSC §141.0093(a)(2). The statute does not authorize DSHS to limit notification of modifications to specialized activities. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter suggested adding a subsection in §265.31 that permits the department to initiate proceedings to suspend or revoke a youth camp license if the operator is in violation of any rules in the chapter and to reinstate a youth camp license after DSHS determines the operator is in compliance with the rules. The commenter stated this addition is necessary to comply with HSC §141.012 and §141.0094.

Response: DSHS declines to revise §265.31 in response to this comment. HSC §141.012 (License Revocation) and §141.0094 (Denial or Suspension of License for Noncompliance) already authorize the department to deny, suspend, revoke, or reinstate a youth camp license when a license holder violates applicable health and safety statutes or rules or fails to correct violations within a specified timeframe. These enforcement authorities are implemented through existing department rules and enforcement processes and are not required to be restated within each operational rule section. Chapter 265, specifically rules §§265.24, 265.25, 265.26, and 265.27, already provides a comprehensive enforcement framework governing inspections, corrective action, license denial, suspension, revocation, and reinstatement, including the use of compliance timeframes and administrative due process. Adding a duplicative enforcement subsection within §265.31 would be unnecessary and could create confusion by implying that enforcement authority is limited to, or contingent upon, that specific rule section. Accordingly, no rule revision to §265.31 is necessary to comply with HSC §141.012 or §141.0094.

Comment: One commenter suggested adding a subsection in §265.31 that permits the department to seek a civil penalty or injunctive relief against an operator that violates a rule. The commenter stated this addition is necessary to comply with HSC §141.015.

Response: DSHS declines to revise the rule in response to this comment. The ability of DSHS to bring a civil action in a district court for injunctive relief, a civil penalty, or both to a person that violates the rules is already outlined in §265.26(b).

Comment: Ten commenters inquired if an adult volunteer would qualify as a "counselor" for purposes of the counselor to camper ratio outlined in §265.32.

Response: A supervisor or counselor is defined in §265.11(24) as "a person, at least 18 years of age or older, who is responsible for the immediate supervision of campers." As such, a volunteer

who meets this definition as well as other requirements outlined in 25 TAC Chapter 265 could qualify as a counselor for purposes of the counselor to camper ratios outlined in §265.32. No revision is made to the rule in response to this comment.

Comment: Thirteen commenters suggested revising §265.32(1)-(3) to require a ratio of one counselor for every 10 campers. Four commenters disagreed with the minimum overnight ratios in §265.32(1)-(3). One commenter suggested removing one age group from §265.32 and grouping campers from 4-6, 7-14, and 15-17 years old. One commenter suggested revising §265.32(2)-(3) to require a ratio of one counselor for every eight campers for ages seven to 12.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.008(c) authorizes DSHS to review and establish minimum camper to counselor ratios for overnight stays at youth camps. DSHS has completed a review of the ACA guidelines and determined the ratios outlined in §265.32 are best suited to protect the health and safety of campers.

Comment: Thirteen commenters suggested revising §265.34 to limit complaints from a verified individual. One commenter suggested revising §265.34 to limit complaint eligibility to individuals with a direct relationship with the camp.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0071(b) requires that DSHS investigate each complaint filed with the department for a youth camp to ensure the youth camp operator is properly implementing the camp's approved emergency plan. Additionally, HSC §141.0071(c) requires this complaint-based inspection to include an inspection to ensure the youth camp's compliance with this chapter in the same manner as HSC §141.007. DSHS rules are required to be consistent with statutory requirements, and DSHS complaint processes allow for the submission of anonymous complaints.

Comment: Five commenters suggested revising §265.34(a) to provide specific guidance on acceptable placement and minimum requirements of the link on a youth camp's website that directs a user to the DSHS complaint website.

Response: DSHS declines to revise the rule in response to this comment. Section 265.34(a) requires a youth camp operator's public-facing website to include a prominent, clearly marked link to the DSHS complaint website where campers, parents, camp staff, and volunteers can report noncompliance. Section 265.34(a) does not specify acceptable placement or minimum requirements for the link to the DSHS complaint website. DSHS will assess compliance with this requirement by reviewing if the link is reasonably visible and prominently placed on the youth camp operator's website.

Comment: Four commenters disagreed with the requirement for a youth camp operator's website to have a link to the DSHS complaint website in §265.34(a). The commenters argued that the required additional inspection from a complaint takes a lot of time and diverts attention away from oversight of the camp and campers, especially if the inspection is not limited to emergency plans.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0071(a) requires a youth camp operator's website to have a link to the DSHS complaint website. Furthermore, HSC §141.0071(b) requires that DSHS investigate each complaint filed with the department for a youth camp to ensure the youth camp operator is properly implementing the camp's approved emergency plan. HSC §141.0071(c) requires this complaint-based inspection include an inspection to ensure the youth camp's compliance with this chapter in the same manner as HSC §141.007. DSHS rules are required to be consistent with statutory requirements.

Comment: One commenter inquired if §265.34 applies to emergency preparedness or all forms of complaints.

Response: Section 265.34(a) requires a youth camp operator's public-facing website to include a prominent, clearly marked link to the DSHS complaint website where campers, parents, camp staff, and volunteers can report noncompliance with any portion of 25 TAC Chapter 265. No revision is made to the rule in response to this comment.

SUBCHAPTER B. TEXAS YOUTH CAMPS SAFETY AND HEALTH

25 TAC §§265.11, 265.18, 265.23, 265.24, 265.28 - 265.34

STATUTORY AUTHORITY

The amendments and new sections are authorized by HSC §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and HSC §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001.

§265.18. Fire Prevention.

(a) Fire and safety codes. Facilities at all youth camps that meet the definition of a campground as defined in Texas Health and Safety Code Section 762.001(2), except those described in subsection (d) of this section, must comply with the National Fire Protection Association 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2021 Edition, other than Sections 1.1.1 and 5.1.1.1. Facilities at all youth camps must meet local fire and safety codes.

(b) Fire exits in buildings. All buildings where groups of people live, eat, sleep, or assemble must have ready exits for use in case of fire and these exits must be conspicuously marked.

(c) Storage of flammable or explosive materials. Containers of gasoline, flammables, or explosives must be plainly marked and stored in a locked area separate and apart from any permanent and semi-permanent structures used by campers. The presence of flammable or explosive materials must be kept to a minimum.

(d) Subsection (a) of this section does not apply to a youth camp owned or controlled by a governmental entity. A governmental entity may adopt a policy, rule, ordinance, or order to regulate environmental health and sanitation, electrical distribution system safety, liquefied petroleum gas storage and dispensing safety, or fire protection only if the policy, rule, ordinance, or order does not impose standards more stringent than the standards described under subsection (a) of this section.

§265.23. Application and Denial of a New License; Non-transferable.

(a) License required. A person must possess a valid youth camp license prior to operating a youth camp.

(1) Submitting an application. A complete application to operate a youth camp must be submitted to and received by the department's Environmental and Sanitation Licensing Branch between January 1 and March 31 of each calendar year, and include:

(A) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(B) an emergency plan, as described in §265.31 of this subchapter (related to Emergency Preparedness and Response);

(C) the estimated number of campers attending the camp during the upcoming calendar year;

(D) any other requested documents and information; and

(E) the license fee, as described in §265.28 of this subchapter (relating to Fees).

(2) Applications and fees. Applications and fees may be submitted online to https://vo.ras.dshs.state.tx.us.

(3) Qualifying for a youth camp license. Subject to subsection (j) of this section, a facility qualifies for a youth camp license if the facility:

(A) meets the definition of a "youth camp," as described in §265.11 of this subchapter (relating to Definitions); and

(B) is in compliance, or has demonstrated a plan for compliance, with all provisions of the Act and the rules before operation as determined by:

(i) submitting a complete application as described in paragraph (1) of this subsection; and

(ii) passing a pre-licensing inspection conducted by the department, using the standard youth camp inspection form that may be found at https://www.dshs.texas.gov/youth-camp-program/applications-forms-youth-camp-program.

(b) Processing applications.

(1) A complete application must be submitted to the Environmental and Sanitation Licensing Branch at least 90 calendar days before camp operations begin. An application is considered incomplete until all required documentation, information, and fees are received. If the application is incomplete, the department issues a deficiency notice, including identification of deficiencies, a deadline for deficiency corrections, and the need for a pre-licensing inspection.

(2) Upon receipt of an application, the department issues the following documents in accordance with policy, as applicable:

(A) a license after the date of successfully passing the pre-licensing inspection--within 45 days;

(B) a letter of application deficiency--within 45 days; or

(C) a letter of pre-licensing inspection deficiency at the conclusion of the pre-licensing inspection.

(i) The camp must provide proof of all deficiency corrections, except for corrections to the emergency plan, within 10 days after the inspection or before camp operation, whichever comes first.

(ii) The camp must provide proof of all deficiency corrections for the emergency plan. The proof must be provided within 45 days after the camp received the department letter of pre-licensing inspection deficiency.

(3) In the event that an application for a new license is not processed within 120 days, and no good cause exists for the delay, the applicant may request reimbursement of all fees paid in that particular application process so long as a complete application was submitted at least 120 calendar days prior to camp operation. Requests for reimbursement must be made in writing to the Environmental and Sanitation Licensing Branch. Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant must give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department submits a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner makes the final decision and provides written notification of the decision to the applicant and to the department.

(c) Record availability. All records, except criminal background and sex offender registration database checks (including any written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication), required by this subchapter must be made available to the department immediately upon request. Criminal background and sex offender registration database checks (including any written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication) must be made available to the department within two business days upon request.

(d) Term of license. The term of a youth camp license is one year, beginning on the date of issuance.

(e) License non-transferable. A youth camp license is not transferable and may not be sold, assigned, or otherwise transferred. Any new business entity that acquires the operation of a youth camp through sale, assignment, or other transfer must obtain a new license.

(f) Ownership change. A new application, fee, pre-licensing inspection, and license is required if there is a change in ownership.

(g) Name change. If a camp changes its name during operation, but does not change location or ownership, then a new license certificate may be issued if requested by email to youthcamps.reg@dshs.texas.gov. A nonrefundable fee of $20 will be assessed.

(h) Location change. A new application, fee, pre-licensing inspection, and license is required if there is a change in physical camp location.

(i) Duplicate license. A duplicate license may be issued if requested by email to youthcamps.reg@dshs.texas.gov. A nonrefundable fee of $20 will be assessed.

(j) Denials.

(1) The department may deny an application for licensing to applicants who fail to meet the standards established by the Act and this subchapter. In making this determination, the department considers any violation by the applicant of the Act or this subchapter, including employment of an individual who was convicted of an act of sexual abuse, as defined by Texas Penal Code §21.02, that occurred at the camp. When the department proposes to deny an application, the department gives notice of the proposed action in writing and provides information on how to request an administrative hearing. The applicant must submit a written request for a hearing within 30 days from the date of the department's notice letter. The hearing is conducted in accordance with the Act; Texas Government Code Chapter 2001, the Administrative Procedure Act; and the formal hearing procedures in Chapter 1 of this title (relating to Miscellaneous Provisions).

(2) A letter of denial of licensure may be issued within 60 days after the receipt of application if the applicant does not meet the requirements of subsection (a)(3)(A) of this section.

(3) A letter of denial of licensure may be issued if the applicant does not meet the requirements of subsection (a)(3)(B) of this section:

(A) within 60 days following the first scheduled date of camp operations if a pre-licensing inspection has not been completed; or

(B) within 60 days following the first scheduled date of camp operations if the camp does not pass the pre-licensing inspection.

(4) A license holder whose license has been revoked may not reapply for a new license for two years from the date of final revocation.

(k) Refunds.

(1) If the applicant does not meet the requirements of subsection (a)(3)(A) of this section, the application may be denied and the license fee, less a handling fee of $50, may be refunded. If an application is denied because the facility does not meet the requirements of subsection (a)(3)(A) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (a)(3)(B) of this section, the application may be denied and the license fee may not be refunded.

§265.24. Application and Denial of a Renewal License.

(a) Renewal of a youth camp license. A youth camp operator holding a license issued under this chapter must submit a complete renewal application to operate a youth camp. A renewal application must be submitted:

(1) annually to the department's Environmental and Sanitation Licensing Branch between January 1 and March 31 of each calendar year; and

(2) no later than the 30th day after the date the youth camp operator:

(A) alters the boundaries of a youth camp;

(B) completes construction of one or more new cabins located on the premises; or

(C) completes any renovation to one or more existing cabins located on the premises of the camp that:

(i) increases or decreases the number of beds in an affected cabin; or

(ii) alters the method of ingress or egress to an affected cabin.

(b) Renewal notice. At least 60 days before a license expires, the department, as a service to the licensee, may send a renewal notice to the licensee or registrant to the last address provided by the licensee. The licensee is responsible for renewing the license whether the licensee receives the department's notice or not. The renewal notice states:

(1) license type requiring renewal;

(2) time period allowed for renewal; and

(3) the amount of the renewal fee.

(c) Renewal requirements. Renewal applications and fees must be received by the department before the license's annual expiration date.

(1) Submitting an application. A complete renewal application must be submitted to the department and include:

(A) a completed youth camp renewal application;

(B) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(C) an emergency plan, including any updated emergency plan, as described in §265.31 of this subchapter (relating to Emergency Preparedness and Response);

(D) the estimated number of campers attending the camp during the upcoming calendar year;

(E) any other requested documents and information; and

(F) the renewal license fee as described in §265.28 of this subchapter (relating to Fees).

(2) Applications and fees. Applications and fees may be submitted online to https://vo.ras.dshs.state.tx.us.

(3) Qualifying for renewal of a youth camp license. Subject to subsection (k) of this section, the department issues a renewal license if the facility:

(A) meets the definition of a "youth camp," as described in §265.11 of this subchapter (relating to Definitions); and

(B) is in compliance with all provisions of the Act and the rules before operation as determined by:

(i) submitting a complete renewal application as described in this subsection;

(ii) passing a pre-licensing inspection conducted by the department, if required; and

(iii) complying with all final orders resulting from any violations of this subchapter before the application for renewal is submitted.

(d) Processing renewal applications.

(1) A complete application for a license renewal issued under this subchapter must be received by the department's Environmental and Sanitation Licensing Branch before the expiration date of the license or 45 days before camp operation, whichever is earlier.

(A) An application is considered incomplete until all required documentation, information, and fees are received.

(B) If the application is incomplete, the department issues a deficiency notice, including identification of deficiencies, a deadline for deficiency correction, and the need for a pre-licensing inspection.

(C) If a camp is subject to pre-licensing inspection, a renewal license is issued after the inspection is completed and compliance with the Act and this subchapter is confirmed.

(2) Upon receipt of an application, the department issues the following documents in accordance with policy, as applicable:

(A) a license--within 30 days;

(B) a letter of renewal application deficiency--within 30 days; or

(C) a letter of pre-licensing inspection deficiency at the conclusion of the pre-licensing inspection.

(i) The camp must provide proof of all deficiency corrections, except for corrections to the emergency plan, within 10 days after the inspection or before camp operation, whichever comes first.

(ii) The camp must provide proof of all deficiency corrections for the emergency plan. The proof must be provided within 45 days after the camp received the department letter of pre-licensing deficiency.

(3) In the event that a timely and complete application for license renewal is not processed within timeframe established in department policy, and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process. Requests for reimbursement must be made by email to youthcamps.reg@dshs.texas.gov. Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant must give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department submits a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner makes the final decision and provides written notification of the decision to the applicant and to the department.

(e) Late renewal. If a license is not renewed within one year after the expiration date, the license cannot be renewed. A new license may be obtained by submitting a new application in compliance with §265.23 of this subchapter (relating to Application and Denial of a New License; Non-transferable). If the license is renewed after its expiration date, the renewed license expires on the date the license would have expired if the license had been renewed timely.

(f) Non-renewal. The department may refuse to renew a license if the applicant has not complied with all final orders resulting from any violations of these sections. Eligibility for license renewal may be reestablished by meeting all conditions of the orders and complying with the requirements of this section. The department may not renew the license of a youth camp that has not corrected deficiencies identified in a final order before the application for renewal is submitted. Corrections must be submitted to and approved by the department's Environmental and Sanitation Licensing Branch before submitting the renewal application.

(g) Application determination affecting license expiration. If a license holder submits a timely and complete license renewal application, the existing license does not expire until the application has been finally determined by the department. If a license holder submits a late or incomplete application and the application is denied, the existing license does not expire until the last day to request a review of the agency order or a later date granted by order of the reviewing court.

(h) Reapplication for license upon revocation. A license holder whose license has been revoked may not reapply for a new license for two years from the date of final revocation.

(i) Opportunity for a hearing. When the department proposes to deny an initial or renewal application, the department gives notice of the proposed action in writing and provides information on how to request an administrative hearing. The applicant must submit a written request for a hearing within 30 days from the date of the notice letter.

(j) Pre-licensing inspections. A youth camp applying for a license renewal may be subject to a pre-licensing inspection. Youth camps must be in compliance with all provisions of the Act and the rules before operation.

(k) Denials.

(1) The department may deny a renewal application for licensing to applicants who fail to meet the standards established by the Act and this subchapter. The department considers any violations by the applicant of the Act or this subchapter, including employment of an individual who was convicted of an act of sexual abuse, as defined by Texas Penal Code §21.02, that occurred at the camp. When the department proposes to deny a renewal application, the department gives notice of the proposed action in writing and provides information on how to request an administrative hearing. The hearing is conducted in accordance with the Act; Texas Government Code Chapter 2001, the Administrative Procedure Act; and the formal hearing procedures in Chapter 1 of this title (relating to Miscellaneous Provisions).

(2) A letter of denial of license renewal may be issued within 60 days of the receipt of application if the applicant does not meet the requirements of subsection (c)(3)(A) of this section.

(3) A letter of denial of license renewal may be issued within 60 days following the first scheduled date of camp operations if the applicant does not meet the requirements of subsection (c)(3)(B) of this section.

(l) Refunds.

(1) If the applicant does not meet the requirements of subsection (c)(3)(A) of this section, the renewal application may be denied and the renewal license fee, less a handling fee of $50, may be refunded. If an applicant is denied because the facility does not meet the requirements of subsection (c)(3)(A) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (c)(3)(B) of this section, the renewal application may be denied and the renewal license fee may not be refunded.

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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Cynthia Hernandez
General Counsel
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For further information, please call: (512) 231-5727

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25 TAC §265.29

STATUTORY AUTHORITY

The repeal is authorized by HSC §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and HSC §1001.075, which authorize

the executive commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001.

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

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SUBCHAPTER C. MIGRANT LABOR HOUSING FACILITIES

25 TAC §§265.31 - 265.35

STATUTORY AUTHORITY

The repeals are authorized by HSC §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and HSC §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001.

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

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SUBCHAPTER B. TEXAS YOUTH CAMPS SAFETY AND HEALTH

25 TAC §265.36

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts new §265.36, concerning Prohibited Operation of Cabins within Floodplains.

Section 265.36 is adopted with changes to the proposed text as published in the November 28, 2025, issue of the *Texas Register* (50 TexReg 7689). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The new rule is necessary to comply with Senate Bill (SB) 1, 89th Legislature, Second Special Session, 2025, that amends Texas Health and Safety Code Chapter 141, which requires DSHS to prohibit licensure of youth camps within floodplains unless they meet certain requirements.

COMMENTS

The 21-day comment period ended December 19, 2025.

During this period, DSHS received comments regarding the proposed rule from 34 commenters. DSHS received comments from Beloved and Beyond, Camp Aranzazu, Camp Eagle, Camp Longhorn, Camp Peniel, Camping Association for Mutual Progress (C.A.M.P.), Cho-Yeh Camp and Conference Center, Forest Glen Camps and Retreats, Girl Scouts of Central Texas, Heart of Texas Baptist Camp, Laity Lodge Youth Camp, Lake Brownwood Christian Retreat, Latham Springs Camp and Retreat Center, Morgan's Camp, Mt. Lebanon Camp, Northgate Resorts, Plains Baptist Camp and Retreat Center, Scouting America - Longhorn Council, Still Water Camps, Sun Communities, Inc., University of Houston, Victory Camp and two individual commenters. A summary of comments relating to the rule and DSHS's responses follows.

Comment: Two commenters disagreed with the cabin floodplain restrictions in §265.36.

Response: DSHS declines to revise the rule in response to this comment. Texas Health and Safety Code (HSC) §762.001(4) defines a floodplain as "any area within a 100-year floodplain identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.). This term includes any area removed from the 100-year floodplain by a letter of map amendment (LOMA), a letter of map revision (LOMR) based on fill, or a substantially similar administrative process conducted by the Federal Emergency Management Agency." HSC §141.0052 prevents DSHS from issuing or renewing a license for a youth camp that operates one or more cabins located within a floodplain unless the youth camp meets the requirements outlined in proposed §265.36(1) - (3). DSHS rules are required to be consistent with statutory requirements.

Comment: Two commenters suggested revising §265.36 to allow alternative data besides FEMA maps for floodplain determination, including a LOMR. One commenter suggested revising §265.36 to allow FEMA Base Level Engineering maps (BLE) to work alongside FIRM for Zone A areas. One commenter suggested revising §265.36 to allow FEMA documentation such as a LOMA to exempt cabins from the floodplain requirements in the section.

Response: DSHS declines to revise the rule in response to this comment. Texas Health and Safety Code (HSC) §762.001(4) defines a floodplain as "any area within a 100-year floodplain identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.). This term includes any area removed from the 100-year floodplain by a letter of map amendment, a letter of map revision based on fill, or a substantially similar administrative process conducted by the Federal Emergency Management Agency." For purposes of the definition of floodplain in §265.11(12), a Letter of Map Revision (LOMR) is considered a substantially similar administrative process to a Letter of Map

Amendment (LOMA) or Letter of Map Revision Based on Fill (LOMR-F).

Comment: One commenter inquired about the applicability of the prohibited operation of cabins within floodplains in §265.36 to university academic enrichment programs, day-only youth programs, and other university-based offerings.

Response: DSHS explains that the definition of youth camp in §265.11(30)(H) specifically excludes "a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Texas Education Code §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards." Texas Education Code §51.976(a)(2) defines campus program for minors as a program that: "(A) is operated by or on the campus of an institution of higher education or a private or independent institution of higher education; (B) offers recreational, athletic, religious, or educational activities for at least 20 campers who: (i) are not enrolled at the institution; and (ii) attend or temporarily reside at the camp for all or part of at least four days; and (C) is not a day camp or youth camp as defined by Section 141.002, Health and Safety Code, or a facility or program required to be licensed by the Department of Family and Protective Services."

25 TAC Chapter 265 establishes minimum requirements for youth camps. If a program does not meet the definition of a youth camp as outlined above, then requirements for youth camps outlined in these rules do not apply.

Comment: One commenter suggested revising Texas Health and Safety Code §762.002(a)(1) to only apply the emergency ladder requirement to cabins located at youth camps and not Park Model RVs (PMRVs) or cabins located in campgrounds and recreational vehicle parks.

Response: DSHS declines to revise the rule in response to this comment. DSHS is unable to amend any Texas Health and Safety Code statutory requirement as part of its rulemaking process. A Texas statute is created or amended by the Texas Legislature. The requirement to install and maintain an emergency ladder capable of providing access to a cabin's roof outlined in proposed §265.36(3) only applies to youth camp operators.

