
TEXAS REGISTER

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THE GOVERNOR

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

Appointments

Appointments for January 30, 2026

Appointed to the Injured Employee Public Counsel for a term to expire February 1, 2027, Robert W. Rucker of Cedar Park, Texas (replacing Dirk D. Johnson of Austin whose term expired).

Appointed as Judge of the 301st Judicial District, Dallas County for a term to expire December 31, 2026, Ashley E. Wysocki of Dallas, Texas (replacing Judge Mary Brown of Dallas who resigned).

Appointments for February 2, 2026

Appointed to the Texas Southern University Board of Regents for a term to expire February 1, 2029, Paloma Z. Ahmadi of Shavano Park, Texas (replacing Brandon L. Simmons of Houston who resigned).

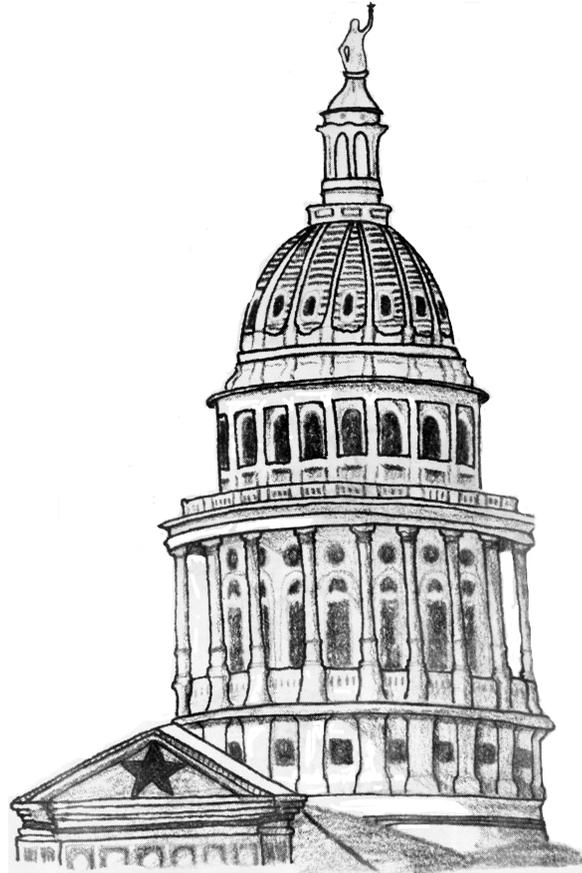
Appointments for February 3, 2026

Appointed to the State Board for Educator Certification for a term to expire February 1, 2031, JoMeka Gray of Belton, Texas (replacing Wanda H. "Jean" Streepey of Dallas who resigned).

Greg Abbott, Governor

TRD-202600517





THE ATTORNEY GENERAL

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

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

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

Opinions

Opinion No. KP-0510

The Honorable Joe Gonzales

Bexar County Criminal District Attorney

101 West Nueva

San Antonio, Texas 78205

Re: Legality of an automated traffic-enforcement system for speeding citations (RQ-0584-KP)

S U M M A R Y

A constable lacks authority to employ an automated traffic-enforcement system to issue speeding citations by mail.

Opinion No. KP-0511

The Honorable B.D. Griffin

Montgomery County Attorney

501 North Thompson, Suite 300

Conroe, Texas 77301

Re: Interpretation and application of the Open Meetings Act to members of a home-rule city council (RQ-0585-KP)

S U M M A R Y

The Texas Open Meetings Act applies to a "meeting" of a municipality's governing body. A home-rule municipality's charter may define a quorum for purposes of a "meeting" under the Act. While a gathering of members of a governmental body in less than a quorum does not ordinarily trigger the Act, a governmental body does not always insulate itself by avoiding a quorum. Thus, we cannot conclude as a matter of law that every conceivable gathering involving less than a quorum of a municipality's governing body would not trigger or violate the Act.

Opinion No. KP-0512

The Honorable Eduardo Serna

Zavala County Attorney

200 East Uvalde Street, Suite 2

Crystal City, Texas 78839

Re: Whether a commissioners court can rescind and readopt a different county budget after the annual budget was approved (RQ-0586-KP)

S U M M A R Y

Chapter 111, subchapter A, of the Local Government Code does not authorize a county commissioners court to wholly rescind and adopt a different budget after approval of the annual budget. Whether a county commissioner refuses to comply with subchapter A and thereby commits an offense under Local Government Code section 111.012 involves questions of fact that we do not resolve in an Attorney General opinion.

Pursuant to Local Government Code subsection 152.013(a), the commissioners court may not reduce the salary of an elected county officer once the budget hearing and adoption proceedings are complete and a budget is approved.

Local Government Code subsection 111.009(a) provides that the commissioners court not the county auditor shall file the approved budget with the county clerk. As such, it is unclear how a county auditor would run afoul of subchapter A by refusing or failing to file the approved budget with the county clerk.