Comment: One commenter suggested inserting "or allow a camper to stay overnight in a cabin" after "operate a cabin" in §265.36 to specify that a cabin in a floodplain may not be used as overnight sleeping quarters for campers.

Response: DSHS disagrees and declines to revise the rule in response to this comment. A youth camp that is not permitted to operate a cabin located in a floodplain as specified in §265.36 is also prevented from allowing overnight campers to use the cabin as sleeping quarters.

Comment: Five commenters inquired about acceptable methods for measuring distance from a floodway and whether this measurement should be taken from the closest tent/structure or from the property boundary.

Response: Section 265.36(a)(2) requires each cabin to be at least 1,000 feet from a floodway. As such, any measurement to determine distance for compliance with this section would be of any cabin in a floodplain to the floodway. Section 265.36(a)(2) does not specify approved methods of measurement. DSHS expects that a youth camp operator will use reliable, industry standard measuring methods produced by experts such as maps, surveys, or other such resources. DSHS will evaluate data to determine if the provided measurement is acceptable to promote emergency planning.

Comment: Eleven commenters suggested revising the ladder requirement in proposed §265.36(3) to take into consideration building height, roof pitch, and current OSHA standards. Nine commenters suggested revising the ladder requirement as the commenters believe that a ladder will present safety hazards. One commenter suggested removing the ladder requirement from the rule.

Response: DSHS disagrees and declines to revise the rule in response to this comment. Texas Health and Safety Code §762.002(a)(1) requires a youth camp operator to install and maintain in each campground cabin located within the floodplain an emergency ladder capable of providing access to the cabin's roof. DSHS rules are required to be consistent with statutory requirements. Proposed §265.36(3) also does not prevent a youth camp operator from adhering to any other applicable health and safety regulations.

Comment: One commenter inquired if a ladder in proposed §265.36(3) needs to be affixed to the cabin and if the ladder needs a minimum rating.

Response: DSHS explains that proposed §265.36(3) requires the youth camp operator to install and maintain an emergency ladder capable of providing access to the cabin's roof. An emergency ladder capable of providing access to a cabin's roof would comply with this requirement whether it is affixed to the cabin or not. However, proposed §265.36(3) does not preclude a youth camp operator from adhering to any other applicable health and safety regulations.

DSHS made a minor editorial change to proposed §265.36(3) to provide clarity, renumbered as §265.36(b).

STATUTORY AUTHORITY

The new section is authorized by Texas Health and Safety Code §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

§265.36. Prohibited Operation of Cabins within Floodplains.

(a) A youth camp must not operate a cabin located within a Federal Emergency Management Agency (FEMA) identified 100-year floodplain, unless:

(1) each cabin located within a floodplain is a result of the cabin's proximity to a lake, pond, or other still body of water that:

(A) is not connected to a stream, river, or other watercourse; or

(B) is dammed; or

(2) each cabin is at least 1,000 feet from a floodway.

(b) A youth camp that operates a cabin within the floodplain as described in subsection (a) of this section must install and maintain an emergency ladder capable of providing access to the cabin's roof.

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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25 TAC §265.37

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts new §265.37, concerning Redundant Internet Connections Required.

Section 265.37 is adopted without changes to the proposed text as published in the November 28, 2025, issue of the *Texas Register* (50 TexReg 7690). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The new rule is necessary to comply with Senate Bill (SB) 1 and House Bill (HB) 1, 89th Legislature, Second Special Session, 2025, that amended Texas Health and Safety Code (HSC) Chapter 141, which requires the department to set the requirements for youth camp safety and health in relation to redundant internet connections.

COMMENTS

The 21-day comment period ended December 19, 2025.

During this period, DSHS received comments regarding the proposed rule from 108 commenters. DSHS received comments from Allaso Ranch, Bandina Christian Youth Camp, Beloved and Beyond, the Broadband Development Office, Broadband Fabric Partners, Buffalo Trail Scout Ranch, Camp Aranzazu, Camp Copass, Camp Doublecreek, Camp El Ranchito, Camp Hidden Acres, Camp Liberty, Camp Longhorn, Camp Peniel, Camp Summit, Camp Wilderness Ridge, Camp Zephyr, Camping Association for Mutual Progress (C.A.M.P.), Cho-Yeh Camp and Conference Center, Cross Trails Ministry, Forest Glen Camps and Retreats, Girl Scouts of Central Texas, Girl Scouts of Greater South Texas, Girl Scouts of Northeast Texas, Girl Scouts of San Jacinto, Heart of Texas Baptist Camp, His Hill Ranch Camp, John Knox Ranch, Lake Brownwood Christian Retreat, Lake Lavon Baptist Encampment, Lakeview Camp, Latham Springs Camp and Retreat Center, Lower Colorado River Authority (LCRA), Mt. Lebanon Camp, Panfork Baptist Encampment, Plains Baptist Camp and Retreat Center, Riverbend Retreat Center, Sandy Creek Bible Camp, Scouting America - Alamo Area Council, Scouting America - Bay Area Council, Scouting America - Capitol Area Council, Scouting America - Circle Ten Council, Scouting America - East Texas Area Council, Scouting America - Golden Spread Council, Scouting America - Longhorn Council, Scouting America - Sam Houston Area Council, Slumber Falls Camp, Southwestern Texas Synod, Still Water Camps, T Bar M Camps & Retreats, Tejas Camp and Retreat, Texas Brigades, Texas Telephone Association, Texas Travel Alliance, Timberline Baptist Camp, University of Houston, Victory Camp, The Master's Workshop Camp, and eight individual commenters. DSHS declines to make any suggested changes at this time.

A summary of comments relating to the rule and DSHS's responses follows.

Comment: A commenter suggested removing the requirement for high-speed broadband services in §265.37.

Response: DSHS declines to revise the rule in response to this comment. HSC §141.0092(a) states that broadband service has the meaning assigned by Texas Government Code §490I.0101(a), which defines broadband service as "Internet service with the capability of providing a: (1) speed of not less than 100 megabits per second for a download; (2) speed of not less than 20 megabits per second for an upload; and (3) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements." DSHS rules are required to be consistent with statutory requirements.

Comment: Three commenters inquired whether broadband service in §265.37 is required for all youth camp buildings housing campers, for one designated building such as an administration building, or something else.

Response: DSHS explains that §265.37(1) requires a youth camp operator to provide and maintain for a youth camp, internet service through a broadband service that connects to the internet using end-to-end fiber optic facilities. Additionally, §265.37(2) requires a youth camp operator to provide and maintain for a youth camp, a secondary internet connection through a broadband service distinct from a broadband service that connects to the internet using end-to-end fiber optic facilities. If a youth camp operator can demonstrate they are providing and maintaining internet services described in §265.37(1) and (2) at the youth camp, then the youth camp operator would be determined to be compliant with this section. Neither the rule nor the statute specifies that youth camp operators must maintain the broadband internet service requirements for all camp buildings or cabins.

Comment: A commenter suggested revising §265.37 to limit application of the requirements in the section to campgrounds. For youth camps held at non-camp locations, the commenter proposed adding other minimum requirements.

Response: DSHS declines to revise the rule in response to this comment. Under HSC §141.002(6) and §141.0094, and 25 Texas Administrative Code (TAC) Chapter 265, Subchapter B, all licensed youth camps must comply with the same statutory and regulatory requirements regardless of whether they use owned or non-owned locations. The statute does not create a separate category for camps held at non-camp facilities. As such, all youth camp operators must comply with all requirements outlined in the statute. HSC §141.0092(b)(1) requires a youth camp operator to maintain internet services through a broadband service that connects to the internet using end-to-end fiber optic facilities. Additionally, the requirement of a youth camp operator to maintain a secondary internet connection through a broadband service distinct from a broadband service that connects to the internet using end-to-end fiber optic facilities is stated in HSC §141.0092(b)(2). DSHS rules are required to be consistent with statutory requirements.

Comment: A commenter questioned why redundant internet access is necessary in §265.37 if §265.31(h)(2) already requires a

public address system operable without reliance on an internet connection.

Response: DSHS explains that the requirement of a youth camp operator to maintain a secondary internet connection through a broadband service distinct from a broadband service that connects to the internet using end-to-end fiber optic facilities is required in HSC §141.0092(b)(2). This is a separate requirement from a public address system operable without reliance on an internet connection as described in HSC §141.0091(c)(2)(B). DSHS rules are required to be consistent with statutory requirements.

Comment: A commenter inquired about the applicability of redundant internet connections in §265.37 to university academic enrichment programs, day-only youth programs, and other university-based offerings.

Response: DSHS explains that the definition of youth camp in §265.11(30)(H) specifically excludes "a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Texas Education Code (TEC) §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards." TEC §51.976(a)(2) defines campus program for minors as a program that: "(A) is operated by or on the campus of an institution of higher education or a private or independent institution of higher education; (B) offers recreational, athletic, religious, or educational activities for at least 20 campers who: (i) are not enrolled at the institution; and (ii) attend or temporarily reside at the camp for all or part of at least four days; and (C) is not a day camp or youth camp as defined by HSC §141.002, or a facility or program required to be licensed by the Department of Family and Protective Services."

25 TAC Chapter 265 establishes minimum requirements for youth camps. If a program does not meet the definition of a youth camp as outlined above, then requirements for youth camps outlined in the rules do not apply.

Comment: Fourteen commenters questioned whether the requirements in §265.37 are necessary and whether there are alternatives to these requirements.

Response: DSHS explains that HSC §141.0092(b)(1) requires a youth camp operator to maintain internet services through a broadband service that connects to the internet using end-to-end fiber optic facilities. Additionally, the requirement of a youth camp operator to maintain a secondary internet connection through a broadband service distinct from a broadband service that connects to the internet using end-to-end fiber optic facilities is required in HSC §141.0092(b)(2). DSHS rules are required to be consistent with statutory requirements.

Comment: Fifty-eight commenters suggested revising the requirement for a fiber optic broadband service detailed in §265.37(1) to include alternative types of broadband services. Two commenters disagreed with the requirement for a fiber optic broadband service. Three commenters suggested removing the fiber optic broadband service requirement. Eight commenters suggested allowing an exemption, variance, or waiver for the fiber optic broadband service requirement.

Response: DSHS declines to revise the rule in response to these comments. HSC §141.0092(b)(1) requires a youth camp operator to maintain internet services through a broadband service that connects to the internet using end-to-end fiber optic facilities. DSHS rules are required to be consistent with statutory requirements.

Comment: Ten commenters suggested extending the compliance timeline for youth camps to have a broadband internet service using end-to-end fiber optic facilities in §265.37(1). Nine commenters suggested revising §265.37(1) to allow phased compliance for youth camps without access to fiber broadband. One commenter inquired about the implementation timeline of the requirements outlined in §265.37(1).

Response: DSHS declines to revise the rule in response to this comment. DSHS must adopt the rules to comply with the requirements added to HSC §141.0092 from HB 1 and SB 1, 89th Legislature, which were effective September 5, 2025. HSC §141.0092(b)(1) requires a youth camp operator to maintain internet services through a broadband service that connects to the internet using end-to-end fiber optic facilities. DSHS rules are required to be consistent with statutory requirements.

Comment: Sixteen commenters suggested removing §265.37(2) to allow a youth camp to maintain only a single internet service. Three commenters suggested revising §265.37(2) to allow a youth camp to maintain alternative communication methods that do not rely on a broadband connection.

Response: DSHS declines to revise the rule in response to this comment. The requirement of a youth camp operator to maintain a secondary internet connection through a broadband service distinct from a broadband service that connects to the internet using end-to-end fiber optic facilities is required in HSC §141.0092(b)(2). DSHS rules are required to be consistent with statutory requirements.

Comment: A commenter inquired if the requirement in §265.37(2) can be satisfied by using a separate and distinct fiber optic cable.

Response: DSHS explains that §265.37(2) requires a youth camp operator to provide and maintain for a youth camp, a secondary internet connection through a broadband service. This secondary internet connection must be distinct from an internet service through a broadband service that connects to the internet using end-to-end fiber optic facilities, which is required under §265.37(1).

Comment: A commenter inquired if a cell phone hot spot can satisfy the secondary internet requirement in §265.37(2).

Response: DSHS explains that §265.37(2) does not specify approved types of secondary internet connections. However, as outlined in §265.37(2), a secondary internet connection through a broadband service must be distinct from the service in §265.37(1). A secondary internet connection must also meet the definitional requirements of a broadband service outlined in §265.11(3).

Comment: A commenter inquired if the secondary internet connection in §265.37(2) needs to be from a different provider.

Response: DSHS explains that §265.37(2) requires a youth camp operator to provide and maintain for a youth camp, a secondary internet connection through a broadband service. This secondary internet connection must be distinct from the internet service described in §265.37(1). Section 265.37(2) does not specify that the secondary internet must be from a different internet service provider.

Comment: A commenter agreed with DSHS using the Broadband Development Office's broadband service definition. The

commenter stated the definition provides for a technology-neutral approach in the type of broadband service each camp can utilize to meet connectivity requirements, specifically the secondary internet connection in §265.37(2).

Response: DSHS appreciates the comment.

STATUTORY AUTHORITY

The new section is authorized by HSC §141.008, which authorizes the executive commissioner of HHSC to adopt rules to implement the Youth Camp Safety and Health Act; and by Texas Government Code §524.0151 and HSC §1001.075, which authorize the executive commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001.

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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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER H. CANCELLATION, DENIAL, AND NONRENEWAL OF CERTAIN PROPERTY AND CASUALTY INSURANCE COVERAGE

DIVISION 1. GENERAL PROVISIONS

28 TAC §5.7015

The commissioner of insurance adopts amendments to 28 TAC §5.7015, concerning unearned premium refunds. The amendments are adopted with changes to the proposed text published in the August 15, 2025 issue of the *Texas Register* (50 TexReg 5305). The section was revised in response to public comment. The section will be republished.

REASONED JUSTIFICATION. The amendments to §5.7015 are necessary to ensure compliance with Insurance Code §558.002 and §558.003. Section 558.002 requires insurers to refund the appropriate portion of any unearned premium to a policyholder whenever a personal automobile or residential property insurance policy is cancelled before the end of its term. Section 558.003 directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 558 and establish guidelines for determining required refunds of portions of unearned premiums.

The amendments to §5.7015 establish that when a personal automobile or residential property policy is cancelled, the appropriate portion to be refunded is the full amount of any unearned premium, which must be calculated pro rata. In effect, the amendments prohibit insurers from using a "short rate" provision or otherwise retaining any unearned premium. A short rate provision allows an insurer to retain a portion of unearned premium, which means that an insured's refund is less than a pro rata amount of the policy premium. The amendments remove uncertainty about the amount of unearned premium that insurers must return and align with policyholder expectations because most personal automobile and residential property policies already calculate unearned premium proportionately.

The amendments also clarify that insurers are not prohibited from having a minimum retained premium or other earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy. For example, assume that a company issues a one-year personal automobile policy effective January 1 with an annual premium of $365, and the policy has a minimum retained premium of $25. If the insured cancels the policy effective February 19 (i.e., the 50th day of the policy), the pro rata refund amount would be $315. If the insured cancels effective January 10 (i.e., the 10th day of the policy), the refund amount would be $340 (i.e., $365 annual premium minus the $25 minimum retained premium). Any minimum retained premium or other earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, as well as justification for the amount, must be included in a rate or rule filing required under 28 TAC Chapter 5, Subchapter M, Division 6.

To provide adequate time for insurers to comply with these changes, the changes made to §5.7015 will become effective September 1, 2026. This delayed effective date will give insurers time to update policy forms, determine whether to update rate filings, and implement any necessary programming or procedural changes. This is longer than the 180-day period referenced in the proposal preamble, so it should give insurers enough time to incorporate the requirements under §5.7015.

Descriptions of the section's amendments follow.

Section 5.7015. Subsection (a) is amended to remove the phrase "the appropriate portion of" to more clearly require personal automobile and residential property insurers to refund any unearned premium when a policy is cancelled or terminated before the end of its term. The amendments also specify that unearned premium must be calculated pro rata, and add the title of Insurance Code §558.002 for consistency with agency drafting style.

New subsection (e) has been added in response to a comment. It clarifies that the requirements in subsection (a) do not prohibit a policy from including an earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, such as a minimum retained premium.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on September 15, 2025.

Commenters: TDI received comments from four commenters, all of which were generally in support of the proposal and requested some clarification: American Property Casualty Insurance Association; Old American County Mutual; Insurance Council of Texas; and Insurance Services Office, Inc.

Comments on §5.7015.

Comment. A commenter states that the requirement to calculate premiums pro rata rather than short rate is straightforward and clear, as is the allowance for the application of a minimum earned premium that is properly included in the rate and rule filings for the product.

Agency Response. TDI appreciates the commenter's observations.

Comment. A commenter commends TDI for including a statement in the proposal preamble that the amendments would "not prohibit insurers from having a minimum retained premium."

Agency Response. TDI appreciates the comment.

Comment. A commenter raises concerns about how to handle cases where the premium credit balances are inconsequential and costly for insurers to issue refund checks relative to the amounts. The commenter states that such checks often go uncashed, and the industry often includes "waiver of premium" rules in their filings, generally providing that inconsequential amounts will not be refunded unless requested. The commenter suggests that $5.00 is a typical threshold. The commenter asserts that TDI has handled companies' waiver-of-premium rules inconsistently in recent years, sometimes objecting to them and sometimes not. The commenter believes the commissioner of insurance has the authority to make reasonable allowances for the handling of inconsequential premium credit balances and that requiring automatic refund is inefficient, ineffective, and unnecessary.

Agency Response. TDI acknowledges the commenter's concern. However, TDI declines to revise the rule to address "inconsequential" premium credit balances, as it is outside the scope of this rulemaking. TDI will ensure that staff are trained on the matter. The rule proposal did not address the retention of minor amounts of credit balances but instead addressed the scope and types of expenses that are considered earned. With the understanding that the expense of returning the credit can be greater than the amount returned, TDI notes that companies have historically filed thresholds for waivers of minor amounts of credit balances unless the insured specifically requests a refund. These thresholds should be nominal and justified in the company's rate filing.

Comment. One commenter requests clarification regarding companies retaining a minimum earned premium. The commenter asks that TDI maintain consistency with the proposed rule's preamble explanation that there may be nonrefundable expenses incurred in writing a policy and for which a pro rata refund may not be appropriate.

The commenter, along with another commenter, similarly requests clarification about whether the rule amendment would apply only to premiums, or if it also would apply to other charges. The two commenters give examples such as the Motor Vehicle Crime Prevention Authority surcharge, installment payment fees, late payment fees, return payment fees, SR-22 fees, surcharges to collect volunteer fire assessments, surcharges to recoup FAIR Plan assessments, and catastrophe surcharges collected to repay a Texas Windstorm Insurance Association financing arrangement under Insurance Code Chapter 2210, Subchapter M-2.

One of the commenters suggests a way to clarify the rule is by adding new subsection (e) to read: "This requirement does not prohibit a policy from including a minimum retained premium or other earned amount that is retained for nonrefundable expenses incurred in writing a policy."

Agency Response. TDI agrees with this request. To clarify the rule, TDI added a new subsection (e) containing language similar to the commenter's suggested language, with changes made for added clarity.

The addition of new subsection (e), which references "an earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, such as a minimum retained premium," reinforces the principle that there are certain amounts like statutory fees and surcharges that may be retained as unrecoverable expenses. Companies should state in their manual and forms which fees are fully earned or unrecoverable.

Comment. A commenter requests that TDI consider a longer implementation period beyond the 180-day effective date TDI stated in the proposal. The commenter suggests that extending the effective date beyond 180 days could ensure a smoother transition, reduce compliance burdens, and minimize potential disruptions for companies that might have to make systems changes. The commenter does not suggest how much additional time is needed.

Agency Response. TDI agrees to extend the implementation period. TDI expects that few insurers will need to make systems changes because TDI is aware of only a few insurers that have short rate provisions. But extending the effective date to September 1, 2026, as discussed in the preamble, should give those insurers that need it ample time to implement the new requirements under §5.7015.

Comment: A commenter references the preamble of the rule proposal in which TDI stated that the amendments in effect prohibit insurers from using a short rate provision or otherwise retaining any unearned premium. The commenter requests that TDI clarify how insurers can recover expenses incurred for insured-requested cancellations of policy terms for less than one year, as well as for cancellations occurring within the first year of one-year policies. The commenter states that insurers often incur expenses to obtain new business, and the retention of a small amount of premium for nonrefundable expenses during the first year of an automobile policy is a common practice.

The commenter requests that the preamble of the rule as proposed be revised by adding the following statement: "Given the nonrefundable expenses incurred, insurers are not prohibited from retaining a relatively small amount (i.e., 10%) of premium during the first year that the policy is in force." The commenter also requests that TDI issue a bulletin with more specific guidance on its interpretation of these regulatory requirements for carriers writing automobile insurance policies in Texas.

Agency Response. TDI declines to add the requested language to the preamble of the rule as proposed or to issue a bulletin. The commenter's concerns are addressed in new subsection (e), which clarifies that insurers can retain amounts for otherwise unrecoverable expenses incurred in issuing a policy. TDI believes that the rule, with the addition of subsection (e), addresses the commenter's request for more specific guidance.

STATUTORY AUTHORITY. TDI adopts amendments to §5.7015 under Insurance Code §§558.002, 558.003 and 36.001.

Insurance Code §558.002 provides that Insurance Code Chapter 558 applies to an insurer that issues an insurance policy that requires the insurer to maintain an unearned premium reserve for the portion of the written policy premium applicable to the un-

expired or unused part of the policy period for which the premium has been paid.

Insurance Code §558.003 directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 558 and establish appropriate guidelines to determine the portion of unearned premium that must be refunded to a policyholder.

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.

§5.7015. Refund of Unearned Premium.

(a) Insurers must refund any unearned premium to the policyholder not later than the 15th business day after the effective date of cancellation or termination of a personal automobile or residential property insurance policy, as required by Insurance Code §558.002(d), concerning Applicability of Chapter; Refund of Unearned Premium. Unearned premium must be calculated pro rata.

(b) For purposes of this section and Insurance Code §558.002(d), the "effective date of cancellation or termination" means the date the insurer receives notice of the cancellation or termination, or the date of the cancellation or termination, whichever is later. This does not change the actual date of cancellation or termination for calculating the amount of unearned premium or any other purpose.

(c) Insurers may refund unearned premium by applying it as a credit to other premium due on the same policy, unless the policyholder requests otherwise.

(d) This section applies to any unearned premium, including any that results from cancellation or termination of an entire policy or an endorsement.

(e) The requirements in subsection (a) of this section do not prohibit an insurer from including in a policy an earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, such as a minimum retained premium.

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 January 12, 2026.

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Texas Department of Insurance
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SUBCHAPTER O. STATISTICAL PLANS

28 TAC §5.9503, §5.9504

The commissioner of insurance adopts new 28 TAC §5.9503 and §5.9504, concerning the *Texas Statistical Plan for Residential Risks* (Residential Plan) and the *Texas Private Passenger Auto Statistical Plan* (Auto Plan), respectively. The new sections are adopted with changes to the proposed text published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6977). Sections 5.9503 and 5.9504 were revised in response to public comments. In addition, both the Residential Plan referenced in §5.9503 and the Auto Plan referenced in §5.9504 have been revised in response to public comments. TDI also revised both statistical plans to provide clarification; ensure consistency between the plans; allow for future expansion of data fields, if necessary; and correct errors and typos. The sections will be republished.

REASONED JUSTIFICATION.

The new sections are necessary to implement House Bill 2067, 89th Legislature, 2025, which amended Insurance Code Chapter 551 to require insurers to (1) disclose to consumers their reasons for cancellation or nonrenewal of an existing insurance policy or for declination of an application, even without a consumer's request; and (2) provide to TDI--at least once a quarter and in the form and manner TDI prescribes--a written report organized by ZIP code that summarizes the insurer's reasons that were provided to consumers. The bill also requires TDI to post an aggregated summary of the reports on its website.

New §5.9503 and §5.9504 adopt by reference revised versions of TDI's current statistical plans for residential and private passenger automobile lines of business. The revisions to the Residential Plan and Auto Plan require insurers to include data by ZIP code relating to the reasons for cancellations, nonrenewals, and declinations in the statistical reports submitted to TDI's statistical agent. Insurers will report the data under the Residential Plan on a monthly basis and under the Auto Plan on a quarterly basis, aligning with current reporting frequency. The adopted plan updates will facilitate insurers' reporting of the data to TDI and TDI's collection and posting of an aggregated summary of the data, in compliance with HB 2067. Each statistical plan will provide codes to be used as shorthand for various common reasons an insurer would decline an application or cancel or not renew a policy.

Descriptions of the adopted updates to the Residential Plan and the Auto Plan and new §5.9503 and §5.9504 follow.

The Residential Plan

In the Residential Plan, the adopted updates add new General Rules No. 34 to Section A (General Rules) to describe the requirements for reason-code reporting. New Section E provides the record layout for reasons-related data, including instructions, description of the required columns, and the corresponding reason codes. New Section F provides additional instructions and descriptions of the reason codes.

For clarity, the reason codes are provided only for use in a statistical plan report submitted to TDI's statistical agent. TDI expects that in notices or disclosures of reasons to consumers, as required by HB 2067, insurers will provide a comprehensive description or explanation of the reasons for a specific declination, cancellation, or nonrenewal; the insurer should *not* rely on TDI's reason codes in its consumer notices or disclosures. TDI anticipates that reason code updates will be needed to align future data reports with the evolving insurance market, to address stakeholder feedback, or to improve the usefulness of collected data.

Consistent with Insurance Code §551.002(c) and §551.109(1), the new reporting requirements include an indicator for reasons that include the use of third-party information. The new indicator requires specifying whether the reasons were based on the use of aerial imagery versus other types of third-party information. An indicator for cancellations that occur during the first 60 days of the initial policy term is also included in the adopted updates.

As instructed in the plan, the reasons-related reporting requirements apply to all declinations, cancellations, and nonrenewals starting on April 1, 2026, except for:

(1) declination of an application that was made before April 1, 2026; and

(2) cancellation of a policy that was delivered, issued for delivery, or renewed before April 1, 2026.

The adopted updates also add new reporting requirements to require an additional report of the numbers of declined applications and canceled and nonrenewed policies by ZIP code. New General Rules No. 35 and Section G are added to the Residential Plan to describe the requirements for reporting the actual numbers of declined applications and canceled and nonrenewed policies and to provide the record layout for reporting the data, respectively.

In addition to the previously described revisions to implement HB 2067 and Insurance Code Chapter 38, Subchapter E, updates to the Residential Plan (non-implementation updates) include aligning reporting requirements with current industry practices, adding clarification, correcting errors, and removing an obsolete technology reference.

An instruction for reporting accident dates on loss records in General Rules No. 8 is deleted to reflect current industry practice. Similarly, a new code for policies with vacant occupancy is added to the premium and losses codes and the record layout for premiums to accommodate current reporting practices. Also, in the record layout for premiums, revisions clarify in the descriptions for Codes 01 and 91 in Column 5-6 (Record Type) that the report includes reinstatements of flat cancellations. Revisions correct errors in the record layout for premium instructions by adding a code for "Not Applicable" in Column 53 (Construction) and by deleting the "DW Only" reference in Column 151 (Replacement Cost Building (HO and DW)). In the instructions within the record layout for losses for column 151 (Replacement Cost Building (HO and DW), the text "(Ten and Con Only)" is deleted. Another error in the instructions within the record layout for losses is corrected by deleting a reference to a nonexistent field in Column 169-172 (Amount of Insurance - Personal Property Coverage (HO)). A reference to an obsolete technology, ShareFile, is deleted from the transmittal form instructions in the General Rules.

TDI has made the following changes to the Residential Plan as proposed in response to comments:

- References to the January 1, 2026 effective date of the updated Residential Plan have been replaced with the new plan effective date of April 1, 2026, throughout the plan.

- General Rules No. 4 has been revised to remove the requirement for a separate formal affidavit.

- General Rules Nos. 21 and 29 have been updated to remove the references to farm mutual insurers.

- General Rules No. 29, relating to the transmittal form content, has been revised to clarify that the Notified Policy Count (referred to as the Recipient Count when the rule proposal was published) should be provided by action type. The term "recipient count" has been changed to "notified policy count" to clarify that the term refers to the count of policies and not the count of insureds. This terminology change has also been made in General Rules No. 34, in the record layout in Section E, and throughout the Residential Plan.

- General Rules No. 34 has been revised to clarify the instructions for reporting the Notified Policy Count.

- Both General Rules Nos. 34 and 35 have been revised to: (a) add specific instructions for reporting the reasons for and counts of cancellations, including flat cancellations; (b) clarify that only declinations of "completed and submitted applications" must be reported; and (c) clarify that rescissions and certain voided policies should not be reported.

- Section E (Record Layout for Cancellation, Nonrenewal, and Declination Notices) has been revised to: (a) update the Reason Code List description to clarify that the reason codes should be concatenated in alphabetical order; (b) clarify in Column 18 (60D) of the record layout that the 60-day indicator should apply if the cancellation notice was sent during the first 60 days of the initial policy term; and (c) remove the "Cancellations" and "Nonrenewals and Declinations" headings from the Reason Code List for Columns 36-45 (RCL) to prevent confusion about which reason codes apply to each action type.

- In the "Reason codes" instructions in Section F, the description for "Exposure to loss - liability" has been expanded to provide additional guidance for use of that reason code.

TDI has also made the following updates to the record layouts as proposed to accommodate future reporting needs and to clarify coding:

- In Sections E and G, additional "Skip" fields have been added to the record layout for both new reports to allow for future expansion for new data fields.

- In Section E, the code for Column 1 (SP) in the record layout has been updated from 4 to 5 to distinguish from transaction reporting under other sections of the Residential Plan.

- Similarly, in Section G, the code for Column 1 (SP) has been updated from 4 to 6.

- In Section E, the description of "Notification Date" in Columns 2-4 (NDT) has been reworded for clarity.

TDI has also replaced the term "count" in General Rules No. 29 with "actualized policy count" to clarify that the count should be composed of actual cancellations, nonrenewals, and declinations. This terminology change has also been made in the record layout in Section G.

TDI also adopts nonsubstantive changes to the Residential Plan, including typo corrections, plain language edits, table of contents additions, and style and formatting changes to reflect current TDI style preferences.

The Auto Plan

In the Auto Plan, the adopted updates require a new quarterly report on the reasons for cancellations, nonrenewals, and declinations. In new Section F, specific instructions are added for the report, including the record layout, field instructions, and listing and descriptions of the reason codes.

Consistent with Insurance Code §551.002(c) and §551.109(1), the new reporting requirements include an indicator for reasons that include the use of third-party information. An indicator for cancellations that occur during the first 60 days of an initial policy term is also included in the adopted updates.

As instructed in the plan, the reasons-related reporting requirements apply to all declinations, cancellations, and nonrenewals starting on April 1, 2026, except for:

(1) declination of an application that was made before April 1, 2026; and

(2) cancellation of a policy that was delivered, issued for delivery, or renewed before April 1, 2026.

The adopted updates also add new reporting requirements to the Auto Plan to require an additional report of the numbers of declined applications and canceled and nonrenewed policies by ZIP code. New Section G is added to provide the instructions, field definitions, and record layout for reporting the data.

In addition to the previously described revisions to implement HB 2067 and Insurance Code Chapter 38, Subchapter E, updates to the Auto Plan (non-implementation updates) include aligning reporting requirements with current industry practices and adding clarification.

The adopted updates add classification codes to clarify how insurers should report data in certain circumstances and expand the number of reserved deductible positions. Insurers have increasingly reported that the classification codes in the current Auto Plan do not account for changes in insurers' driver class rating variables and risk classifications. The following two new classification codes are added to the Quarterly Market Report:

(1) 99150 - Used when an insured household includes both Youthful Males under the age of 25 and Unmarried Females under the age of 21.

(2) 99900 - Used when an insurer does not have sufficient information about Operators and Business Use. Use of this code requires certification from the insurer regarding inapplicability of any other classification code and requires prior approval from TDI's statistical agent.

The number of positions available for the "deductible amount" is increased from four to five in the Quarterly Detailed Experience Report. At least one insurer has begun offering a deductible option that spans five digits. Because the current Auto Plan has an allocation of four positions for reporting the deductible amount, insurers currently report "9999" in the deductible field when the deductible is five digits.

The adopted revisions to the classification codes and deductible positions address limitations in the current plan that make reporting of accurate statistical data difficult and reflect current practices by insurers. Revisions also update General Reporting Instructions No. 12 relating to new versions of the Auto Plan.

TDI has made the following changes to the Auto Plan as proposed in response to comments:

- References to the January 1, 2026 effective date of the updated Auto Plan have been replaced with the new plan effective date of April 1, 2026, throughout the plan.

- General Reporting Instructions No. 10 has been revised to remove the requirement for a separate formal affidavit.

- Specific Instructions No. 1 in Section F has been revised to clarify the instructions for reporting the Notified Policy Count (referred to as the Recipient Count when the rule proposal was published). The term "recipient count" has been changed to "notified policy count" to clarify that the term refers to the count of policies and not the count of insureds. This terminology change has also been made in General Reporting Instructions No. 8, in the record layout in Section F, and throughout the Auto Plan.

- Specific Instructions No. 3 in Sections F and G has been revised to clarify that insurers offering policies covering Group 1 and Group 2 vehicles are subject to the new reporting requirements.

- Specific Instructions No. 4 and field definitions for the "Five-Digit ZIP Code" field in Sections F and G have been revised to clarify reporting of multiple covered vehicles in different ZIP codes.

- New Specific Instructions No. 6 in Section F and new Specific Instructions No. 5 in Section G have been added to clarify that only declinations of "completed and submitted applications" must be reported.

- New Specific Instructions No. 7 in Section F and new Specific Instructions No. 6 in Section G have been added to provide specific instructions for reporting the reasons for and counts of cancellations, including flat cancellations, and to clarify that rescissions and certain voided policies should not be reported.

- Specific Instructions Nos. 6 and 7 in Section F have been combined into renumbered No. 8 and the reason code lists for cancellations versus nonrenewal and declinations have been combined into a single list, to prevent confusion about which reason codes apply to each action type. Similarly, the separate reason code lists in the field definition for the "Reason Code List (Alphanumeric Field: Positions 36-45)" field in Section F have been combined into a single list and the separate headings have been removed.

- Specific Instructions No. 8 in Section F has been revised to expand the description for "Exposure to loss - liability" to provide additional guidance for use of that reason code.

- The field definition for the "60-day Indicator (Alphanumeric Field: Position 18)" field has been revised to clarify that the 60-day indicator should apply if the cancellation notice was sent during the first 60 days of the initial policy term.

- In the record layout for Section G, the field length for the "Action Effective Date" field has been corrected from 6 to 4.

- General Reporting Instructions No. 8, relating to the transmittal form content, has also been revised to clarify that the recipient count and the actualized policy count (referred to as "count" when the rule proposal was published) should be provided separately by each action type.

TDI has also made the following updates to the record layouts and field definitions in Sections F and G as proposed to correct errors, make the coding consistent with the Residential Plan, and accommodate future reporting needs:

- The field definition for the "Plan Code (Numeric Field: Positions 1-2)" field in Section F has been revised to reflect the correct report name.

- The field definition for the "Action Type (Numeric Field: Positions 15-16)" field in Sections F and G has been revised to reflect numeric codes consistent with the Residential Plan. References to "letter" codes and "alphanumeric" fields have been corrected. Conforming changes have been made to the positions in the field definitions and in the record layout.

- The field definition for the "Notification Date" field in Section F has been reworded for clarity.

- The "Count" field in the Section G field definitions has been renamed "Actualized Policy Count" to clarify that the count should be composed of actual cancellations, nonrenewals, and declinations. This terminology change has also been made in the record layout in Section G and in General Reporting Instructions No. 8.

- Additional "Reserved" fields have been added to the field definitions and record layout in Sections F and G to allow for future expansion for new data fields.

TDI also adopts nonsubstantive changes in the Auto Plan, including typo corrections, plain language edits, TDI contact information updates, outdated footer removal, new cover page and table of contents additions, and style and formatting changes to reflect current TDI style preferences.

Section 5.9503. Texas Statistical Plan for Residential Risks.

New §5.9503 adopts by reference the Residential Plan, which is revised to add requirements and instructions for reporting data on the reasons for declinations, cancellations, and nonrenewals of residential property insurance policies under HB 2067. Subsection (a)(1) provides that the section's purpose is to establish requirements for this data reporting. Subsection (a)(2) provides that these requirements apply to insurers writing direct residential property lines of business in Texas and that applicable insurers must provide the reports described in the Residential Plan. Subsection (a)(3) provides that insurers' reports must comply with the requirements and instructions specified in the Residential Plan. Subsection (a)(4) specifies that insurers must use the revised version of the Residential Plan beginning on its effective date. Subsection (b) adopts by reference the revised Residential Plan.

In response to comments, TDI has extended the effective date of the Residential Plan to April 1, 2026. Subsections (a)(4) and (b) as proposed have been changed to replace the January 1, 2026 plan effective date with the new date of April 1, 2026.

Section 5.9504. Texas Private Passenger Auto Statistical Plan.

New §5.9504 adopts by reference the Auto Plan, which is revised to add requirements and instructions for reporting data on the reasons for declinations, cancellations, and nonrenewals of automobile insurance policies under HB 2067. Subsection (a)(1) provides that the section's purpose is to establish requirements for this data reporting. Subsection (a)(2) provides that insurers writing direct private passenger automobile business in Texas must provide the reports described in the Auto Plan. Subsection (a)(3) provides that insurers' reports must comply with the requirements and instructions specified in the Auto Plan. Subsection (a)(4) specifies that insurers must use the revised version of the Auto Plan beginning on its effective date. Subsection (b) adopts by reference the revised Auto Plan.

In response to comments, TDI has extended the effective date of the Auto Plan to April 1, 2026. Subsections (a)(4) and (b) as proposed have been changed to replace the January 1, 2026 plan effective date with the new date of April 1, 2026.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on November 24, 2025.

Commenters: TDI received written comments from 21 commenters. Six of the 21 commenters also spoke at a public hearing on the proposal held on November 13, 2025. Commenters in support of the proposal with changes were American Modern; American Property Casualty Insurance Association; Amica Mutual Insurance Company; CGI, Inc.; Cimarron Insurance Company, Inc.; Clearcover Insurance Company; Cornerstone Operations Group; Insurance Council of Texas; National Association of Mutual Insurance Companies; Old American County Mutual Fire Insurance Company & Old American Indemnity Company; Sentry Insurance; Sutton National Insurance Group; Texas Appleseed; and Texas Farm Bureau Insurance Companies.

Commenters against the proposed application of the new reporting requirements in the statistical plans to farm mutual insurance companies were Farmers Mutual Fire Insurance Association of Comal County; Garfield Farm Mutual Insurance Association; Germania Farm Mutual Insurance Association; Gillespie Farm Mutual Insurance Company; Hochheim Prairie Farm Mutual Insurance Association; Ranchers and Farmers Mutual Insurance Company; and Texas Association of Mutual Insurance Companies.

Four commenters submitted comments after the posted deadline of 5:00 p.m., Central time, on November 24, 2025. Because these comments were submitted after the end of the public comment period, TDI is unable to consider the comments and does not respond to them in this adoption order.

General Comments

Comment. A commenter states appreciation for TDI's important work in proposing amendments to the Residential and Auto Plans that align with the requirements of HB 2067. The commenter notes that "HB 2067 offers clear authority to TDI and a mandate to collect reasons for cancellation, declination, and nonrenewal."

Agency Response. TDI appreciates the commenter's support.

Comment. A commenter expresses interest in collaborating with TDI and industry peers through a TDI-led working group or technical subcommittee to shape uniform standards and share implementation insights to further industry-wide adoption of the requirements.

Agency Response. TDI declines to create a working group or technical subcommittee at this time but appreciates the commenter's interest in collaborating in the implementation of HB 2067.

Comment: Multiple commenters express concern about the deadline to begin complying with the reporting requirements as proposed. Two commenters state that the timeframe to implement the proposed requirements will not be sufficient to make all the necessary changes needed to report the required data. Another commenter notes the difficulty of implementing the reporting requirements while simultaneously devoting resources to comply with the consumer notice requirements. Another commenter notes the challenge of implementing the proposed requirement in Section B of the Residential Plan to report on vacancy status, as some companies may not currently capture this data. To minimize implementation challenges, four commenters suggest delaying the implementation of the proposed requirements by providing extra time for the first report submission or creating a phased reporting schedule.

Three commenters note the difficulty of quickly implementing the requirements while reporting accurate data, with one noting that inaccurate or incomplete data undermines the goal of promoting transparency. One of the commenters notes that previous changes to the residential statistical plan allowed for a six-month lead time and that quickly implementing the proposed statistical plan requirements may result in inaccurate or less useful information. Another commenter recommends extending the implementation deadline by 90 to 120 days to ensure complete understanding and compliance with the new requirements.

Agency Response. TDI recognizes the challenge of implementing the new reporting requirements by the proposed deadline and agrees to extend the implementation time. To reflect this, TDI has changed the effective dates of the statistical plans in the rule text and in the plans from January 1, 2026, to April 1, 2026. TDI believes that delaying the plans' effective dates will provide insurers with sufficient time to implement the reporting and notice requirements, which will ensure that the reported data is accurate and collected in a timely manner. The extra time will allow insurers to make necessary updates to their systems and processes before they must begin reporting.

In §5.9503(a)(4) and §5.9504(a)(4), TDI has updated the date that applies to all reports required under the section from January 1, 2026, to April 1, 2026. TDI has also changed the effective dates in the Residential Plan and the Auto Plan from January 1, 2026, to April 1, 2026. To reflect the change to the effective dates of the statistical plans, TDI has changed the plans' effective dates as referenced in §5.9503(b) and §5.9504(b) from January 1, 2026, to April 1, 2026.

Comment. Multiple commenters express concern about the short implementation timeline. One commenter notes the uncertainty in navigating this new system and another commenter states that it may take time for testing and working with the statistical agent to ensure programming and coding systems are aligned. Two commenters recommend that, in addition to delaying the effective date, TDI establish a safe harbor provision for good faith errors that insurers may report during the initial compliance period. One of the commenters requests that TDI be flexible with its enforcement of the requirements, especially at the beginning of implementation.

Another commenter recommends that TDI permit an initial "pilot" reporting period, where insurers submit the new data to TDI in a trial run (using the first quarter of required data as an example) and then TDI provides feedback on data quality or formatting issues without the risk of regulatory penalties. The commenter notes that a period like this would benefit both TDI and insurers by identifying and addressing inconsistencies or technical problems before strict enforcement.

Agency Response. TDI recognizes the challenge of implementing the new reporting requirements by the proposed deadline but declines to establish a safe harbor period or a "pilot" reporting period. However, as previously described, TDI has changed the effective dates of the statistical plans in the rule text and in the plans from January 1, 2026, to April 1, 2026, to give insurers more time to update coding and programming systems to comply with the requirements.

In §5.9503(a)(4) and §5.9504(a)(4), TDI has updated the date that each section begins to apply to all reports required under the section from January 1, 2026, to April 1, 2026. TDI has also changed the effective dates in the Residential Plan and the Auto Plan from January 1, 2026, to April 1, 2026. To reflect the change to the effective dates of the statistical plans, TDI has changed the plans' effective dates as referenced in §5.9503(b) and §5.9504(b) from January 1, 2026, to April 1, 2026.

Comment. Four commenters express concern about the effective date of the proposed rule and request clarification about how to apply HB 2067 and the proposed statistical plans to policies. One commenter requests clarification on the reporting requirements regarding application denials and policy cancellations where the application or policy begins December 31, 2025, and is subsequently denied or canceled in January 2026. Two commenters state that reporting nonrenewal notifications made before January 1, 2026, is inconsistent with HB 2067 and that coverage decisions made before January 1, 2026, should not be reported. The commenters state that HB 2067 does not require notices providing reasons to be issued prior to January 1, 2026, and request that any language in the statistical plans that suggests otherwise be removed or replaced with language that aligns with HB 2067. Another commenter urges TDI to implement data collection timelines that align with the effective date in HB 2067 and notes the importance of receiving meaningful data about the insurance market by geographic location to inform Texas legislators in time for the 90th Regular Legislative Session.

Agency Response. TDI understands the concerns raised by the commenters and agrees that meaningful, timely data is important to effectively implement HB 2067. However, in response to comments, TDI has changed the effective date of the statistical plans in the rule text and in the plans from January 1, 2026, to April 1, 2026. TDI believes that delaying the plans' effective dates will provide insurers with time to implement the reporting and notice requirements to ensure accurate data is reported and collected in a timely manner.

In §5.9503(a)(4) and §5.9504(a)(4), TDI has updated the date that each section begins to apply to all reports required under the section from January 1, 2026, to April 1, 2026. TDI has also changed the effective dates in the Residential Plan and the Auto Plan from January 1, 2026, to April 1, 2026. To reflect the change to the effective dates of the statistical plans, TDI has changed the plans' effective dates as referenced in §5.9503(b) and §5.9504(b) from January 1, 2026, to April 1, 2026.

Comment. One commenter requests clarification on whether the lack of carve-out for nonrenewals was intentional and references the explanation in the proposal. The proposal states that "the reasons-related reporting requirements will apply to all declinations, cancellations, and nonrenewals starting on January 1, 2026, except for: (1) declination of an application that was made before January 1, 2026; and (2) cancellation of a policy that was delivered, issued for delivery, or renewed before January 1, 2026." The commenter notes that insurers are already issuing nonrenewal notices and that this reporting requirement will likely require manual review to capture the data being requested.

Agency Response. In Specific Instructions No. 2 in Section F in the Auto Plan and General Rules No. 34 in Section A in the Residential Plan, TDI requires insurers to provide information on the number of notices sent for policies that nonrenew on or after the effective date of the plan, which has been adopted as April 1, 2026. TDI recognizes that companies will be sending nonrenewal notices out in early 2026 and may have to capture this information by other means before programming is in place for the new reporting requirements. However, this requirement enables TDI's posting of an aggregated summary of the insurers' reports as required under Insurance Code §551.006(b).