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

TRD-202600504

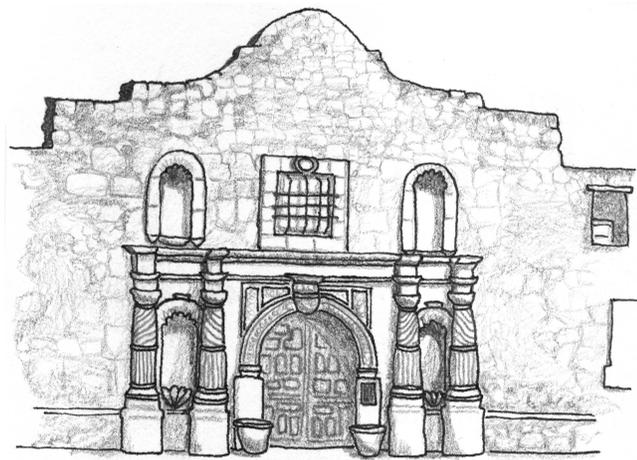
Justin Gordon

General Counsel

Office of the Attorney General

Filed: February 3, 2026





PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. “(No change)” indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §355.8443, concerning Reimbursement Methodology for School Health and Related Services (SHARS), and §355.8600, concerning Reimbursement Methodology for Ambulance Services.

BACKGROUND AND PURPOSE

The purpose of the proposal is to align the rule with current updated practices and reduce administrative burdens by modernizing the informal review process for cost reports.

SECTION-BY-SECTION SUMMARY

Proposed amendment to 355.8443(b) updates the cost report due date and method of submittal to be in a manner specified by HHSC.

Proposed amendment to 355.8443(e) updates language for clarity related to the cost reconciliation and settlement process.

Proposed amendment to 355.8443(i) removes the requirement for a request for an informal review to be submitted in writing, and replaces it with a requirement that the request for informal review must be received in a manner prescribed by HHSC and updates language to clarify requirements when requesting an informal review.

Proposed amendment to 355.8443(j) updates references for consistency in formatting.

Additional proposed amendments to §355.8443 include administrative updates for clarity and transparency throughout the rule and removes language related to requiring an informal review or extension request to be signed by an individual legally responsible for the requesting entity since that language is already included in §355.110.

Proposed amendment to 355.8600(a) updates the definition of governmental ambulance for clarity.

Proposed amendments to 355.8600(c) remove the written requirement for eligibility requests for supplemental payments and states eligibility requests must be submitted in the manner HHSC requires and updates the cost report due date and method of submittal to be in the manner specified by HHSC.

Additional proposed amendments to §355.8600 include administrative updates for clarity and transparency throughout the rule.

FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will not create new regulations;
- (6) the proposed rules will not expand, limit, or repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules do not impose a cost on regulated persons and the rules are amended to reduce the burden or responsibilities imposed on regulated persons by the rules.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance Department, has determined that for each year of the first five years the rules are in effect, the public benefit will be a reduced burden for contracted Medicaid providers related to the submission and processing of informal reviews and formal appeals.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the proposed amendments decrease the requirements to comply with the proposed rules.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R030" in the subject line.

DIVISION 23. EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)

1 TAC §355.8443

STATUTORY AUTHORITY

The amendment 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; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32.

The amendments affect Texas Government Code §§524.0151, 524.0005, 532.0051, and 532.0057(a). It also affects Texas Human Resources Code Chapter 32.

§355.8443. *Reimbursement Methodology for School Health and Related Services (SHARS).*

(a) Introduction. Reimbursement is available to a Local Education Agency (LEA) for providing certain direct medical and transportation services, known as SHARS, to a Medicaid-enrolled student with a disability age 20 years of age or younger. SHARS services are described in and must be prescribed in accordance with §354.1341 of this title (relating to Benefits and Limitations).

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

(1) Cost report--~~A yearly~~ [An annual] report for all Medicaid-allowed [documenting the LEA's Medicaid-allowable] costs for all SHARS services provided by an LEA [delivered] during the previous federal fiscal year. The Texas Health and Human Services Commission (HHSC) sets the due date for the report, ~~[each report is due on or before April 1 of the year following the reporting period]~~ and it must be certified in the [a] manner specified by HHSC [the Texas Health and Human Services Commission (HHSC)]. The [primary purposes of the] cost report should ~~[are to]:~~

(A) document the LEA's total Medicaid-allowable costs for delivering SHARS, including direct costs and indirect costs, based on federally mandated cost allocation methodologies; and

(B) reconcile interim payments to total Medicaid-allowable costs based on approved cost allocation methodology procedures.

(2) Eligible student--A Medicaid-enrolled student with a disability age 20 years of age or younger that receives a direct medical or transportation service as prescribed by §354.1341 of this title.

(3) Interim claim--A claim for a direct medical or transportation service paid at the interim rate that is provisional in nature pending the completion of a cost reconciliation and cost settlement for the cost reporting period.