Comment. Two commenters jointly posit that HB 2067 does not require the use of the statistical plans for the new reporting requirements. The commenters strongly encourage TDI to allow for reporting through other means. A third commenter states their appreciation for TDI leveraging existing statistical reporting to collect the newly required data and notes that this helps to streamline the process for insurers.

Agency Response. HB 2067 added new §551.006 to the Insurance Code, and §551.006 expressly requires reporting to be "in the form and manner prescribed by the commissioner." TDI is therefore authorized to prescribe reporting via the existing statistical plans. Incorporating the new reporting requirements as new sections in the existing statistical plans provides efficiency for both insurers and TDI and will facilitate TDI's posting of aggregated summaries of the reported data on TDI's internet website.

Comment. A commenter recommends that companies be required to report declinations by consumers, as a separate data category. The commenter expresses concern that otherwise insurers could conceal declinations by offering an untenable price to consumers as a way to avoid reporting a declination.

Agency Response. TDI declines to require reporting of consumers' reasons for declining coverage. As stated in Insurance Code §551.006, the new reporting requirements apply to "the insurer's reasons" that the insurer provided to consumers. HB 2067 does not mention reporting of a consumer's reasons, and insurers are unlikely to have access to such data. Policyholders may decide not to renew their policy for any number of reasons that are not captured by the insurer.

Comment. One commenter notes that existing reports already include ZIP codes and suggests that TDI consider adding the relevant data fields to existing reports instead of requiring two new reports for the notices and quarterly numbers. Another commenter questions whether separate reports for home and auto are necessary and suggests consolidating Sections E, F, and G into two sections in the Auto Plan.

Agency Response. TDI declines to add the new reporting requirements to the existing reports in the statistical plans. The current Residential Plan data is at the transactional level, and TDI believes that incorporating the new fields will require more programming effort and validation. While drafting the proposal, TDI considered including the new fields in the Quarterly Market Report in the Auto Plan, but determined a new report was necessary as the new information is by policy, rather than by vehicle. In addition, TDI declines to consolidate Sections E, F, and G of the Auto Plan. Section E is the Quarterly Detailed Experience Report and applies only to the Top Reporting Groups as defined in the General Reporting Instructions of the Auto Plan. All insurers are required to submit data for Sections F and G.

Comment. A commenter asks about two sections in the Residential Plan: Section E, on the record layout for cancellation, nonrenewal, and declination notices, and Section G, on the record layout for the number of actual cancellations, nonrenewals, and declinations. The commenter asks if the data in Section G can be derived from the data in Section E, and if so, suggests requiring insurers to submit only the data required by Section E to avoid redundancy. Two additional commenters jointly state that reporting reasons codes and "raw numbers" of declinations, cancellations, and nonrenewals for both the Auto and Residential Plans is duplicative and unnecessary, and request deleting the second report in new Section G in both plans.

Agency Response. The data in both Section E and Section G of the Residential Plan is necessary because the data in the latter cannot be derived from the former. Section E collects data on the number of notices of cancellation, nonrenewal, and declination sent during the reporting period and the reasons and timing thereof. Section G collects data on the number of actual cancellations, nonrenewals, and declinations during the reporting period. These numbers will not necessarily be the same. For example, a consumer who gets a nonrenewal notice may be able to remedy the underlying reason for the notice, and the insurer does not actually nonrenew the policy. Due to these reasons, which also apply to the Auto Plan, TDI declines to remove the reporting requirement in Section G of either plan.

Comment. One commenter expresses concern about the level of detail for reporting required in the revised statistical plans. The commenter notes that HB 2067 does not require the level of detail.

Agency Response. TDI disagrees with the commenter regarding the scope of the requirements of HB 2067. Insurance Code §551.006 requires insurers to provide to TDI a written report summarizing the insurer's reasons for declination, cancellation, or nonrenewal provided to applicants for insurance or policyholders as required under Insurance Code Chapter 551. Under Insurance Code §551.006(a)(1), the report must be in the form and manner prescribed by the commissioner. The proposed revisions to the statistical plans prescribe the form and manner in which insurers must report the information under Insurance Code §551.006.

Comment. A commenter recommends allowing companies to file reports directly with the Texas Insurance Checking Office (TICO).

Agency Response. The proposed amendments to both statistical plans already expressly instruct companies to file the new reports directly with TDI's designated statistical agent, TICO. General Rules No. 28 in the Residential Plan and General Reporting Instructions No. 2 in the Auto Plan both identify TICO as TDI's designated statistical agent for receiving data reports under the plan.

Comment. A commenter asks whether the required filing is a transmittal or an affidavit.

Agency Response. The amendments to both plans require both a transmittal form and an attestation for the new reports. In the Residential Plan, General Rules No. 4 has been revised to require an attestation to the accuracy and completeness of the submitted reports without the need for a separate affidavit, and General Rules No. 29 requires a transmittal form. Similarly, in the Auto Plan, General Reporting Instructions No. 8 provides that a transmittal form "shall accompany every data submission," and General Reporting Instructions No. 10 has been revised to require an attestation to the accuracy and completeness of the reported data without the need for a separate affidavit.

Comment. Two commenters express concern about the confidentiality of the information reported. One commenter suggests adding clear confidentiality provisions for insurers to assert confidentiality or trade secret protections on the reported data. The other commenter notes that Insurance Code §551.006(b) requires TDI to post an aggregated summary that does not identify, directly or indirectly, any insurer. The commenter states that insurer reports will include confidential and proprietary information, which could expose underwriting guidelines and other information if released, and urges TDI to take all necessary steps in rulemaking to protect the confidentiality of the reported information.

Agency Response. TDI declines to add confidentiality provisions in the revised statistical plans because it is adequately protected under HB 2067. TDI will post an aggregated summary of insurers' reports, which will not identify, directly or indirectly, any

insurer as required by HB 2067. TDI notes that insurers currently report detailed statistical data every quarter for private passenger auto lines and every month for residential property lines without explicit confidentiality provisions laid out in the statistical plans.

Comment. A commenter asks for clarification on whether there will be additional fees for submitting the new reports to comply with HB 2067.

Agency Response. The cost analysis included in the rule proposal states that the designated statistical agent may charge additional or increased fees for additional data reports required under the proposed revised statistical plans. TDI does not know at this time what, if any, additional fees the statistical agent may charge for the new reporting requirements.

Comment. A commenter asks for confirmation that ocean marine and umbrella policies are not in the scope of the reporting requirements.

Agency Response. The adopted rules only apply to lines of business reported under the Residential and Auto Plans. Ocean marine and umbrella policies are not reported under those plans.

Comment. A commenter asks for clarification on whether to count days from the policy effective date to the cancellation effective date or the date an insurer decides to cancel the policy.

Agency Response. The new reporting requirements do not require the number of days between the policy's effective date and the cancellation effective date or the date the insurer decides to cancel. Rather, insurers must report the "Notification Date," which is the date on which the notice providing the reasons for cancellation, nonrenewal, or declination was sent to the policyholder or applicant, and the "Action Effective date," which is the date coverage ends for cancellations, unless it is a flat cancellation. The record layout and field definitions or descriptions in the new reporting requirements in the statistical plans provide information on these fields.

Comment. A commenter requests that TDI define "notice date" for an insured cancellation and asks for clarification on how this information is captured and the difference between "notice date" and "effective date."

Agency Response. TDI declines to add a definition of "notice date" as it relates to insured cancellation because a similar term, "Notification Date," is already defined in the statistical plans. The Notification Date is the date on which the notice providing the reasons for cancellation, nonrenewal, or declination was sent to the policyholder or applicant. This definition is found in the Auto Plan in the "Field Definitions" in Section F and in the "Record Layout" in Section E of the Residential Plan. TDI notes that the report for the actual number of declinations, cancellations, and nonrenewals has a field for "Action Effective Date," which is defined as the date the declination, cancellation, or nonrenewal is effective. The "Action Effective Date" is included in the "Field Definitions" in Section G for the Auto Plan and in the "Record Layout" in Section G of the Residential Plan.

Comment. A few commenters ask whether the requirement to submit the Quarterly Cancellation, Nonrenewal, and Declination Notices and Quarterly Number of Actual Cancellations, Nonrenewals, and Declinations reports applies to policies covering motorcycles and other vehicles reported as Group 2.

Agency Response. Yes. The new quarterly reports in the Auto Plan apply to policies covering Group 1 and Group 2 vehicles, which are currently subject to statistical plan reporting. Specific Instructions No. 3 in both the Quarterly Report of Cancellation, Nonrenewal, and Declination Notices and the Quarterly Report of Number of Actual Cancellations, Nonrenewals, and Declinations states that the experience reported on lines 19.1, 19.2, and 21.1 of the Annual Statement, statutory Page 14 must be reported. This experience includes motorcycles and antique autos.

However, in response to these comments, the adopted Auto Plan includes a new sentence to Specific Instructions No. 3 in Sections F and G to clarify that the reporting requirements apply to policies covering Group 1 and Group 2 vehicles.

Comment. The report description for the Quarterly Report of Number of Actual Cancellations, Nonrenewals, and Declinations in the Auto Plan states that the number of actual cancellations and nonrenewals by ZIP Code should reconcile with those provided to the NAIC's Market Conduct Annual Statement (MCAS) reporting. A few commenters state that they only report motorcycle business, and not collector/antique auto business for MCAS and so the numbers will not reconcile. The commenters ask whether that is a problem.

Agency Response. This is not a problem as long as the relevant subsets of data can be reconciled. TDI recognizes that there are some differences between the new statistical plan reporting requirements and those for the NAIC MCAS reporting. For example, insurers report private passenger automobiles and motorcycles for MCAS, but antique vehicles and primarily off-road vehicles are excluded from MCAS reporting. As such, an insurer's reports to TDI over a given calendar year for the actual number of cancellations and nonrenewals should reconcile based on the subset of data reported under MCAS for the same year.

TDI recognizes that the numbers may not match given the reporting differences, but if insurers use the same programming logic, then if TDI staff were to ask an insurer to reconcile its statistical reporting and MCAS submissions, the insurer should be able to show TDI that its numbers reconcile between the two.

Comment. A few insurers ask how they should report the ZIP codes of vehicles garaged in multiple ZIP codes or for which the garage ZIP code is unknown.

Agency Response. In response to this comment, TDI has changed Specific Instructions No. 4 and the "Five-Digit ZIP Code" field in the Field Definitions in both Section F and Section G in the Auto Plan to provide that if there are multiple vehicles on the policy in different ZIP codes, insurers should report the ZIP code for the first covered auto listed.

Comment. A commenter recommends that TDI specify a uniform set of reason codes with clear definitions. The commenter notes that this would reduce ambiguity, help insurers to map their internal codes to TDI's expectation, and enhance comparability of data across different companies.

Agency Response. TDI agrees with the commenter's reasoning. The proposed amendments to both statistical plans provide for standardized reporting of the reasons for cancellations, nonrenewals, and declinations. Both amended plans include specific instructions, the record layout and field descriptions, and descriptions of reason codes. The reasons are listed and assigned a code. For reasons that may not be as intuitive, there is additional information describing when to use the specific reason.

Comment. Three commenters request that TDI allow companies to use their own reasons in the reports instead of requiring the use of the uniform set of reason codes provided in the amended statistical plans. The commenters argue that doing so would allow simpler, faster, and less costly implementation of the new reporting requirements. One of the commenters also requests detailed guidance and a minimum of 180 days notice, public comment period, and longer transition windows for any future changes to the reason codes.

Agency Response. TDI declines to allow insurers to submit their own reason codes. Under HB 2067, TDI must prescribe the form and manner of the insurers' reports. Having a uniform reporting mechanism and standard reason codes allows TDI to efficiently aggregate the data. Both amended statistical plans provide descriptions and guidance for the listed reason codes. For reasons that may not be as intuitive, there is additional information describing when to use the specific reason.

Comment. One commenter requests clarification on whether they must map their reasons for nonrenewals, declinations, and cancellations to the uniform reason codes provided in the statistical plans.

Agency Response. Insurers will need to map the specific reasons they provide to applicants and policyholders on why they declined an application or nonrenewed or canceled a policyholder to the reason codes that are in the adopted statistical plans.

Comment. Two commenters request that TDI change the scope of the "Other" reason code covering reasons that are not captured in the specific reason codes. One of the commenters note that including additional reason codes that would otherwise fall under the "Other" reason code would be helpful and suggested adding specific reason codes for eligibility issues (such as title, deceased insured, out-of-state garaging, no application) and drivers license issues (such as a suspended, revoked, or invalid license). The other commenter argues that the "Other" category is vague and that insurers should be permitted to add their own reasons if they are not covered by the specific codes to help TDI identify new market trends.

Agency Response. TDI declines to make the requested changes. The rule proposal noted that TDI anticipates future updates to the reason codes to align data reporting with the evolving insurance market, to address stakeholder feedback, or to improve the usefulness of the collected data. Furthermore, allowing insurers to write in their own reasons for the "Other" category would likely limit efficient aggregation of the data.

Comment. A commenter suggests including specific weather-related codes for exposure to loss, such as wildfire, hail, flood, and hurricane in the Auto Plan. The commenter states that this would help determine if natural disasters impact access to auto insurance as well as residential property insurance.

Agency Response. TDI declines to make the suggested change. While weather related and other natural causes of loss affect automobiles, the exposure to loss from weather is not as prevalent as it is for property because vehicles can be shielded from inclement weather.

Comment. A commenter suggests separating the wind/hail/hurricane reason code in the Residential Plan's new monthly reports into three separate categories. The commenter suggests three separate categories for the new reports in both statistical plans: 1) severe convective storm other than hail, 2) hail, and 3) hurricane. In the Auto Plan the commenter suggests adding flooding as well.

Agency Response. TDI declines to make the suggested changes. While the perils suggested are separate perils, they are sufficiently similar, and occur together frequently enough that it is reasonable to include them together. As to adding separate, weather-related perils to the new quarterly reports in the Auto Plan, the exposure to loss from weather is not as prevalent for vehicles as it is for property, as vehicles can be shielded from inclement weather.

Comment. Three commenters request that TDI require reporting of only the primary reason for a declination, cancellation, or nonrenewal. One of the commenters argues that HB 2067 does not require reporting of all reasons underlying a coverage decision and that reporting of all reasons would be a major burden on insurers without offering substantially better information to consumers. The other two commenters jointly raised similar arguments that in many cases, the primary reason will be the only relevant reason and that the absence of other reasons in a report will have no significance; as a result, limiting the reports to only the primary reason would be simpler, ensure greater consistency, and be more reasonable. A fourth commenter supports requiring companies to provide all relevant reason codes.

Agency Response. TDI declines to require insurers to report only the primary reason for a coverage decision. As stated in Insurance Code §551.006, insurers must report to TDI the "reasons" for a coverage decision. The use of the plural form of the word "reasons" suggests that the reporting requirement applies to all relevant reasons. Moreover, in some cases, the insurer may have multiple reasons for its coverage decisions and it would be useful to TDI, the Texas Legislature, and Texas consumers to have full knowledge of those reasons. If there is only one reason for a coverage decision, the insurer can report only that single reason.

Comment. One commenter recommends that companies be required to report, for each reason code, the proportionate impact of that reason on the coverage decision.

Agency Response. TDI declines to require insurers to report the proportionate impact of a specific reason for a coverage decision. For coverage decisions which are based on multiple reasons, TDI is not aware that insurers currently calculate the impact of each reason, and even if feasible, the burdens to insurers of adding that data element to their reports may outweigh the data's utility.

Comment. A commenter notes the instructions in the Auto Plan to concatenate the reason codes in alphabetical order and suggests that the Residential Plan should include the same instructions.

Agency Response. General Rules No. 34 in the Residential Plan instructs the insurer to concatenate the list of reason codes in alphabetical order. In the proposal, the Reason Code List in the record layout in Section E also instructs the insurer to concatenate the reason codes but does not specify that they should be in alphabetical order. TDI agrees with the commenter's suggestion and has added that detail in the record layout for the Reason Code List.

Comment. A commenter asks for additional clarification on how to report data, such as detailed reasons for declination, that insurers do not currently capture. The commenter suggests hav-

ing "other" as one of the possible reason codes or instructions to insurers to begin capturing certain information.

Agency Response. As stated in Insurance Code §551.006, insurers must report to TDI the "reasons" for a coverage decision. The use of the plural form of the word "reasons" suggests that the reporting requirement applies to all relevant reasons. Moreover, in some cases, the insurer may have multiple reasons for its coverage decisions and it would be useful to TDI, the Texas Legislature, and Texas consumers to have full knowledge of those reasons.

Both statistical plans include a reason code of "other" and instructions on when to use it for declinations. In the Residential Plan, see Reason Code No. 11 in Section F; in the Auto Plan, see Specific Instructions No. 8 in Section F.

Comment. A commenter suggests removing the "Cancellation Reason Codes" and "Nonrenewal or Declination Reason Codes" headings from the Reason Code List in the Record Layout and Field Definitions subsection of Section F in the Auto Plan. The commenter explains that the headings are not accurate because, for example, Reason Code C (Claims history/driving record) is not listed under the "Cancellation Reason Codes" heading, but a new business policy could be canceled during the 60-day underwriting period if the reports are ordered after the policy was sold. As another example, Reason Code A (Failure to pay premiums when due) is listed under the "Nonrenewal or Declination Reason Codes" heading but a policy is never renewed for nonpayment because if the policyholder fails to pay the renewal premium, the policy will expire, and expiration is not nonrenewal.

Agency Response. TDI appreciates the commenter's suggestion and has removed the two headings from the Reason Code List in Section F of the Auto Plan. TDI agrees that some reasons listed under the "Nonrenewal or Declination Reason Codes" heading may apply to cancellations occurring during the 60-day underwriting period for the initial policy term, and that the headings could cause confusion. For similar reasons, TDI has also removed the "Cancellations" and "Nonrenewals and Declinations" headings from the Reason Code List for Columns 36-45 (RCL) in Section E and in Section F of the Residential Plan.

Comment. A commenter asks for confirmation that "the reference for liability is Section II for home and strictly liability type coverages for auto."

Agency Response. Yes, assuming this comment refers to the reason code "exposure to loss - liability." This reason is described in Reason Code No. 3 in Section F in the Residential Plan and Specific Instructions No. 8 in Section F in the Auto Plan.

In response to this comment, additional clarifying text has been added in both places. This reason code should be used if the reason for the action is due to the insured's or applicant's personal liability risk under the policy or the characteristics or activities of the insureds or applicants. It should not be used to reflect first-party claims history.

Comment. A commenter identifies a typo in the field length column for the "Action Effective Date" in the record layout for Section G in the Auto Plan. The field length is shown as six digits; however, the "Action Effective Date" field in the "Field Definitions" shows a four-digit entry (YYMM).

Agency Response. TDI appreciates the commenter identifying this typo. The field length in the record layout has been corrected to reflect four digits instead of six digits for the Action Effective Date.

Comment. A commenter asks whether an insurer must provide notification dates for declinations under the new plans, stating that this is not information they currently collect.

Agency Response. Yes, the record layouts for the cancellation, nonrenewal, and declination notices in both the Auto Plan and the Residential Plan include a field, "Notification Date," which is the date the notice providing the reasons for cancellation, nonrenewal, or declination was sent to the policyholder or applicant. See Section F in the Auto Plan and Section E in the Residential Plan.

Comment. Two commenters jointly ask about the meaning of new language on "recipient count." They ask TDI to clarify whether a "recipient" equates with a policy, so that, for example, a policy for a married couple would count once.

Agency Response. The commenters' understanding is correct; the term "recipient count" used in the proposal is associated with the number of policies, not the number of insureds on the policy.

In response to the comment, TDI has changed both the Residential and the Auto Plans. Throughout both plans, TDI changed the term "recipient count" to "notified policy count" to clarify that the term refers to the count of policies and not the count of insureds.

Also in response to the comment, General Rules No. 34 as proposed in the Residential Plan has been revised to clarify the instructions for reporting the notified policy count.

In the Auto Plan, General Reporting Instructions No. 8, relating to the transmittal form content, has also been revised to clarify that the notified policy count and the actual count should be provided separately by each action type.

Relatedly, but not in response to a comment, "count" is changed to "actualized policy count." This clarifies that the term reflects actual cancellations, nonrenewals, and declinations. This term differs from "notified policy count" in that an insurer may have sent a notice, but the cancellation, nonrenewal or declination may not have actually occurred.

Comment. Three commenters oppose the requirement in both statistical plans that insurers report whether a coverage decision was based on aerial imagery or third-party data. All three commenters note that some insurers do not currently capture such information and that it would be extremely difficult for them to start doing so; the commenters also argue that such requirement is not part of HB 2067, and one commenter states that there is no statute on how insurers may use aerial imagery. Two of the commenters state that use of third-party data or aerial imagery is a tool for assessing risk but is not a reason for an underwriting action; as an example, if aerial imagery revealed that a house's roof is in disrepair, the reason for the insurer's action would be the condition of the property, not the fact that aerial imagery, rather than an inspection, was used to make the coverage decision. The two commenters also state that reporting on aerial imagery is a policy decision for the Texas Legislature. A fourth commenter supports the requirement to report use of aerial imagery and specific types of third-party data.

Agency Response. Insurance Code §551.002(c)(2) requires insurers to state the source of information on which the insurer relied on when giving the reasons for the declination, cancellation, or nonrenewal of an insurance policy to the applicant or policyholder. TDI believes that it is important to collect data on

insurers' reliance on sources of information they use to make decisions that adversely affect applicants and policyholders. With the increasing use of third-party information and aerial imagery in underwriting and rating, TDI requires that insurers report whether they relied on this information in declining, canceling, or nonrenewing coverage.

Under the new reporting requirements, insurers report their reliance on third-party information, including aerial imagery, as an indicator, not as a reason code. If an insurer declines to write a residential property policy based on the condition of the roof and they used aerial imagery to determine the condition, the insurer will report the reason as "condition of property - roof" and then use the reason source indicator code of either 1 (if only aerial imagery and no other third-party information was used) or 3 (if both aerial imagery and other third-party information was used), as applicable.

TDI acknowledges that insurers may not have captured this information in the past and may need to make programming updates to do so for the new reporting requirements.

Comment. One commenter suggests that insurers should be required to report the use of additional types of third-party data in coverage decisions, such as real-time driving data from a third party or risk factors identified by companies like CoreLogic.

Agency Response. TDI declines to make this change. TDI believes that the reporting of the third-party indicator or the reason source indicator in combination with the reason codes provides an informative level of detail without requiring insurers to provide the name of the third-party source in their statistical reports. Insurers must provide the name of the data vendor, model vendor, or source of third-party information or third-party models they use in their rate/rule filings and underwriting guideline filings for private passenger auto and residential property lines of insurance. Under Insurance Code §551.002(c), insurers must provide a statement to applicants and policyholders with the source of information on which the insurer relied regarding the applicable incident, circumstance, or risk factors that violated the insurer's applicable guidelines.

Comment. Three commenters request clarification on what constitutes third-party data for purposes of the new requirement to report the use of third-party data in coverage decisions. One commenter asks whether "third-party data" refers to any outside vendor or service provider that supplies information leading to or supporting an underwriting action and whether it includes internal research that uses sources like Google. The other two commenters ask whether the term includes driving records for auto policies.

Agency Response. TDI views information from an external provider or source as constituting third-party information. This would include information retrieved from a Google search used to research characteristics of potential policyholders.

Comment. One commenter asks whether the requirement to report the use of third-party data in coverage decisions requires the insurer to report the specific name of the third-party vendor, or just the information provided. The commenter also asks whether insurers must also report the name of the vendor or company that provided the aerial imagery.

Agency Response. Under the new reporting requirements, insurers do not need to include the name of the source of the third-party information or the aerial imagery. The insurer should use the codes provided in the statistical plans for the third-party indicator or reason source indicator to indicate only whether the insurer relied in whole or in part on this information.

Comment. Two commenters request clarification on multiple cancellations. One commenter asks whether an insurer should report every time a cancellation for nonpayment notice is issued. This could occur multiple times on a policy if payment is made and the cancellation is rescinded. The other commenter states that a policy may be canceled multiple times and for multiple reasons during its term, resulting in cancellations of the same policy appearing on multiple reports. The commenter suggests that the reporting requirements make it clear that reports reflect cancellations as of the reporting date.

Agency Response. TDI agrees that every time a notice of cancellation for nonpayment of premium is issued, the insurer must report each notice of cancellation. If the policy is canceled, and later reinstated, each cancellation must also be reported, under the appropriate reporting period. The number of cancellations should reconcile with the cancellations reported to the NAIC MCAS reporting, which also treats policies that were canceled and subsequently reinstated the same way.

In the Residential Plan, General Rules No. 34 requires that each monthly report under Section E include all actions with a notification date within the experience month. General Rules No. 35 requires that each monthly report under Section G include all actions with an action effective date within the experience month.

In the Auto Plan, Specific Instructions No. 2 in Sections F and G requires insurers to include all actions with a notification date or an action effective date within the experience quarter, respectively.

In response to the comments, TDI has amended General Rules Nos. 34 and 35 in the Residential Plan and Specific Instructions No. 7 in Section F and Specific Instructions No. 6 in Section G in the Auto Plan. These amendments clarify that if a policy that was canceled is subsequently reinstated, the cancellation should be reported. The amendments also provide an example for additional context.

Comment. A few commenters ask for clarification on how flat cancellations must be reported in the new reports required under both statistical plans. Two commenters suggest alternatively that no reporting be required for flat cancellations.

Agency Response. In both statistical plans, flat cancellations must be reported. Insurers are instructed to use the policy's effective date for the action effective date for a flat cancellation. This applies for both the notice reports and the actual numbers reports. See the "Action Effective Date" instructions in Sections E and G of the Residential Plan and Sections F and G of the Auto Plan. However, in response to the comment, TDI has added a sentence that repeats this information and says for flat cancellation to report the effective date of the policy for the action effective date. This has been done in Specific Instructions No. 7 of Section F and in Specific Instructions No. 6 of Section G in the Auto Plan and in General Rules Nos. 34 and 35 in the Residential Plan.

Comment. A commenter asks whether the new reporting requirements apply to rescissions.

Agency Response. Rescissions and policies voided under Insurance Code Chapter 705 should not be included in the new reports. This approach is consistent with the NAIC MCAS reports, which do not include data relating to rescissions for the residential and auto lines of business. TDI has added clarifying

language in General Rules Nos. 34 and 35 in the Residential Plan and in Specific Instructions No. 7 in Section F and Specific Instructions No. 6 in Section G in the Auto Plan to confirm that the new reporting requirements do not apply to rescissions.

Comment. A commenter asks whether the definition of the 60-day indicator (for cancellations that occur during the first 60 days of a policy term) refers to the notice date instead of the termination date.

Agency Response. TDI agrees that the description of the 60-day indicator should refer to when the notice of cancellation was sent. This makes the instructions consistent with similar reporting for the NAIC MCAS reports. In Section F of the Auto Plan, TDI has revised the field definition for the 60-day indicator to refer to whether the cancellation notice was "sent." TDI has further revised the field definition to refer to the "initial" policy term only to clarify that insurers do not need to report whether a cancellation notice was sent during the first 60 days of subsequent or renewal terms. TDI has made similar changes in the 60-Day Indicator description for Column 18 (60D) in Section E of the Residential Plan.

Comment. Two commenters jointly request that TDI remove the 60-day indicator because the timing of a cancellation is a separate inquiry that is not relevant to the reason for cancellation. The commenters also argue that the requirement would necessitate additional programming by insurers to collect data not specified in HB 2067.

Agency Response. TDI declines to remove the reporting for cancellations within the first 60 days of the policy term. As noted in its response to the previous comment, TDI has clarified in both statistical plans that the 60-day indicator applies only to the initial term of a policy, and not subsequent renewal terms. Because the reasons for cancellations permitted under the Insurance Code vary depending on the timing of the cancellation, TDI views such data as relevant under HB 2067 and potentially helpful for policymaking purposes. TDI acknowledges that programming may be needed to capture this information. However, insurers already report similar data for the NAIC MCAS reports and should be able to use the same or similar programming logic.

Comment. A few commenters ask for clarification on what qualifies as a declination that an insurer must provide written reasons for and report on to TDI. When an insurer gives an applicant different quotes for different coverages or answers to application questions, what must the insurer report? A commenter asks that the phrase "completed and submitted," from Insurance Code Chapter 551, be incorporated into the definition of declination in the statistical plans.

Agency Response. Insurance Code §§551.002, 551.0521, and 551.109 refer to the declination of a "completed and submitted application." Therefore, if the insurer declines a completed and submitted application, the insurer must provide the applicant with a written statement giving the reasons for the declination and report the declination to TDI.

In response to the comments, TDI has amended both statistical plans. In the Residential Plan, General Rules Nos. 34 and 35 now include a heading for "Declinations." In the Auto Plan, the "Declinations" heading is in Specific Instructions No. 6 in Section F and Specific Instructions No. 5 in Section G. Both plans require reports for declinations of "completed and submitted applications."

Comment. TDI received eleven timely comments asking whether farm mutuals are subject to the new reporting requirements in the Residential and Auto Plans. Seven commenters argue no; four commenters argue yes.

The commenters arguing against imposing the new reporting requirements on farm mutuals say that Insurance Code §551.006, which contains HB 2067's reporting requirements, does not apply to them. The arguments against are legal and practical.

Legal arguments against applying Insurance Code §551.006 to farm mutuals:

Legal arguments against applying Insurance Code §551.006 to farm mutuals assert that Insurance Code §551.109 is the only section amended by HB 2067 that applies to farm mutuals. Some of the commenters conclude that TDI could obtain the same information from farm mutuals under Insurance Code §38.001.

Under Insurance Code §911.001, farm mutuals are subject only to the statutes listed in that section and to statutes elsewhere in the code that are expressly made applicable to farm mutuals. Insurance Code §911.001 does not list any part of Insurance Code Chapter 551, nor does Insurance Code §551.006 mention farm mutuals. Insurance Code Chapter 551, Subchapter C, does expressly apply to farm mutuals per Insurance Code §551.101. Therefore, the commenters' argument goes, Insurance Code §551.109 is the only section amended by HB 2067 that applies to farm mutuals. HB 2067 amended Insurance Code §551.109 to require that an insurer provide a statement of the reason for a declination, cancellation, or nonrenewal without the insured needing to request it.

One of the commenters cites the case *Fireman's Fund Cnty. Mut. Ins. Co. v. Hidi*, 13 S.W.3d 767, 769 (Tex. 2000), which held that a provision referring to "any insurer" did not apply to county mutuals, because the provision did not reference county mutuals and the provision was not enumerated in the Insurance Code chapter addressing county mutuals. As with farm mutuals, the Insurance Code Chapter addressing county mutuals exempts county mutuals from Texas insurance laws except for statutes listed in the chapter or made applicable by their specific terms.

Another commenter argues that HB 2067 does not require farm mutuals to report under the statistical plans because it does not amend Insurance Code Article 5.96, which governs the procedures for adopting statistical plans, nor does it amend Insurance Code Chapter 38, Subchapter E, on statistical data collection. Neither Article Insurance Code 5.96, nor Insurance Code Chapter 38, Subchapter E, apply to farm mutuals.

Three of the commenters state that farm mutuals are subject to Insurance Code §38.001, concerning Inquiries, because that section is listed in Insurance Code §911.001.

Practical arguments against applying Insurance Code §551.006 to farm mutuals:

Four of the commenters discuss the expense of complying with the proposed reporting requirements and potential conflict with statutory expense ratio limits. Insurance Code §911.301 prohibits a farm mutual from using more than 33 percent of its gross income for expenses, unless approved by the commissioner. One farm mutual reports writing approximately $2.2 million in direct written premium annually and having a full-time staff of five. Another comment states that almost all farm mutuals write less than $10 million in direct written premium and that most have less than six employees. The commenters argue that farm mu-

tuals cannot comply with the proposed reporting requirements without raising their expense ratio above what is permitted.

Some of the commenters question whether gathering data from farm mutuals would enable a balanced, representative picture of the Texas market, given that farm mutuals represent a small share of the market and by statute only write in rural areas.

Four commenters argue that Insurance Code §551.006 does apply to farm mutuals.

Legal arguments for applying Insurance Code §551.006 to farm mutuals:

The commenters' legal argument is that Insurance Code Chapter 551, Subchapter C, expressly applies to farm mutuals. Under Insurance Code §551.101, "insurer" in Subchapter C refers to any authorized property and casualty insurer, including a farm mutual. Thus Insurance Code §551.109 applies to farm mutuals, as does Insurance Code §551.112, which gives the commissioner authority to adopt rules relating to cancellation and nonrenewal .

The commenters argue that Insurance Code §551.112 gives the commissioner authority to apply the reporting requirements of Insurance Code §551.006 to farm mutuals. One comment argues that Insurance Code §551.001 provides this authority.

Additional arguments for applying Insurance Code §551.006 to farm mutuals:

The commenters' additional arguments emphasize the result of exempting farm mutuals from the reporting requirements. The public, the legislature, and TDI would have incomplete data on cancellations, declinations, and nonrenewals in rural areas. TDI would not have the same ability to identify trends and protect all consumers to the same extent. The commenters also argue that HB 2067 imposes a significant regulatory burden, which should fall equally on all members of the industry. One of the commenters argues that exempting farm mutuals could "inadvertently make it easier to identify individual insurers operating in rural markets, raising privacy and competitive concerns."

Agency Response. TDI appreciates all of the comments. TDI does not agree with the legal arguments for exempting farm mutual insurers from the reporting requirements of Insurance Code §551.006.

The comments arguing for an exemption fail to acknowledge that Insurance Code §551.006 requires a written report summarizing the reasons that insurers "provided to applicants for insurance or policyholders as required by this chapter" (emphasis added). As the commenters concede, Insurance Code §551.109 in Chapter 551, Subchapter C requires farm mutuals to automatically provide an insured with a statement of the reasons for a declination, cancellation, or nonrenewal.

However, TDI is sensitive to the cost and expense ratio concerns raised in the comments and agrees to exempt farm mutual insurers from the Residential Plan at this time. TDI plans to have discussions with stakeholders to explore how to best obtain the data required under HB 2067 to protect consumers while addressing these concerns.

Comment. A commenter argues that TDI lacks the statutory authority to impose the reporting requirements of Insurance Code §551.006 on county mutuals, Lloyd's plans, and reciprocal and interinsurance exchanges. The commenter argues that like farm mutuals, these entities are subject only to the Insurance Code provisions in which they are expressly referenced.

Agency Response. As explained in its previous response to the comments on farm mutuals, TDI does not agree with the similar legal arguments raised for exempting county mutuals, Lloyd's plans, and reciprocal and interinsurance exchanges from the reporting requirements of Insurance Code §551.006. TDI declines to exempt these entities from the new reporting requirements.

STATUTORY AUTHORITY.

The commissioner adopts new §5.9503 and §5.9504 under Insurance Code §§38.001, 38.202, 38.204(a), 38.205 - 38.207, 551.006, 551.112, and 36.001.

Insurance Code §38.001 authorizes TDI to address a reasonable inquiry to any insurance company or other holder of an authorization relating to the business condition or any matter connected with the person's transactions that TDI considers necessary for the public good or for the proper discharge of TDI's duties.

Insurance Code §38.202 allows the commissioner to, for a line or subline of insurance, designate or contract with a qualified organization to serve as the statistical agent for the commissioner to gather data for relevant regulatory purposes or as otherwise provided by the Insurance Code.

Insurance Code §38.204(a) provides that a designated statistical agent must collect data from reporting insurers under a statistical plan adopted by the commissioner.

Insurance Code §38.205 provides that insurers must provide all premium and loss cost data to the commissioner or designated statistical agent as the commissioner or agent requires.

Insurance Code §38.206 authorizes the statistical agent to collect from reporting insurers any fees necessary for the agent to recover the necessary and reasonable costs of collecting data from that reporting insurer.

Insurance Code §38.207 authorizes the commissioner to adopt rules necessary to accomplish the purposes of Insurance Code Chapter 38, Subchapter E.

Insurance Code §551.006 authorizes the commissioner to prescribe the form and manner of an insurer's written report summarizing the insurer's reasons for declination, cancellation, or nonrenewal provided to applicants or policyholders as required by Insurance Code Chapter 551.

Insurance Code §551.112 authorizes the commissioner to adopt rules relating to the cancellation and nonrenewal of insurance policies.

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.

§5.9503. Texas Statistical Plan for Residential Risks.

(a) Purpose and Applicability.

(1) The purpose of this section is to establish requirements for the reporting of data by residential property insurers under Insurance Code Chapter 38, Subchapter E, concerning Statistical Data Collection; Insurance Code §38.001, concerning Inquiries; and Insurance Code §551.006, concerning Report Required.

(2) Insurers writing direct residential property business in Texas must provide the required reports described in the *Texas Statistical Plan for Residential Risks* adopted by reference in subsection (b) of this section to the commissioner or the statistical agent designated under Insurance Code §38.202, concerning Statistical Agent.

(3) The reports must comply with the reporting requirements and instructions specified in the *Texas Statistical Plan for Residential Risks* adopted by reference in subsection (b) of this section.

(4) This section applies to all reports required to be filed with the department under this section for reporting periods beginning on or after April 1, 2026.

(b) Adoption by Reference. The commissioner adopts by reference the *Texas Statistical Plan for Residential Risks*, effective April 1, 2026. This document is published on the department's website at www.tdi.texas.gov.

§5.9504. Texas Private Passenger Auto Statistical Plan.

(a) Purpose and Applicability.

(1) The purpose of this section is to establish requirements for the reporting of data by private passenger automobile insurers under Insurance Code Chapter 38, Subchapter E, concerning Statistical Data Collection; Insurance Code §38.001, concerning Inquiries; and Insurance Code §551.006, concerning Report Required.

(2) Insurers writing direct private passenger automobile business in Texas must provide the required reports described in the *Texas Private Passenger Auto Statistical Plan* adopted by reference in subsection (b) of this section to the commissioner or the statistical agent designated under Insurance Code §38.202, concerning Statistical Agent.

(3) The reports must comply with the reporting requirements and instructions specified in the *Texas Private Passenger Auto Statistical Plan* adopted by reference in subsection (b) of this section.

(4) This section applies to all reports required to be filed with the department under this section for reporting periods beginning on or after April 1, 2026.

(b) Adoption by Reference. The commissioner adopts by reference the *Texas Private Passenger Auto Statistical Plan,* effective April 1, 2026. This document is published on the department's website at www.tdi.texas.gov.

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 January 15, 2026.

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Jessica Barta
General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555

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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 60. COMPLIANCE HISTORY

30 TAC §60.1, §60.2

The Texas Commission on Environmental Quality (commission or TCEQ) adopts amendments to 30 Texas Administrative Code (TAC) §60.1 and §60.2.

Amended §60.1 and §60.2 are adopted *with changes* to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4241) and, therefore, will be republished.

Background and Summary of the Factual Basis for the Proposed Rules

The commission adopts revisions to Chapter 60 to implement certain requirements of Senate Bill (SB) 1397, regarding compliance history. SB 1397, 88th Legislature, 2023, Section 13, amended Texas Water Code (TWC), §5.754 requiring the commission to consider major, moderate, and minor violations when determining repeat violators. This rulemaking adoption also addresses management recommendations adopted by the Sunset Advisory Commission that were not included in SB 1397 for the commission to review and update the agency's compliance history rating formula to ensure it accurately reflects a regulated entity's record of violations, including considerations of site complexity and cumulative violations or repeating violations; and to regularly update compliance history ratings. Non-substantive changes were made to the rule language for consistency and plain language.

Section by Section Discussion

§60.1, Compliance History

The commission adopts revisions to §60.1(a)(6) and (7) to establish the effective date of the adopted rule. However, the commission made a change to the language presented at proposal in §60.1(a)(6) and (7) to note the rule will become effective on September 1, 2026. This change will allow the executive director to ensure program upgrades are complete prior to full implementation of the rule changes. The commission will continue to use the version of the rule in effect at the time the compliance history classification was calculated in accordance with §60.1(b). For example, when an application for a permit is received by the executive director, the version of Chapter 60 in effect at the time the application is received will be the version used for compliance history purposes. The commission may consider new compliance history information as it deems necessary. Additionally, adopted §60.1(a)(8) adds a motion for reconsideration under §50.39 as requiring a compliance history be prepared and filed with the Office of the Chief Clerk before it is considered at commission agenda.

The adoption amends §60.1(b) to change the compliance period for enforcement actions to be calculated from the initial enforcement screening date. The compliance history period for an enforcement action is currently based on the date of the initial mailing of the enforcement settlement offer or petition, whichever occurs first. Since complicated cases may take substantial time to develop, the compliance history period could change while the settlement offer or petition is being drafted. Changing the start of the compliance period to the initial screening of an enforcement action means the compliance history will more closely reflect the performance of the site at the time the violations were documented as opposed to several months later. This provides greater certainty to the regulated community as to how an entity is performing at the time an enforcement action begins. This also means a site's compliance history will remain the same throughout the drafting and review process of the initial proposed agreed order or the petition instead of requiring additional reviews to verify whether the compliance history has changed dur-

ing the process. In addition, clarification is made on how Notices of Violation (NOVs) are considered consistent with changes to §60.2(f).

Adopted §60.1(c)(8) changes the language referencing the Texas Environmental, Health, and Safety Audit Privilege Act. The Act was amended by the 85th Legislature in 2017 and the adopted language recognizes this change.

§60.2, Classification

The commission proposed a change to the effective date of 60.2(a); however, upon review of the rule, the commission determined this change was not necessary. The adoption amends §60.2(a) to change the frequency that the executive director shall evaluate the compliance history of each site from annually to semi-annually. This implements a management recommendation adopted by the Sunset Advisory Commission to regularly update an entity's compliance history rating. The commission adopts that compliance histories be evaluated on March 1st and September 1st each year. Since 2002, when the rule originally established an annual review, technological advances have made it possible for the agency to increase the number of reviews per year without overburdening agency resources. Semi-annual reviews will allow for appropriate planning for announced and unannounced investigations, as well as increased oversight of unsatisfactory performers. More frequent evaluations better allow the commission to consider whether proceedings should be initiated to revoke a permit, or to amend a permit where statutes allow, of an unsatisfactory performer. The commission considered other evaluation periods and determined that evaluations more frequent than semi-annually may require shortening the appeal window to ensure appeal reviews could be completed before the next evaluation period begins.

The adoption changes the language proposed in §60.2(c) by changing the word "paragraph" to "subsection" and adding the phrase "relating to Classification" for consistency with rule language. The adoption amends §60.2(c) to change the methodology of grouping regulated entities from reliance on the North American Industry Classifications System (NAICS) to use of complexity points described in §60.2(e) as the commission has determined complexity to be a more accurate measurement criterion. In 2002, the commission determined Standard Industrial Classification (SIC) codes did not adequately capture the environmental complexity of the regulated community. In 2012, the commission listed NAICS codes as an option for grouping. However, over time, the commission found that the self-reported NAICS codes were frequently incorrect, inaccurate, or failed to fully describe the operations of the regulated site from an environmental impact standpoint. Therefore, the commission has not been able to effectively use NAICS codes for complexity determinations. The commission adopts the complexity formula to establish groupings to improve accuracy and provide certainty to the regulated public as they are already familiar with the formula and its impact on a site.

The adoption amends §60.2(f) to reflect changes to the way in which the commission evaluates repeat violators as required by SB 1397. Previously, in determining whether an entity was a repeat violator, the commission evaluated only major violations of the same nature and the same environmental media that occurred during the five-year compliance period. Under the adopted rule, in accordance with SB 1397, the commission will evaluate major, moderate, and minor violations of the same nature and environmental media that occurred during the five-year compliance period.

The new formula considers "repeat violation points" for each violation of the same nature and the same environmental media documented in any final enforcement orders, court judgments, and criminal convictions during the five-year compliance period. The number of "repeat violation points" varies by classification of the violation with each minor violation receiving 2 repeat violation points, each moderate violation receiving 10 points, and each major violation receiving 50 points. The total of all repeat violation points assessed to a regulated entity is used to determine whether the regulated entity has exceeded the repeat violation point thresholds to be classified as a repeat violator. The commission changes the proposed rule by establishing repeat violation point thresholds based on five complexity point categories in contrast to the two groups in the proposed rule.

The commission adopts amended §60.2(f)(1) and (2) and new §60.2(f)(3). Adopted §60.2(f)(1) adds moderate and minor violations to repeat violator consideration and removes the requirement that violations be documented on separate occasions. Currently, multiple violations of the same type may be consolidated into a single enforcement action. Historically, the commission has considered "separate occasion" to mean individual orders or enforcement actions. For example, if a regulated entity had two unauthorized discharges within one compliance year and the entity signed a single agreed order that contained both major violations, the commission treated it as a single major violation for purposes of the repeat violator criteria. The legislative directive of SB 1397 to include all minor, moderate, and major violations requires the removal of the "separate occasion" language to ensure all violations are considered. The change allows the commission to consider all repeat occurrences of similar violations documented during the five-year evaluation period rather than the number of orders or enforcement actions that contained similar violations.

Adopted §60.2(f)(2)(A) - (C) establishes "repeat violation point" values based on the classification of the violation. Each violation of the same nature and the same environmental media documented in any final enforcement orders, court judgments, and criminal convictions that occurred at least three times during the five-year compliance period is assessed repeat violation points based on the classification of the violation. Each minor violation receives 2 repeat violation points, each moderate violation receives 10 points, and each major violation receives 50 points. This methodology allows the commission to clearly differentiate between repeat violators with significant actual or potential environmental harm from those entities that have repeat violations with minimal actual or potential environmental harm. For example, repeating a minor violation five times during a five-year period would be equally weighted with a single moderate violation, and repeating the same moderate violation five times during a five-year period would be weighted equally to one major violation.

Adopted §60.2(f)(3) changes the proposed repeat violation point thresholds, based on complexity points, to determine repeat violator classifications. The proposed rule established repeat violator thresholds based on two complexity categories: (1) Entities with 14 or less complexity points and 100 or more "repeat violation points" and (2) Entities with 15 or more complexity points with 150 or more "repeat violation points". A rule language update was made at adoption to increase the number of complexity categories from two to five with different repeat violator point thresholds for each group. The five different thresholds for the repeat violator determination based on complexity points are:

1. Entities with less than 15 complexity points and 150 or more "repeat violation points" will be classified as a repeat violator.

2. Entities with at least 15 complexity points but less than 30 complexity points and 250 or more "repeat violation points" will be classified as a repeat violator.

3. Entities with at least 30 complexity points but less than 45 complexity points and 350 or more "repeat violation points" will be classified as a repeat violator.

4. Entities with at least 45 complexity points but less than 60 complexity points and 450 or more "repeat violation points" will be classified as a repeat violator.

5. Entities with at least 60 complexity points and 550 or more "repeat violation points" will be classified as a repeat violator.

This modification recognizes the increased self-reporting requirements for more complex facilities due to their proportionally larger number of authorizations, such as through the Texas Pollution Discharge Elimination System for wastewater and reporting of deviations to comply with Title V air permit requirements. These programs require entities to self-report violations whereas other sites are only subject to violations documented and discovered through investigations. Less complex facilities do not have as many self-reporting requirements and therefore have less opportunity for the commission to identify violations.

This approach continues to use complexity points as the threshold and expands the criteria for repeat violators using a combination of minor, moderate, and major violations (total 150 points) for less complex entities and increasing complexity levels by 15 points and 100 repeat violator points respectively through each threshold. These thresholds ensure that the commission continues to hold repeat violators accountable without reducing environmental protections or standards. For example, regulated entities may reach the threshold by repeating the same moderate violation within a five-year period, repeating the same minor violation within a five-year period, or some combination of violation points to reach the appropriate point threshold.

The adoption moves "Repeat Violator Exemption" from existing §60.2(f)(2) to adopted §60.2(f)(4).

Adopted §60.2(g)(1)(L) changes the language referencing the Texas Environmental, Health, and Safety Audit Privilege Act. The Act was amended by the 85th Legislature in 2017 and the adopted language recognizes this change.

Adopted §60.2(g)(2) changes the site rating ranges for regulated entities. Currently, there is a common set of ranges for entities of all complexities. The commission adopts separate classification groups based on complexity points to address the Sunset Advisory Commission's management recommendation to compare entities of similar complexity to one another. The adopted rule establishes separate ranges for higher complex entities and less complex entities.

Adopted §60.2(g)(2)(A) establishes the classification rating ranges for regulated entities with a complexity point total less than 15. For a regulated entity classified as less complex, a high performer is defined as having less than 0.10 points. A satisfactory performer is defined as having 0.10 points to 60 points. An unsatisfactory performer is defined as having more than 60 points.

Adopted §60.2(g)(2)(B) establishes the classification rating ranges for regulated entities with a complexity point total of 15 or more. A high performer is defined as having less than 0.10 points. A satisfactory performer is defined as having 0.10 points to 55 points. An unsatisfactory performer is defined as having more than 55 points.

As noted by the Sunset Advisory Commission, the compliance history rule calculation methodology disproportionately impacts less complex entities. The commission recognizes that, in general, less complex entities have fewer resources and face different challenges than their higher complexity counterparts. While the higher complexity entities are generally much larger in size, they tend to have more resources, represent a much smaller group of the regulated community, and typically have a potentially larger environmental footprint. The adopted rule allows for different classification thresholds for each complexity grouping, thereby accounting for their differences.

Adopted §60.2(g)(3)(A), (B)(i) and (ii) removes the specific point value that a regulated entity will receive following the application of a mitigating factor. Should a mitigating factor be granted to a regulated entity, the entity's rating will be adjusted to the maximum rating within the satisfactory classification for the entity's complexity point group. For regulated entities with less than 15 complexity points, the rating will be adjusted to 60. For regulated entities with 15 or more complexity points, the rating will be adjusted to 55. Additionally, a rule language update was made at adoption to §60.2(g)(3)(B)(i) by adding "semi-" to "annual" to make the timeframe for when the next compliance history is performed consistent with adopted §60.2(a).

Adopted §60.2(i) revises how a regulated entity can review their pending compliance history rating to match current practice by removing the submission of a Compliance History Review Form and replacing it with the registration for the Advanced Review of Compliance History (ARCH). The ARCH review period allows entities to review their pending compliance history components prior to publication of the compliance history scores and classifications on the commission's website. During the ARCH review period, entities may request revisions to their compliance history components, including re-classification of violations, review of repeat violator designations, and request for exemptions or mitigating factors.

Final Regulatory Impact Determination

The commission has reviewed the rulemaking adoption in light of the regulatory analysis requirements of Texas Government Code §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because the adopted rule changes do not meet the definition of a "Major environmental rule" as defined in that statute. Although the intent of the adopted rule modifications are to protect the environment and reduce the risk to human health from environmental exposure, they do not adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Instead, the adopted rule changes merely modify the standards for the classification of a person's compliance history by setting the number of major, moderate, and minor violations needed to be classified as a repeat violator, to review and update the agency's compliance history rating formula to ensure it accurately reflects a regulated entity's record of violations, and to update compliance history ratings more often than once per fiscal year. The requirements for establishing standards for the classification of a person's compliance history are contained in TWC §5.754.

The adopted rule modifications are designed to protect the environment, the public health, and the public safety of the state

and all sectors of the state. Furthermore, the adopted rule modifications do not meet any of the four applicability requirements listed in §2001.0225(a). They do not exceed a standard set by federal law, because there is no comparable federal law. They do not exceed an express requirement of state law, because they are consistent with the requirements of TWC, §5.754. The adopted rule modifications do not exceed the requirements of a delegation agreement because there is no applicable delegation agreement. They are not proposed to be adopted solely under the general powers of the agency but will be adopted under the express requirements of TWC §5.754 and management recommendations adopted by the Sunset Advisory Commission.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received regarding the regulatory impact analysis determination.

Takings Impact Assessment

The commission evaluated the adopted rules and performed an assessment of whether the adopted rules constitute a taking under TGC, Chapter 2007. The specific purpose of the adopted rules is to implement certain requirements of Senate Bill (SB) 1397 and other legislative directives regarding compliance history. The adopted rules will substantially advance this stated purpose by modifying the standards for the classification of a person's compliance history by setting the number of major, moderate, and minor violations needed to be classified as a repeat violator, to review and update the agency's compliance history rating formula to ensure it accurately reflects a regulated entity's record of violations, and to update compliance history ratings more often than once per fiscal year.

Promulgation and enforcement of these adopted rules will be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally); nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. In other words, the adopted rules will not burden private real property because they modify the standards for the classification of a person's compliance history by setting the number of major, moderate, and minor violations needed to be classified as a repeat violator, to review and update the agency's compliance history rating formula to ensure it accurately reflects a regulated entity's record of violations, and to update compliance history ratings more often than once per fiscal year. The subject adopted rules do not affect a landowner's rights in private real property.

Consistency with the Coastal Management Program

The commission reviewed the rulemaking adoption and found that the adoption is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act, Texas Natural Resources Code, §§33.201 et seq., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the adopted rules in accordance with Coastal Coordination Act Implementation Rules, 31 TAC §29.22, and found the rulemaking adoption consistent with the applicable CMP goals and policies.

CMP goals applicable to the adopted rule include: 31 TAC §26.12(1), to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs); 31 TAC §26.12(2), to ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone; 31 TAC §26.12(3), to minimize loss of human life and property due to the impairment and loss of protective features of CNRAs; 31 TAC §26.12(5), to balance the benefits from economic development and multiple human uses of the coastal zone, the benefits from protecting, preserving, restoring, and enhancing CNRAs, the benefits from minimizing loss of human life and property, and the benefits from public access to and enjoyment of the coastal zone; 31 TAC §26.12(6), to coordinate agency and subdivision decision-making affecting CNRAs by establishing clear, objective policies for the management of CNRAs; 31 TAC §26.12(7), to make agency and subdivision decision-making affecting CNRAs efficient by identifying and addressing duplication and conflicts among local, state, and federal regulatory and other programs for the management of CNRAs; and 31 TAC §26.12(8), to make agency and subdivision decision-making affecting CNRAs more effective by employing the most comprehensive, accurate, and reliable information and scientific data available and by developing, distributing for public comment, and maintaining a coordinated, publicly accessible geographic information system of maps of the coastal zone and CNRAs at the earliest possible date. The commission has reviewed the adopted rule for consistency with applicable goals of the CMP and determined that the adopted rule is consistent with the intent of the applicable goals and will not result in any significant adverse effect to CNRAs.

CMP policies applicable to the adopted rule include: 31 TAC §26.19, Construction and Operation of Solid Waste Treatment, Storage, and Disposal Facilities; 31 TAC §26.20, Prevention, Response, and Remediation of Oil Spills; 31 TAC §26.21, Discharge of Municipal and Industrial Wastewater to Coastal Waters; 31 TAC §26.22, Nonpoint Source (NPS) Water Pollution; 31 TAC §26.23, Development in Critical Areas; 31 TAC §26.25, Dredging and Dredged Material Disposal and Placement; 31 TAC §26.28, Development Within Coastal Barrier Resource System Units and Otherwise Protected Areas on Coastal Barriers; and 31 TAC §26.32, Emission of Air Pollutants. This rulemaking does not relax existing standards for issuing permits related to the construction and operation of solid waste treatment, storage, and disposal facilities in the coastal zone or for governing the prevention of, response to, and remediation of coastal oil spills. This rulemaking does not relax existing commission rules and regulations governing the discharge of municipal and industrial wastewater to coastal waters, nor does it affect the requirement that the agency consult with the Department of State Health Services regarding wastewater discharges that could significantly adversely affect oyster reefs. This rulemaking does not relax the existing requirements that state agencies and subdivisions with the authority to manage NPS pollution cooperate in the development and implementation of a coordinated program to reduce NPS pollution in order to restore and protect coastal waters. Further, it does not relax existing requirements applicable to: areas with the potential to develop agricultural or silvicultural NPS water quality problems; on-site disposal systems; underground storage tanks; or Texas Pollutant Discharge Elimination System permits for stormwater discharges. This rulemaking does not relax the standards related to dredging; the discharge, disposal, and placement of dredge material; compensatory mitigation; and authorization of development in critical areas. This rulemaking does not relax existing standards for issuing permits related to development of infrastructure within Coastal Barrier Resource System Units and Otherwise Protected Areas. Rather, the intent

of the rulemaking is to increase compliance with existing standards and rule requirements.

Promulgation and enforcement of this rule will not violate or exceed any standards identified in the applicable CMP goals and policies because the adopted rule is consistent with these CMP goals and policies and because this rule does not create or have a direct or significant adverse effect on any coastal natural resource areas.

The commission invited public comment regarding the consistency with the CMP during the public comment period. No comments were received regarding the CMP.

Public Comment

A public hearing on the proposed rules was held in Austin on August 18, 2025, at 9:30 AM. in Building D, Room 191 at the Texas Commission on Environmental Quality complex, located at 12100 Park 35 Circle. The hearing was structured for the receipt of oral or written comments by interested persons. The comment period closed on August 25, 2025. A total of seven commenters provided both general and specific comments on the proposed rules. The following commented on the proposal: The Associated General Contractors of Texas (AGC); Better Brazoria€"Clean Air & Clean Water (Better Brazoria); Harris County Attorney's Office (HCAO); Harris County Pollution Control Services (PCS); Texas Association of Manufacturers (TAM), Texas Chemistry Council (TCC), and Texas Oil and Gas Association (TXOGA); Texas Industry Project (TIP); and Public Citizen.

§60.1 - Compliance History

Comment:

Public Citizen commented that the commission's approach to compliance history ratings do not adequately incorporate written Notices of Violation (NOVs). Per Public Citizen, NOVs are a formal and frequent indicator of non-compliance, noting that the commission issued over 15,000 NOVs but only about 1,100 enforcement orders and civil judgments during FY 2024 therefore excluding NOVs means that the "vast majority" of documented non-compliance is not factored into the compliance history. They assert that the exclusion of NOVs leads to an inaccurate and incomplete picture of an entity's compliance history. They requested that NOVs be included in compliance history for the full five-year period, without the one-year limitation.

Response:

The commission notes that limiting the use of NOVs to one year is governed by statute. TWC §5.753(d) states, "notices of violation must be included as a component of compliance history for a period not to exceed one year from the date of issuance of each notice of violation." The commission will continue to consider NOVs in the compliance history formula as required by statute.

No changes were made in response to this comment.

Comment:

HCAO noted the proposed preamble stated that the commission "may consider new compliance history information as necessary." HCAO interprets this to mean that the commission may consider new information when reviewing a permit application that would not otherwise be considered under the effective version of the rule. They requested that the commission provide a list of factors to consider when deciding whether to use new compliance history information to ensure a thorough review and predictability in decision-making.

Response:

The commission responds that, while not a part of this rulemaking, §60.4 outlines the conditions under which the executive director may take into consideration additional compliance history information. The commission has not altered the executive director's discretionary authority as provided by that rule.

No changes were made in response to this comment.

Comment:

TAM, TCC, TXOGA, and TIP requested limiting consideration of moderate and minor violations for repeat violator status to those violations that occurred after September 1, 2023, the date when Senate Bill 1397 became effective. The organizations contended that including violations that occurred before this date would be inconsistent with Texas Government Code § 311.022, which supports the prospective operation of statutes, and would violate general principles of due process and fair notice.

Response:

The commission notes that its compliance history report provides a current assessment of an entity's performance over the past five years. Although this report may include data from before the September 1, 2023 effective date of SB 1397, it is considered current at the time it is generated. Instructions to limit this period for the new repeat violator rule were not conveyed in statute.

Additionally, the Texas Attorney General previously addressed this matter specifically for compliance history in Attorney General Opinion JC-0515 (2001), affirming that a valid exercise of legislative authority to safeguard public safety and welfare can, in certain cases, overcome concerns of unconstitutional retroactivity.

No changes were made in response to this comment.

Comment:

AGC and Better Brazoria each provided comments related to when the 5-year compliance history period should begin for enforcement actions. AGC noted that, under the proposed rule, a regulated entity could lose the benefit of a "positive component" the entity implements within the timeframe between the enforcement screening date and the settlement offer. Better Brazoria noted the proposed rule could result in violations not being incorporated into a facility's compliance history rating and requested that an entity's compliance history be recalculated to ensure additional violations are appropriately incorporated to reflect the entity's compliance.

Response

The commission recognizes that the components of an entity's compliance history may change during settlement negotiations and litigation. Considering changes in components throughout the litigation process would create uncertainty and could result in additional staff resources and delays throughout the hearing process. Having a fixed compliance history during negotiations creates more certainty for all parties, streamlines the negotiation process, and shortens the review time for agreed orders and petitions.

No changes were made in response to these comments.

Comment:

TAM, TCC, TXOGA, and TIP submitted comments regarding the way the commission currently calculates compliance history. They contend that using the date of a final enforcement action

(e.g., an Agreed Order) to determine when a violation affects a site's compliance score is flawed and can misrepresent a site's current performance.

TAM, TCC, TXOGA, and TIP noted that the commission's current method of using the date of the final enforcement action, rather than the date the violation actually took place, can penalize a company for years after the violation has been corrected. The commenters noted TWC §§5.754(c)(2)(B) and 7.302(b)(2) indicate that the legislature intended violations to be evaluated based on the date they happened.

TAM, TCC, TXOGA, and TIP noted that an entity with emissions events from 2018 through 2020 which are resolved in an Agreed Order in 2025, will remain a component until 2030, even though the company may have been compliant since 2020. The commenters believed the time gap between the violation and the resolution in a final order contradicts the purpose of compliance history, which is to accurately reflect a site's performance over a five-year period. They proposed revising the rules to ensure that compliance history points are only assessed for violations that happened within the preceding five-year period.

TAM, TCC, TXOGA, and TIP suggested adding language to 30 TAC §60.1(b) and 30 TAC §60.2(g) so that the date assigned to violations in the compliance history report matches the incident date instead of the date of the final order or action.

Response:

The commission did not propose any changes to the length of time for the compliance period and believes these comments are outside the scope of this rulemaking. However, the commission recognizes that there may be instances where the time gap between the activity and the resolution in a final order may be less representative of an entity's recent compliance posture. In these instances, the commission believes that it is appropriate for the executive director to consider, and if appropriate, apply discretion provided under §60.2(g)(3)(A) that allows the executive director to grant a mitigating factor that will reclassify a site to a satisfactory rating level.

No changes were made in response to these comments.

Comment:

PCS, HCAO, Better Brazoria, and Public Citizen each requested that the commission incorporate local investigations and violations into the compliance history formula, although each commenter provided different reasons to support the request.

PCS contended that TWC §5.1773, requires inclusion of violations issued by local governments in an entity's compliance history rating. PCS notes the public is encouraged to report non-compliance to the commission's regional offices. However, the commission refers some of these complaints to PCS for investigation. Violations noted as a result of these referred complaint investigations are not included in the compliance history formula. PCS adds that nothing in SB 1397 prohibits the addition of local violations in the compliance history formula, that TWC §26.173(a) grants local governments the same authority to conduct investigations and find violations as the commission, and the inclusion of these will allow permit-writers to render more-informed decisions. PCS requests that the TCEQ amend the rule to require that investigations conducted by and violation notices issued by local governments be included in a facility's compliance history rating.

HCAO contended that an entity's compliance history would be more accurate if it included local government violations. They noted that the exclusion of local government compliance information creates a disparity in that the commission can impact compliance history by issuing a written notice of violation, while a local government can only impact compliance history with a court judgment. This delay allows entities to renew their permits without consideration of full compliance performance. HCAO and Better Brazoria each cited an example where a concrete batch plant with nearly twenty locally issued notices of violation maintained a satisfactory classification, allowing the TCEQ to approve a ten-year permit renewal even while a lawsuit was pending in Harris County. HCAO contends that inclusion of local violations would have presented a more accurate and complete compliance history of the concrete batch plant.

Better Brazoria contended that the current exclusion of local compliance history components, particularly notices of violation, eliminates valuable information and leads to an incomplete picture of an entity's compliance performance. Better Brazoria posited that disregarding verified violations from local authorities overlooks systemic noncompliance that should be evaluated when designating repeat violator status or considering permit renewals, and incorporating these violations would lead to a more accurate compliance rating, which could necessitate permit denial or renewal in certain situations.

Public Citizen asserted that the inclusion of enforcement actions by local governments as a compliance history component should be considered as proposed in SB 277 and HB 3972 of the 89th legislative session.

Response:

The commission notes that local governments and municipalities are not obligated to report complaints, investigations, violations, and enforcement actions to this commission. In order to ensure that this information is provided to the commission so that it may be considered in the compliance history calculation would require contractual arrangements with each local government or municipality that has environmental ordinances. Additionally, because local governments and municipalities vary in their resources, there is inconsistency in their ability to conduct investigations and pursue enforcement actions which would lead to inconsistent determinations of compliance histories for regulated entities across the state. The commission is charged with developing standards for evaluating and using compliance history in a way that ensures regulatory consistency, including standards that establish a system of classifications per TWC §§5.753(a) and 5.754(a).

No changes were made in response to these comments.

60.2 Classification

Comment:

Better Brazoria and AGC supported the revision to §60.2(a) to require semi-annual evaluation of compliance history. Since compliance ratings will be assessed on March 1st and September 1st of each year instead of annually, then this more frequent evaluation will lead to more accurate ratings, particularly for facilities with recent violations.

Response:

The commission appreciates the positive comments in support of the rules.

No changes were made in response to this comment.

Comment:

Both Better Brazoria and Public Citizen requested the agency update compliance history more frequently, or even immediately, when new information becomes available. Public Citizen noted significant delays in the enforcement process which allows entities to apply for permits with a positive compliance rating while pending enforcement actions are not yet finalized. Public Citizen also emphasized that communities have a right to timely information about local facilities' compliance, which is essential for communities to advocate for stronger enforcement and hold both polluters and the commission accountable.

Better Brazoria and Public Citizen recommended updating compliance history ratings throughout the year, specifically suggesting that updates occur when new information is received, such as when orders are signed or notices of violations are issued.

Response:

The time necessary to complete the compliance history classification and rating development, review, and approval process does not allow for mass classifications more frequently than twice a year. Before the compliance history rating can be publicly posted, TWC §5.756 requires a quality control and assurance review, and a 30-day window for entities to review and comment on their score. These factors, among others, make it infeasible to update the compliance history classification rating in real time. The commission also notes that, although mass classification and publication will occur twice a year, a compliance history report containing the most recent components, including investigations, violations, and orders is used for internal enforcement and permitting considerations, in accordance with §60.1(b). In addition, TCEQ posts data about complaints, investigations, and violations on its website upon completion, so information is available to the public in a timely manner.

No changes were made in response to these comments.

Comment:

PCS, Better Brazoria, and Public Citizen expressed concern that under the compliance history program approximately 90% of regulated facilities are rated as "unclassified" in the compliance history database. This designation is given to sites that have no compliance history components in the database at the time that the mass classification is run. Better Brazoria and Public Citizen posited that this issue occurs because the formula does not include all relevant data. For example, PCS noted that data from local government investigations resulting in violations is excluded from the compliance history database, potentially making the unclassified number inaccurate. As a solution, Public Citizen recommended inclusion of citizen complaints, local government violations, and Tier II Deficiency Correction Reports to the compliance history formula and inclusion of minor and moderate violations to reduce the number of unclassified facilities.

In addition to the above comments, Better Brazoria requested two changes to address the "unclassified" classification 1) that an "unclassified" designation include a notation that the facility has no compliance history, and 2) that a contemporaneous compliance history review be completed when an unclassified facility seeks a permit renewal. If any violations are discovered as a result of that review, then investigations should be excluded as positive components in the site's compliance rating.

Response:

The commission acknowledges that the "unclassified" compliance history classification is a source of public confusion. A "regulated entity" is a person, organization, place, or thing that is of environmental interest to TCEQ where regulatory activities of interest to the commission occur or have occurred in the past. Regulated entities are indexed in the commission's "Central Registry". Most of these entities do not have any of the components listed in §60.1(c). Entities that are commonly "unclassified" include construction sites with stormwater registrations, recycling centers, office buildings, and one-time shipment permittees. In order to ensure that a complete history of each site is maintained, the commission does not remove these types of entities from Central Registry. This leads to a continual increase in the number of entities with "unclassified" compliance history classifications. All entities are included in the compliance history mass classification and an entity's "unclassified" status may change if compliance history components are added during the previous five years.

No changes were made in response to these comments; however, the commission agrees that adding a notation or further information to better explain the reason for an "unclassified" designation could help mitigate this confusion for the public.

Comment:

Better Brazoria stated that violations occurring in designated nonattainment areas, or impaired waterways, should be given a higher penalty. Failure to adequately weigh these violations results in inadequate consequences for polluting facilities, leading to inaccurate compliance history classifications and a lack of appropriate regulatory oversight. This deficiency may unfairly allow certain industrial facilities to avoid the stricter scrutiny warranted by their environmental impact. Better Brazoria recommended that penalties for air program violations in nonattainment areas be weighted more heavily than violations in areas that meet EPA air standards.

Response:

The commission responds that, while it appreciates the concerns raised by the commenter, the penalty policy is outside the scope of this rulemaking.

No changes were made in response to this comment.

Comment:

Better Brazoria stated that the current complexity scoring system, though an improvement over NAICS codes, is flawed because it can artificially inflate an entity's compliance rating while failing to accurately reflect true environmental and public health risks. They assert that the rigid, permit-type and size-based point system underestimates the risk of certain operations. Better Brazoria provided an example of an entity with a single, high-risk permit like hazardous waste disposal who could score lower than a less risky facility with multiple low-point permits. This system is problematic because complexity points increase the denominator in the compliance rating formula, effectively diluting the impact of violations, meaning complexity forgives violations rather than adding weight to them. This low threshold allows complex, dangerous facilities to incur many minor infractions before being flagged as a repeat violator, which poses a significant and avoidable risk to local communities. Better Brazoria cited the TPC Port Neches disaster, which had over eighty emissions events in the five years preceding the explosion on site. To correct this, Better Brazoria proposes either increasing repeat violation points to offset the artificial inflation from complexity points or assigning

more weight to violations incurred by complex facilities, ensuring that a facility's complexity score truly reflects the potential risk it poses and that patterns of non-compliance always have consequences.

Response:

The commission responds that its compliance history regulations are applicable to a wide range of regulated entities, and the commission reviewed the compliance history formula for factors that could be adjusted in a meaningful way to address the Sunset Commission's concerns. The inclusion of moderate and minor violations to the repeat violator calculation should more accurately reflect the compliance status of facilities of all sizes, and ensure that facilities with more violations will be considered for repeat violator status. The implementation of five complexity categories with corresponding repeat violation point thresholds should provide more granularity to ensure that facilities are held to appropriately stringent requirements for their complexity.

No changes were made in response to this comment.

Comment:

The AGC supported the proposed overall approach for calculating "repeat violation points." AGC believed it is appropriate to include only final enforcement orders, court judgements, and criminal convictions; and it is appropriate to give proper weight to minor, moderate, and major violations.

Response:

The commission appreciates the positive comment in support of the rules.

No changes were made in response to this comment.

Comment:

AGC supported the proposed exclusion of NOVs from the classification of "repeat violator." AGC noted that TWC §5.753 already recognizes that NOVs are not final actions. Further, NOVs are an important tool for achieving compliance quickly, and conserving agency resources through early resolution at the Regional Office level.

Response:

The commission appreciates the positive comment in support of the rules.

No changes were made in response to this comment.

Comment:

Public Citizen and Better Brazoria each advocated for the inclusion of all NOVs in the repeat violator calculation for a period of five years. Each NOV should be assigned points related to the severity, frequency, and complexity of the violation. The commenters asserted that this change would ensure a more accurate and comprehensive compliance history calculation.

Response:

The commission recognizes that the repeat violator designation has a rightfully severe impact on compliance history scores.

Previously, the repeat violator formula only included major violations. Major violations typically result in formal enforcement. With the removal of the consideration of NOVs from the repeat violator formula, the commission is adding moderate and minor violations and will only include violations from final commission actions after due process has been provided. It should be noted that NOVs are evaluated for severity and impact in accordance with §60.2(d). The commission did not propose any changes to §60.2(d) and therefore comments related to that section are outside the scope of this rulemaking. Moreover, the commission also believes the §60.2(d) classification for major, moderate, and minor violations is appropriate.

No changes were made in response to these comments.

Comment:

Public Citizen asserted that the current compliance history system overlooks a significant portion of environmental violations by excluding "minor" and "moderate" violations. Public Citizen pointed to the commission's 2024 Annual Enforcement Report which showed the minor and moderate categories accounted for 86% of all violations during the fiscal year. Moderate violations were the most common type, representing 70% of the total. Public Citizen emphasized that regardless of the perceived severity of individual violations, their cumulative effect remains harmful to communities already overburdened by pollution. Including minor and moderate violations in the repeat violator criteria closes this loophole to further prevent chronic polluters from avoiding the repeat violator designation and meaningful consequences.

Response:

The commission appreciates the positive comment in support of the rules.

No changes were made in response to this comment.

Comment:

Better Brazoria alleged that proposed §60.2(f)(4) violates the Legislature's intent by granting the Executive Director discretion to downgrade a facility's compliance history or grant an exemption from repeat violator status if the violations "do not warrant the designation." Better Brazoria stated this broad discretion, without any qualifiers, prevents the public and regulated community from knowing what conditions justify an exemption. They believe that this discretionary allowance was intended only for "exigent circumstances" and urge the commission to develop clear, static criteria for exemptions or to incorporate a policy by reference. Furthermore, they recommend that the rules adopt a definition of "exigent circumstances" that is narrow and consistent with the Sunset Advisory Commission's definition, thereby eliminating the current, much broader discretionary authority.

Response:

The executive director continues to have discretion to exempt an entity from the repeat violator designation based on the nature of the violations and conditions leading to the violations. This discretion is necessary to allow for case-by-case evaluation of circumstances. The commission adopted this provision in 2012 because it was concerned that a repeat violator designation could be applied to an entity based on circumstances beyond their reasonable control. As stated in 2012, the commission expects the executive director to be stringent in application of the provision.

In addition to the repeat violator exemption, the executive director also has discretionary authority to adjust an entity's classification between compliance rating years through §60.4.

No changes were made in response to this comment.

Comment:

The AGC requested the commission retain the "separate occasion" language in §60.2(f). AGC noted that Senate Bill 1397 did

not change the commissions mandate to "establish criteria" for the "repeat violator" classification, i.e., that language was not changed by the Legislature. Under this authority, AGC noted that the commission maintains the authority to retain the "separate occasion" language and respectfully requested keeping the current language.

Response:

Historically, the commission has considered each order or enforcement action as a "separate occasion" regardless of the number of major violations included in the order. Given the requirement in Senate Bill 1397 to also consider minor and moderate violations, the commission must now document each violation separately to ensure proper calculation of the repeat violator score. Since the methodology for considering violations in the repeat violator calculation has changed, the commission is removing the "separate occasion" language.

No changes were made in response to this comment.

Comment:

TAM, TCC, TXOGA, and TIP, requested revision to §60.2(f) to align with the commenters interpretation of TWC §5.754(c)(2)(B). They asserted that the statute's language "occurred in the preceding five years," mandates that repeat violator status must be based solely on violations with a violation date within five years of the date compliance history is run. TAM, TCC, TXOGA, and TIP noted that the current commission practice uses the date of the final enforcement action (such as an Agreed Order) to determine when components are added to compliance history, which can include violations that occurred more than five years ago. To correct this, they propose amending the rule to explicitly state that a person may be classified as a repeat violator only when multiple major, moderate, or minor violations of the same nature and environmental media that occurred within the five-year compliance period preceding the date compliance history is run should be considered. This revision, they contend, is necessary to comply with the plain language of the Texas Water Code, reduce ambiguity, and streamline the evaluation process.

Response:

The commission did not propose any changes to the length of time for the repeat violator calculation and believes these comments are outside the scope of this rulemaking. However, the commission recognizes that there may be instances where the time gap between the activity and the resolution in a final order may be less representative of an entity's recent compliance posture.

In these instances, the commission believes that it is appropriate for the executive director to consider, and if appropriate, apply discretion provided under §60.2(f) that allows the executive director to grant an exemption if "the nature of the violations and the conditions leading to the violations do not warrant the designation." The executive director may review the date the underlying violations associated with each proposed repeat violator designation were committed during the quality control and quality assurance review period. If the executive director conducts a review and determines that the underlying violations do not warrant the designation, the executive director will grant an exemption. This review may also occur in response to requests during the ARCH review period or appeals window.

No changes were made in response to this comment.

Comment:

TAM, TCC, TXOGA, and TIP, requested changing the definition of "same nature" in 30 TAC §60.2(f) for determining repeat violator status, noting that the definition uses a broad "root citation" approach, classifying any violations under the same rule subsection as being of the same nature. TAM, TCC, TXOGA, and TIP specifically invoked 30 TAC §116.115, which encompasses permit violations without differentiating between the nature of the violations cited. They contended that the proposed inclusion of minor and moderate violations, when combined with this existing definition, will unfairly result in an unrepresentative number of repeat violators. To ensure a more accurate assessment of a facility's compliance pattern, they proposed amending the rule to define "same nature" more narrowly, requiring that violations must involve the same equipment and same root cause, in addition to the root citation. TAM, TCC, TXOGA, and TIP contended that this change is supported by existing practice for Title V violations, aligns with the Texas Water Code's emphasis on root cause analysis, and addresses the Sunset Report's call to identify common patterns of noncompliance.

Response:

The commission agrees that some regulations, including Title V of the Clean Air Act, consider the same equipment and root cause that, where such information is provided by the entity, may be considered in the "same nature" determination. However, there is not a consistent requirement for entities to identify the equipment and root cause for all violations. To expand this definition of "same nature" to all violations of all programs within the commission's authority would require significant changes to statutes, rules, authorizations, and policies. Frequently, determining the root cause is not always possible. Additionally, it is not the responsibility of the commission to determine what caused a failure at a site. The commission's focus is on evaluating compliance with applicable requirements, while finding and correcting the cause of a violation is the responsibility of the site owner and operator.

Regulations and rules are generally separated by environmental media. For example, air rules are located in 30 TAC chs. 101, 106, 111, 112, 113, 114, 115, 116, 117. Violations that cite these rules will involve the same environmental media with a similar nature. The violation description may explain the point of failure that contributed to the violation, if the information is available. With a similar point of failure, the nature of the violations will generally be similar. In addition, the commission reviews violations during the quality control and quality assurance process to ensure they involve the same nature and environmental media. This essential review process will be maintained under the proposed rule per §60.2(f), which provides that the executive director is able to evaluate if the repeat violator designation is warranted considering the nature of the violations and the conditions leading to the violations.

The commission may record the root cause of a violation if that information is available. If an entity believes the citation level fails to give adequate consideration of the "same nature" principle, there are several levels of review that are available for reviewing and correcting any errors. The commission rules require an internal quality control and quality assurance procedure to proactively identify errors, as well as allowing correction requests to be submitted at any time. The executive director may also adjust the repeat violator designation when information provided by the entity demonstrates the violation is not repeating. If during any level of review, the executive director determines that the "same

nature" determination is not appropriate, the executive director will remove the violations from consideration. Finally, entities may also avail themselves of the appeals process in §60.3(e).

No changes were made in response to these comments.

Comment:

TAM, TCC, TXOGA, and TIP proposed reducing the points assigned to "moderate violations" in §60.2(f) from 10 to 5 points. They expressed concern that the proposed 10-point value, coupled with the broad definition of moderate violations, could unfairly trigger "repeat violator" status for sites with minimal, infrequent emissions events. Specifically, they note that under the proposal, a site with just three one-hour emissions events annually could be classified as a repeat violator. They believed this would be contrary to the Sunset Report's focus on "habitual noncompliance" which included examples of facilities having over 40 emissions events. TAM, TCC, TXOGA, and TIP contended that the proposed threshold would inaccurately represent a site's true compliance, potentially penalizing sites with successful compliance programs for minor, corrected events. They therefore proposed revising §60.2(f)(2) to assign 5 points for each moderate violation to create a more balanced threshold.

Response:

The commission notes that the proposed point values of 2, 10, and 50 are intentionally structured so that if an entity commits the same violation annually over a five-year period, the cumulative impact elevates the classification to the next level. This design ensures that frequent, lower-level violations are appropriately addressed over time. For instance, a gas station that repeatedly fails to maintain consistent leak detection records would eventually accumulate enough points from these minor violations to be equivalent to a single moderate violation. Reducing the point value for a moderate violation from 10 to 5 would drastically increase the number of violations a facility would need to accrue to meet the repeat violator threshold, effectively doubling the requirement over a five-year period. The changes in 30 TAC § 60.2(f)(3), related to repeat violator point thresholds for different complexity categories, takes into account the potentially adverse impact of moderate and minor violations in determining if a facility should be a repeat violator and achieves a similar result to lowering the points assigned to moderate violations.

No changes were made in response to these comments.

Comment:

TAM, TCC, and TXOGA requested that the repeat violator threshold be increased to 250 points for sites with 30 or more complexity points.

Similarly, TIP requested the creation of a new complexity category with a separate repeat violator point threshold. Specifically, TIP recommended a threshold of 250 repeat violator points for sites with over 30 complexity points. TIP contends that using the current 15-complexity-point threshold to separate all sites into just two compliance levels disproportionately disadvantages highly complex sites, such as large refineries and chemical plants. These larger facilities have many more emissions points and permit obligations, naturally increasing their risk of accumulating minor noncompliance points. Consequently, a site with 15 complexity points is less likely to reach the 150-point repeat violator threshold, even with a single major violation, than a site with 50+ complexity points. TIP concludes that grouping a 50+ complexity point site with a 15-point site, which they assert are far from "similar complexity," violates the spirit of the Sunset Report and could unfairly label large sites as repeat violators simply due to their size rather than their actual compliance performance.

Response:

In preparing the proposed rule, the commission conducted simulations using several years of historical data to evaluate the potential impact of different point values on various entities. These simulations analyzed how repeat violation points and repeat violator thresholds could affect different types of entities.

The commission recognizes that the inclusion of both moderate and minor violations will make it more likely for entities to accumulate points and reach the repeat violator thresholds. This is particularly true for entities who are required to self-report violations. To reduce the impact of minor and moderate violations in facilities that would not otherwise be considered repeat violators, while ensuring that minor and moderate violations are integral to the repeat violator calculation, the commission has adjusted the proposed rule to include five complexity categories with point thresholds ranging from 150 to 550 based on complexity category. These changes are documented in §60.2(f)(3).

Comment:

AGC noted that the "Repeat Violator" status currently results in a 25 percent penalty enhancement. The proposed preamble acknowledges that adding minor and moderate violations will result in more repeat violators. While beyond the scope of the rulemaking, AGC requests the commission modify the penalty policy, such as adding a tiered approach for penalty enhancements, with lower penalty enhancements for entities that are repeat violators on the basis of minor or moderate violations alone.

Response:

The commission responds that, while it appreciates the concerns raised by the commenter, it agrees that the penalty policy is outside the scope of this rulemaking. The commission considered how including minor and moderate violations will impact all entities. By assigning weighted points to these violations and requiring a minimum point threshold, the commission will ensure only deserving entities are designated as repeat violators.

No changes were made in response to this comment.

Comment:

Better Brazoria contended that the proposed criteria for classifying a repeat violator fails to provide an accurate picture of a facility's overall compliance history because violations must be of the same environmental media. Better Brazoria stated that complex facilities with permits across various media, such as air, water, and waste, may escape repeat violator status because the violations are not in the same media, despite demonstrating a clear pattern of non-compliance. Better Brazoria emphasized that multiple violations across different environmental media often signal a broader, systemic compliance problem at a facility, regardless of its complexity. For example, an operation failing on both a stormwater permit and a separate permit or registration indicates deeper issues, which, even if seemingly minor, impact public health, such as contaminated runoff and particulate matter releases from operations near communities. Commenters therefore requested the repeat violator classification be updated to incorporate and assess habitual violations across media types when they point to a systemic issue.

TAM, TCC, TXOGA and TIP noted a lack of clarity regarding whether the required point total is calculated across all media

(a total of 150 points) or only within a single medium (e.g., 150 points for air and 150 points for water). TAM, TCC, TXOGA, and TIP requested revising the proposed rule, to apply a separate repeat violator point total for each environmental media (e.g., air, water, waste), in accordance with TWC §5.754(c)(2)(B), which mandates that repeat violator consideration be limited to violations of "the same nature and the same environmental media."

Response:

The commission acknowledges that the proposed preamble did not directly clarify how the rule would handle repeat violations across environmental media types. TWC §5.754(c)(2)(B) requires that, for the purpose of designating repeat violators, the commission must consider all violations of the same nature and environmental media. As outlined in the proposed preamble, when an entity has multiple violations of the same nature and environmental media within the preceding five-year period, the points from these violations are combined. The points from all repeating violations on a site are then totaled across all environmental media to determine whether the entity exceeds its designated repeat violator threshold.

For example, a refinery with both multiple air emission violations and multiple wastewater discharge violations would have the points from each set of repeating violations, air and water, added together to determine if it is a repeat violator. This holistic approach helps ensure that systemic issues across environmental media are more quickly identified through the repeat violation formula.

No changes were made in response to these comments.

Comment:

TAM, TCC, TXOGA, and TIP asserted that the current rule's compliance history formula disproportionately impacts smaller entities, such as upstream production facilities, which means a single emissions event with an associated reporting or record-keeping violation can cause these sites to trigger an unsatisfactory compliance history designation. However, the commenters asserted a single event does not accurately reflect overall poor performance, making a reclassification process necessary to accurately represent a facility's compliance record. TAM, TCC, TXOGA, and TIP requested the addition of a mitigating factor to allow reclassification of unsatisfactory less complex sites (those with 15 or fewer complexity points) to a satisfactory classification.

Response:

The commission acknowledges that the smallest entities could be unfairly designated as unsatisfactory performers for committing two minor or two moderate violations. To address this concern, the commission is raising the threshold for unsatisfactory performance from 55 to 60 points. Therefore, a separate mitigating factor for a single minor or moderate violation is not necessary.

No changes were made in response to these comments.

§60.3 Use of Compliance History

Comment:

Better Brazoria appreciated the proposal to evaluate compliance history more frequently. However, they expressed concern that evaluating and rating compliance history twice a year may give industrial operators more opportunities to challenge unfavorable, but accurate, designations. To ensure compliance ratings remain accurate and to minimize these appeals, Better Brazoria requested a shortened appeal window to prevent industrial operators from having extended opportunities to challenge unfavorable compliance history classifications.

Response:

The commission responds that the compliance history rules apply to a wide range of regulated entities with varying sizes and complexities. The commission recognizes that a rule of such broad application may create situations where unique factual circumstances may warrant the exercise of additional review through the appeals process. To prevent an unmanageable number of appeals to the executive director, the right of an appeal is already limited to unsatisfactory performers, repeat violators, and satisfactory performers with 45 points or higher. Unsatisfactory performers and repeat violators receive additional oversight and regulatory restrictions by the commission and providing an avenue for these entities to supply additional information to the executive director to appeal the classification is warranted. With these limitations, the commission is not reducing the 45-day appeal window for regulated entities at this time.

No changes were made in response to this comment.

Comment:

Public Citizen asserted that while the rulemaking considered the duration of the appeal window for regulated entities, it failed to include any measures for transparency in the appeals process. Currently, the Compliance History website states that appeals rely solely on submitted written documentation, as "here is no hearing associated with this process." Given the lack of a public hearing, the commenter requested access be granted, upon request, to all documentation and reasoning submitted to or considered by the commission when determining whether to grant an appeal.

Response:

The commission operates in adherence to the Public Information Act. Consequently, documents and materials related to the appeals process may be requested and released in accordance with the Act's provisions through the commission's public information request process.

No changes were made in response to this comment.

Comment:

Better Brazoria asserted that a flaw with compliance history is that entities are able to self-report which removes the commission's ability to protect public health. The commenter requests that any entities which self-report compliance history data be subject to auditing and independent data verification.

Response:

This comment is outside the scope of this rulemaking. However, the commission agrees that self-reported data should be subject to auditing and independent data verification. To ensure this, the commission reviews self-reported data and evaluates it against applicable requirements, often requesting additional information to determine if the entity's evaluation was appropriate. The commission cites violations for noncompliance whether they are self-reported or identified through an investigation.

No changes were made in response to this comment.

Statutory Authority

The amended rules are adopted under the authority of Texas Water Code (TWC), §5.753, concerning Standards for Evaluating and Using Compliance History, and TWC, §5.754, as amended by Senate Bill 1397, 88th Legislature, 2023, Section 13, concerning Classification and Use of Compliance History, which authorize rulemaking to establish compliance history standards, call upon the compliance history program to ensure consistency, and establish criteria for classifying a repeat violator. These provisions do not restrict the application of such classifications to be at specific intervals. Additional authority exists under TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; and TWC, §5.103, concerning Rules, which provides the commission the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the TWC and other laws of this state.

The adopted amended rules implement TWC, §§5.102, 5.103, 5.753, and 5.754.

§60.1. Compliance History.

(a) Applicability. The provisions of this chapter are applicable to all persons subject to the requirements of Texas Water Code (TWC), Chapters 26, 27, and 32 and Texas Health and Safety Code (THSC), Chapters 361, 375, 382, and 401.

(1) Specifically, the agency will utilize compliance history when making decisions regarding:

(A) the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit;

(B) enforcement;

(C) the use of announced investigations; and

(D) participation in innovative programs.

(2) For purposes of this chapter, the term "permit" means licenses, certificates, registrations, approvals, permits by rule, standard permits, or other forms of authorization.

(3) With respect to authorizations, this chapter only applies to forms of authorization, including temporary authorizations, that require some level of notification to the agency, and which, after receipt by the agency, requires the agency to make a substantive review of and approval or disapproval of the authorization required in the notification or submittal. For the purposes of this rule, "substantive review of and approval or disapproval" means action by the agency to determine, prior to issuance of the requested authorization, and based on the notification or other submittal, whether the person making the notification has satisfied statutory or regulatory criteria that are prerequisites to issuance of such authorization. The term "substantive review or response" does not include confirmation of receipt of a submittal.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, this chapter does not apply to certain permit actions such as:

(A) voluntary permit revocations;

(B) minor amendments and nonsubstantive corrections to permits;

(C) Texas pollutant discharge elimination system and underground injection control minor permit modifications;

(D) Class 1 solid waste modifications, except for changes in ownership;

(E) municipal solid waste Class I modifications, except for temporary authorizations and municipal solid waste Class I modifications requiring public notice;

(F) permit alterations;

(G) administrative revisions; and

(H) air quality new source review permit amendments which meet the criteria of §39.402(a)(3)(A) - (C) and (5)(A) - (C) of this title (relating to Applicability to Air Quality Permits and Permit Amendments) and minor permit revisions under Chapter 122 of this title (relating to Federal Operating Permits Program).

(5) Further, this chapter does not apply to occupational licensing programs under the jurisdiction of the commission.

(6) This rule will become effective on September 1, 2026. The executive director shall continue in effect the standards and use of compliance history for any action (permitting, enforcement, or otherwise) that were in effect before the effective date of the rule.

(7) , this chapter shall apply to the use of compliance history in agency decisions relating to:

(A) applications submitted on or after this date for the issuance, amendment, modification, or renewal of permits;

(B) inspections and flexible permitting;

(C) a proceeding that is initiated or an action that is brought on or after this date for the suspension or revocation of a permit or the imposition of a penalty in a matter under the jurisdiction of the commission; and

(D) applications submitted on or after this date for other forms of authorization, or participation in an innovative program, except for flexible permitting.

(8) If a motion for reconsideration or a motion to overturn is filed under §50.39 or §50.139 of this title (relating to Motion for Reconsideration; and Motion to Overturn Executive Director's Decision) with respect to any of the actions listed in paragraph (4) of this subsection, and is set for commission agenda, a compliance history shall be prepared by the executive director and filed with the Office of the Chief Clerk no later than six days before the Motion is considered on the commission agenda.

(b) Compliance period. The compliance history period includes the five years prior to the date the permit application is received by the executive director; the five-year period preceding the date of the initial enforcement screening; for purposes of determining whether an announced investigation is appropriate, the five-year period preceding an investigation; or the five years prior to the date the application for participation in an innovative program is received by the executive director. The compliance history period may be extended beyond the date the application for the permit or participation in an innovative program is received by the executive director, up through completion of review of the application. Notices of violation may only be used as a component of compliance history for a period not to exceed one year from the date of issuance.

(c) Components. The compliance history shall include multimedia compliance-related information about a person, specific to the site which is under review, as well as other sites which are owned or operated by the same person. The components are:

(1) any final enforcement orders, court judgments, and criminal convictions of this state relating to compliance with applicable legal requirements under the jurisdiction of the commission. "Applicable legal requirement" means an environmental law, regulation, permit, order, consent decree, or other requirement;

(2) notwithstanding any other provision of the TWC, orders developed under TWC, §7.070 and approved by the commission on or after February 1, 2002;

(3) to the extent readily available to the executive director, final enforcement orders, court judgments, consent decrees, and criminal convictions relating to violations of environmental rules of the United States Environmental Protection Agency;

(4) chronic excessive emissions events. For purposes of this chapter, the term "emissions event" is the same as defined in THSC, §382.0215(a);

(5) any information required by law or any compliance-related requirement necessary to maintain federal program authorization;

(6) the dates of investigations;

(7) all written notices of violation for a period not to exceed one year from the date of issuance of each notice of violation, including written notification of a violation from a regulated person, issued on or after September 1, 1999, except for those administratively determined to be without merit;

(8) the date of letters notifying the executive director of an intended audit conducted and any violations disclosed and having received immunity under the Texas Environmental, Health, and Safety Audit Privilege Act (Audit Act), 85th Legislature, 2017, TEX. HEALTH AND SAFETY CODE ch. 1101;

(9) an environmental management system approved under Chapter 90 of this title (relating to Innovative Programs), if any, used for environmental compliance;

(10) any voluntary on-site compliance assessments conducted by the executive director under a special assistance program;

(11) participation in a voluntary pollution reduction program; and

(12) a description of early compliance with or offer of a product that meets future state or federal government environmental requirements.

(d) Change in ownership. In addition to the requirements in subsections (b) and (c) of this section, if ownership of the site changed during the five-year compliance period, a distinction of compliance history of the site under each owner during that five-year period shall be made. Specifically, for any part of the compliance period that involves a previous owner, the compliance history will include only the site under review. For the purposes of this rule, a change in operator shall be considered a change in ownership if the operator is a co-permittee.

§60.2. Classification.

(a) Classifications. Beginning September 1, 2002, the executive director shall evaluate the compliance history of each site and classify each site and person as needed for the actions listed in §60.1(a)(1) of this title (relating to Compliance History). On September 1, 2026, and semi-annually thereafter, the executive director shall evaluate the compliance history of each site, and classify each site and person. For the purposes of classification in this chapter, and except with regard to portable units, "site" means all regulated units, facilities, equipment, structures, or sources at one street address or location that are owned or operated by the same person. Site includes any property identified in the permit or used in connection with the regulated activity at the same street address or location. A "site" for a portable regulated unit or facility is any location where the unit or facility is or has operated. Each site and person shall be classified as:

(1) a high performer, which has an above-satisfactory compliance record;

(2) a satisfactory performer, which generally complies with environmental regulations; or

(3) an unsatisfactory performer, which performs below minimal acceptable performance standards established by the commission.

(b) Inadequate information. For purposes of this rule, "inadequate information" shall be defined as no compliance information. If there is no compliance information about the site at the time the executive director develops the compliance history classification, then the classification shall be designated as "unclassified." The executive director may conduct an investigation to develop a compliance history.

(c) Groupings. Sites will be divided into groupings based on complexity or other information available to the executive director. The complexity calculation is described in subsection (e) of this section (relating to Classification).

(d) Major, moderate, and minor violations. In classifying a site's compliance history, the executive director shall determine whether a documented violation of an applicable legal requirement is of major, moderate, or minor significance.

(1) Major violations are:

(A) a violation of a commission enforcement order, court order, or consent decree;

(B) operating without required authorization or using a facility that does not possess required authorization;

(C) an unauthorized release, emission, or discharge of pollutants that caused, or occurred at levels or volumes sufficient to cause, adverse effects on human health, safety, or the environment;

(D) falsification of data, documents, or reports; and

(E) any violation included in a criminal conviction, which required the prosecutor to prove a culpable mental state or a level of intent to secure the conviction.

(2) Moderate violations are:

(A) complete or substantial failure to monitor, analyze, or test a release, emission, or discharge, as required by a commission rule or permit;

(B) complete or substantial failure to submit or maintain records, as required by a commission rule or permit;

(C) not having an operator whose level of license, certification, or other authorization is adequate to meet applicable rule requirements;

(D) any unauthorized release, emission, or discharge of pollutants that is not classified as a major violation;

(E) complete or substantial failure to conduct a unit or facility inspection, as required by a commission rule or permit;

(F) any violation included in a criminal conviction, for a strict liability offense, in which the statute plainly dispenses with any intent element needed to be proven to secure the conviction; and

(G) maintaining or operating regulated units, facilities, equipment, structures, or sources in a manner that could cause an unauthorized or noncompliant release, emission, or discharge of pollutants.

(3) Minor violations are:

(A) performing most, but not all, of a monitoring or testing requirement, including required unit or facility inspections;

(B) performing most, but not all, of an analysis or waste characterization requirement;

(C) performing most, but not all, of a requirement addressing the submittal or maintenance of required data, documents, notifications, plans, or reports; and

(D) maintaining or operating regulated units, facilities, equipment, structures, or sources in a manner not otherwise classified as moderate.

(e) Complexity Points. All sites classified shall have complexity points as follows:

(1) Program Participation Points. A site shall be assigned Program Participation Points based upon its types of authorizations, as follows:

(A) four points for each permit type listed in clauses (i) - (viii) of this subparagraph issued to a person at a site:

(i) Radioactive Waste Disposal;

(ii) Hazardous or Industrial Non-Hazardous Storage Processing or Disposal;

(iii) Municipal Solid Waste Type I;

(iv) Prevention of Significant Deterioration;

(v) Phase I--Municipal Separate Storm Sewer System;

(vi) Texas Pollutant Discharge Elimination System (TPDES) or National Pollutant Discharge Elimination System (NPDES) Industrial or Municipal Major;

(vii) Nonattainment New Source Review; and

(viii) Underground Injection Control Class I/III;

(B) three points for each type of authorization listed in clauses (i) - (iv) of this subparagraph issued to a person at a site:

(i) Municipal Solid Waste Type I AE;

(ii) Municipal Solid Waste Type IV, V, or VI;

(iii) Municipal Solid Waste Type IV AE; and

(iv) TPDES or NPDES Industrial or Municipal Minor;

(C) two points for each permit type listed in clauses (i) - (iii) of this subparagraph issued to a person at a site or utilized by a person at a site:

(i) Title V Federal Operating Permit;

(ii) New Source Review individual permit; and

(iii) any other individual site-specific water quality permit not referenced in subparagraph (A) or (B) of this paragraph or any water quality general permit;

(D) one point for each type of authorization listed in clauses (i) - (xiii) of this subparagraph issued to a person at a site or utilized by a person at a site:

(i) Edwards Aquifer authorization;

(ii) Enclosed Structure permit or registration relating to the use of land over a closed Municipal Solid Waste landfill;

(iii) Industrial Hazardous Waste registration;

(iv) Municipal Solid Waste Tire Registrations;

(v) Other types of Municipal Solid Waste permits or registrations not listed in subparagraphs (A) - (C) of this paragraph;

(vi) Petroleum Storage Tank registration;

(vii) Radioactive Waste Storage or Processing license;

(viii) Sludge registration or permit;

(ix) Stage II Vapor Recovery registration;

(x) Municipal Solid Waste Type IX;

(xi) Permit by Rule requiring submission of an application under Chapter 106 of this title (relating to Permits by Rule);

(xii) Uranium license; and

(xiii) Air Quality Standard Permits.

(2) Size. Every site shall be assigned points based upon size as determined by the following:

(A) Facility Identification Numbers (FINs): The total number of FINS at a site will be multiplied by 0.02 and rounded up to the nearest whole number.

(B) Water Quality external outfalls:

(i) 10 points for a site with ten or more external outfalls;

(ii) 5 points for a site with at least five, but fewer than ten, external outfalls;

(iii) 3 points for sites with at least two, but fewer than five, external outfalls; and

(iv) 1 point for sites with one external outfall;

(C) Active Hazardous Waste Management Units (AHWMUs):

(i) 10 points for sites with 50 or more AHWMUs;

(ii) 5 points for sites with at least 20, but fewer than 50, AHWMUs;

(iii) 3 points for sites with at least ten, but fewer than 20, AHWMUs; and

(iv) 1 point for sites with at least one but fewer than ten AHWMUs.

(D) Small Entities shall receive 3 points. A small entity is defined as: a city with a population of less than 5,000; a county with a population of less than 25,000; or a small business. A small business is defined as any person, firm, or business which employs, by direct payroll and/or through contract, fewer than 100 full-time employees. A business that is a wholly owned subsidiary of a corporation shall not qualify as a small business if the parent organization does not qualify as a small business.

(E) Underground Storage Tanks (USTs) and Aboveground Storage Tanks (ASTs):

(i) 4 points for sites with 11 or more USTs;

(ii) 3 points for sites with five to ten USTs;

(iii) 3 points for sites with more than 11 ASTs;

(iv) 2 points for sites with three to four USTs;

(v) 2 points for sites with three to ten, ASTs;

(vi) 1 point for sites with one to two USTs; and

(vii) 1 point for sites with one to two ASTs.

(3) Nonattainment area points. Every site located in a nonattainment area shall be assigned 1 point.

(4) The subtotals from paragraphs (1) - (3) of this subsection shall be summed.

(f) Repeat violator.

(1) Repeat violator criteria. A person may be classified as a repeat violator at a site when multiple major, moderate, or minor violations of the same nature and the same environmental media occurs during the preceding five-year compliance period. Same nature is defined as violations that have the same root citation at the subsection level. For example, all rules under §334.50 of this title (relating to Release Detection) (e.g. §334.50(a) or (b)(2) of this title) would be considered same nature. The total complexity points for a site equals the sum of points assigned to a specific site in subsection (e) of this section.

(2) Repeat violation points. Each repeat violation will be:

(A) Assigned 2 points for each minor violation as documented in any final enforcement orders, court judgments, and criminal convictions;

(B) Assigned 10 points for each moderate violation as documented in any final enforcement orders, court judgments, and criminal convictions; and

(C) Assigned 50 points for each major violation as documented in any final enforcement orders, court judgments, and criminal convictions.

(3) A person is a repeat violator at a site when the number of repeat violation points is:

(A) Equal to or greater than 550 for sites with 60 or more complexity points; or,

(B) Equal to or greater than 450 for sites with 45 to 59 complexity points; or,

(C) Equal to or greater than 350 for sites with 30 to 44 complexity points; or,

(D) Equal to or greater than 250 for sites with 15 to 29 complexity points; or,

(E) Equal to or greater than 150 for sites with less than 15 complexity points.

(4) Repeat violator exemption. The executive director shall designate a person as a repeat violator as provided in this subsection, unless the executive director determines the nature of the violations and the conditions leading to the violations do not warrant the designation.

(g) Formula. The executive director shall determine a site rating based upon the following method.

(1) Site rating. For the time period reviewed, the following calculations shall be performed based upon the compliance history at the site.

(A) The number of major violations contained in:

(i) any adjudicated final court judgments and default judgments, shall be multiplied by 160;

(ii) any non-adjudicated final court judgments or consent decrees without a denial of liability shall be multiplied by 140;

(iii) any non-adjudicated final court judgments or consent decrees containing a denial of liability, adjudicated final enforcement orders, and default orders, shall be multiplied by 120;

(iv) any final prohibitory emergency orders issued by the commission shall be multiplied by 120;

(v) any agreed final enforcement orders without a denial of liability shall be multiplied by 100; and

(vi) any agreed final enforcement orders containing a denial of liability shall be multiplied by 80.

(B) The number of moderate violations contained in:

(i) any adjudicated final court judgments and default judgments shall be multiplied by 115;

(ii) any non-adjudicated final court judgments or consent decrees without a denial of liability shall be multiplied by 95;

(iii) any non-adjudicated final court judgments or consent decrees containing a denial of liability, adjudicated final enforcement orders, and default orders, shall be multiplied by 75;

(iv) any agreed final enforcement orders without a denial of liability shall be multiplied by 60; and

(v) any agreed final enforcement orders containing a denial of liability shall be multiplied by 45.

(C) The number of minor violations contained in:

(i) any adjudicated final court judgments and default judgments shall be multiplied by 45;

(ii) any non-adjudicated final court judgments or consent decrees without a denial of liability shall be multiplied by 35;

(iii) any non-adjudicated final court judgments or consent decrees containing a denial of liability, adjudicated final enforcement orders, and default orders, shall be multiplied by 25;

(iv) any agreed final enforcement orders without a denial of liability shall be multiplied by 20; and

(v) any agreed final enforcement orders containing a denial of liability shall be multiplied by 15.

(D) The total number of points assigned for all resolved violations in subparagraphs (A) - (C) of this paragraph will be reduced based on achievement of compliance with all ordering provisions. For the first two years after the effective date of the enforcement order(s), court judgment(s), consent decree(s), and criminal conviction(s), the site will receive the total number of points assigned for violations in subparagraphs (A) - (C) of this paragraph. If all violations in subparagraphs (A) - (C) of this paragraph are resolved and compliance with all ordering provisions is achieved, for each enforcement order(s), court judgment(s), consent decree(s), and criminal conviction(s) :

(i) under two years old, the points associated with the violations in subparagraphs (A) - (C) of this paragraph will be multiplied by 1.0;

(ii) over two years old, the points associated with the violations in subparagraphs (A) - (C) of this paragraph will be multiplied by 0.75;

(iii) over three years old, the points associated with the violations in subparagraphs (A) - (C) of this paragraph will be multiplied by 0.50; and

(iv) over four years old, the points associated with the violations in subparagraphs (A) - (C) of this paragraph will be multiplied by 0.25.

(E) The number of major violations contained in any notices of violation shall be multiplied by 10.

(F) The number of moderate violations contained in any notices of violation shall be multiplied by 4.

(G) The number of minor violations contained in any notices of violation shall be multiplied by 1.

(H) The number of counts in all criminal convictions:

(i) under Texas Water Code (TWC), §§7.145, 7.152, 7.153, 7.162(a)(1) - (5), 7.163(a)(1) - (3), 7.164, 7.168 - 7.170, 7.176, 7.182, 7.183, and all felony convictions under the Texas Penal Code, TWC, Texas Health and Safety Code (THSC), or the United States Code (USC) shall be multiplied by 500; and

(ii) under TWC, §§7.147 - 7.151, 7.154, 7.157, 7.159, 7.160, 7.162(a)(6) - (8), 7.163(a)(4), 7.165 - 7.167, 7.171, 7.177 - 7.181, and all misdemeanor convictions under the Texas Penal Code, TWC, THSC, or the USC shall be multiplied by 250.

(I) The number of chronic excessive emissions events shall be multiplied by 100.

(J) The subtotals from subparagraphs (A) - (I) of this paragraph shall be summed.

(K) If the person is a repeat violator as determined under subsection (f) of this section, then 500 points shall be added to the total in subparagraph (J) of this paragraph. If the person is not a repeat violator as determined under subsection (f) of this section, then zero points shall be added to the total in subparagraph (J) of this paragraph.

(L) If the total in subparagraph (K) of this paragraph is greater than zero, then:

(i) subtract 1 point from the total in subparagraph (K) of this paragraph for each notice of an intended audit conducted under the Audit Act submitted to the agency during the compliance period; or

(ii) if a violation(s) was disclosed as a result of an audit conducted under the Audit Act; as amended, and the site received immunity from an administrative or civil penalty for that violation(s) by the agency, then the following number(s) shall be subtracted from the total in subparagraph (K) of this paragraph:

(I) the number of major violations multiplied by 10;

(II) the number of moderate violations multiplied by 4; and

(III) the number of minor violations multiplied by 1.

(M) The result of the calculations in subparagraphs (J) - (L) of this paragraph shall be divided by the number of investigations conducted during the compliance period multiplied by 0.1 plus the number of complexity points in subsection (e) of this section. If a site does not have any investigation points and the subtotal from subsection (e)(1) - (3) of this section equals zero, then one default point shall be used. Investigations that do not document any violations will be the only ones counted in the compliance history formula. The number of investigations multiplied by 0.1 shall be rounded up to the nearest whole number. If the value is less than zero, then the site rating shall be assigned a value of zero. For the purposes of this chapter, an investigation is a review or evaluation of information by the executive director or executive director's staff or agent regarding the compliance status of a site, excluding those investigations initiated by citizen complaints. An investigation, for the purposes of this chapter, may take the form of a site assessment, file or record review, compliance investigation, or other review or evaluation of information.

(N) If the person receives certification of an environmental management system (EMS) under Chapter 90 of this title (relating to Innovative Programs) and has implemented the EMS at the site for more than one year, then multiply the result in subparagraph (M) of this paragraph by 0.90, which is (1 - 0.10) and this is the maximum reduction that can be received for an EMS. If the person receives credit for a voluntary pollution reduction program or for early compliance, then multiply the result in subparagraph (M) of this paragraph by 0.95, which is (1 - 0.05). The maximum reduction that a site's compliance history may be reduced through voluntary pollution reduction programs in this subparagraph is 0.85, which is (1 - 0.15). If site participates in both EMS and voluntary pollution reduction programs then the maximum reduction that a site's compliance history may be reduced through EMS and voluntary programs in this subparagraph is 0.75, which is (1 - 0.10 - 0.15).

(2) Point ranges. The executive director shall assign the site a classification based upon the compliance history and application of the formula in paragraph (1) of this subsection to determine a site rating, utilizing the following site rating ranges for each classification:

(A) For entities with less than 15 complexity points:

(i) fewer than 0.10 points--high performer;

(ii) 0.10 points to 60 points--satisfactory performer; and

(iii) more than 60 points--unsatisfactory performer.

(B) For entities with 15 or more complexity points:

(i) fewer than 0.10 points--high performer;

(ii) 0.10 points to 55 points€"satisfactory performer; and

(iii) more than 55 points€"unsatisfactory performer.

(3) Mitigating factors. The executive director shall evaluate mitigating factors for a site classified as an unsatisfactory performer.

(A) The executive director may reclassify the site from unsatisfactory to satisfactory performer based upon the following mitigating factors:

(i) other compliance history components included in §60.1(c)(10) - (12) of this title;

(ii) implementation of an EMS not certified under Chapter 90 of this title at a site for more than one year;

(iii) a person, all of whose other sites have a high or satisfactory performer classification, purchased a site with an unsatisfactory performer classification or became permitted to operate a site with an unsatisfactory performer classification if the person entered into a compliance agreement with the executive director regarding actions to be taken to bring the site into compliance prior to the effective date of this rule; and

(iv) voluntarily reporting a violation to the executive director that is not otherwise required to be reported and that is not reported under the Audit Act, or that is reported under the Audit Act but is not granted immunity from an administrative or civil penalty for that violation(s) by the agency.

(B) When a person, all of whose other sites have a high or satisfactory performer classification, purchased a site with an unsatisfactory performer classification or became permitted to operate a site with an unsatisfactory performer classification and the person contemporaneously entered into a compliance agreement with the executive director regarding actions to be taken to bring the site into compliance, the executive director:

(i) shall reclassify the site from unsatisfactory performer to satisfactory performer until such time as the next semi-annual compliance history classification is performed; and

(ii) may, at the time of subsequent compliance history classifications, reclassify the site from unsatisfactory performer to satisfactory performer based upon the executive director's evaluation of the person's compliance with the terms of the compliance agreement.

(h) Person classification. The executive director shall assign a classification to a person by adding the complexity weighted site ratings of all the sites owned and/or operated by that person in the State of Texas. Each site that a person is affiliated to will receive a point value based on the compliance history rating at the site multiplied by the percentage of complexity points that site represents of the person's total complexity points for all sites. Each of these calculated amounts will be added together to determine the person's compliance history rating.

(i) Notice of classifications. Notice of person and site classifications shall be posted on the commission's website after 30 days from the completion of the classification. The notice of classification shall undergo a quality assurance, quality control review period. An owner or operator of a site may review the pending compliance history rating upon request by registering for the Advanced Review of Compliance History.

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 January 15, 2026.

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Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
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Proposal publication date: July 25, 2025
For further information, please call: (512) 239-2678

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 401. ADMINISTRATIVE PRACTICE AND PROCEDURE

The Texas Commission on Fire Protection (Commission) adopts amendments to 37 Texas Administrative Code, Chapter 401, Administrative Practice and Procedure, concerning §§401.1, 401.3, 401.7, 401.9, 401.11, 401.13, 401.17, 401.19, 401.21, 401.23, 401.31, 401.41, 401.53, 401.57, 401.59, 401.61, 401.63, 401.67, 401.105, 401.111, 401.113, 401.115, 401.117, 401.119, 401.121, 401.127, 401.129, and 401.131. It also adopts the repeal of §401.17. The amendments and repeal are adopted without change to the proposed text as published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7521). The rules will not be republished.

Reasoned Justification

The adopted amendments update and clarify administrative procedures and rulemaking processes of the Commission to ensure consistency, transparency, and alignment with current statutory requirements. These changes improve clarity and usability of the Commission's rules without altering substantive regulatory requirements.

Public Comment

The Commission did not receive any public comments regarding the proposed amendments.

SUBCHAPTER A. GENERAL PROVISIONS AND DEFINITIONS

37 TAC §§401.1, 401.3, 401.7, 401.9, 401.11, 401.13

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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 January 14, 2026.

TRD-202600117
Mike Wisko
Agency Chief
Texas Commission on Fire Protection
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For further information, please call: (512) 936-3812

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SUBCHAPTER B. RULEMAKING PROCEEDINGS

37 TAC §401.17

Statutory Authority

The adopted repeal is authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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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37 TAC §401.19

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER C. EXAMINATION APPEALS PROCESS

37 TAC §401.21, §401.23

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER D. DISCIPLINARY PROCEEDINGS

37 TAC §401.31

Statutory Authority

The adopted amendment is authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER E. PREHEARING PROCEEDINGS

37 TAC §401.41

Statutory Authority

The adopted amendment is authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER F. CONTESTED CASES

37 TAC §§401.53, 401.57, 401.59, 401.61, 401.63, 401.67

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER G. CONDUCT AND DECORUM, SANCTIONS, AND PENALTIES

37 TAC §401.105

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER H. REINSTATEMENT

37 TAC §§401.111, 401.113, 401.115, 401.117, 401.119

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER I. NOTICE AND PROCESSING PERIODS FOR CERTIFICATE APPLICATIONS

37 TAC §401.121, §401.127

Statutory Authority

The adopted amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER J. CHARGES FOR PUBLIC RECORDS

37 TAC §401.129

Statutory Authority

The adopted amendment is authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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SUBCHAPTER K. HISTORICALLY UNDERUTILIZED BUSINESSES

37 TAC §401.131

Statutory Authority

The adopted amendment is authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its powers and duties.

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