(4) Local Education Agency (LEA)--A Texas independent school district or public charter school.

(5) Time study--A statistically valid random sampling method used to identify the percentage of time spent performing actual direct medical services irrespective of payer and administrative cost.

(c) Parental Consent. Prior to submitting its annual cost report, the LEA must meet the parental consent requirements in §354.1342 of this title (relating to Conditions for Participation) for each student included in the numerator of the following ratios required in the cost report.

(1) IEP ratio. ~~[--]~~A comparison of the total number of students enrolled in Medicaid with individualized education programs (IEPs) requiring direct medical services to the total number of students with IEPs requiring direct medical services.

(2) One-way trip ratio. ~~[--]~~A comparison of the total one-way trips for students enrolled in Medicaid with IEPs requiring specialized transportation services, who received direct medical services the same day, to the total one-way trips for all students with IEPs requiring specialized transportation services.

(3) Section 504 Plan ratio. ~~[--]~~A comparison of the total number of students enrolled in Medicaid with Section 504 Plans requiring audiology services to the total number of students with Section 504 Plans requiring audiology services.

(d) Time study. The LEA must participate in the HHSC-administered time study in the manner prescribed by HHSC.

(e) Reimbursement methodology. LEAs are reimbursed for direct medical and transportation services provided under the SHARS program on a cost basis.

(1) Interim rates. The interim rate is developed based on a percentage of the average per-unit cost for each SHARS service using actual cost data collected on cost reports and is subject to change under §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs). Interim rates are updated annually or as determined by HHSC.

(2) Interim claims.

(A) LEAs must submit:

(i) at least one interim claim for each direct medical service that an eligible student receives within the cost report period;

(ii) interim claims for all personal care services that an eligible student receives within the cost report period; and

(iii) interim claims for all eligible specialized transportation trips provided within the cost report period.

(B) Requirements for interim claims will be adjusted as needed based on direction from the Centers for Medicare and Medicaid Services.

(C) Interim claims must be valid and reimbursed to meet the requirements in this paragraph.

(3) Interim payment. LEAs are reimbursed for SHARS direct medical services and transportation services per unit of service at the lesser of:

(A) the LEA's billed charges; or

(B) the interim rate.

(4) Final reimbursement. The amount an LEA receives after HHSC completes a cost reconciliation and cost settlement process. The total costs for direct medical and transportation services are reviewed and adjusted by HHSC. Adjustments are made using federally required allocation methods. [The LEA's final reimbursement amount is arrived at by a cost reconciliation and cost settlement process. As reported in the cost report, the LEA's total costs for both direct medical and transportation services are adjusted using the federally mandated allocation methodologies.]

(A) Direct medical services costs. Salary and contract costs must be reported in the manner prescribed by HHSC.

(i) Direct costs. From the annual cost report, HHSC aggregates allowable costs for direct medical services, resulting in total direct costs. Direct costs for direct medical services include payroll costs and other costs that can be directly charged to direct medical services provided by contractors and LEA staff (i.e., salaries, benefits, and contract compensation). Direct medical services costs do not include transportation personnel costs.

(ii) Indirect costs. Indirect costs are determined by applying the LEA's specific unrestricted indirect cost rate to its net direct costs. Texas LEAs use predetermined fixed rates for indirect costs. The Texas Education Agency (TEA) has, in cooperation with the United States Department of Education (USDE), developed an indirect cost plan to be used by LEAs in Texas. As authorized in 34 CFR §75.561(b), TEA approves unrestricted indirect cost rates for LEAs for the USDE, which is the cognizant agency for LEAs.

(iii) Net allowable cost. Direct and indirect costs are added together and adjusted by the direct medical time study percent-

age, the IEP ratio, and the 504 Plan ratio, resulting in a net Medicaid allowable cost for direct medical services.

(B) Transportation services. Salary and contract costs must be reported in the manner prescribed by HHSC.

(i) Direct costs. From the annual cost report, HHSC aggregates allowable direct costs for transportation, resulting in total direct costs. Direct costs for covered transportation services include payroll costs and other costs that can be directly charged to covered transportation services. Direct payroll costs include total compensation (i.e., salaries, benefits, and contract compensation) of bus drivers and mechanics. Other direct costs include costs directly related to the delivery of covered transportation services, such as professional and contracted services, contracted transportation costs, gasoline and other fuels, other maintenance and repair costs, vehicle insurance, interest, rentals, and vehicle depreciation.

(ii) Indirect costs. Indirect costs are determined by applying the LEA's specific unrestricted indirect cost rate to its net direct costs. Texas public LEAs use predetermined fixed rates for indirect costs. TEA has, in cooperation with the USDE, developed an indirect cost plan to be used by LEAs in Texas. As authorized in 34 CFR §75.561(b), TEA approves unrestricted indirect cost rates for LEAs for the USDE, which is the cognizant agency for LEAs.

(iii) Net allowable cost. Net direct costs and indirect costs are added together and adjusted by the one-way trip ratio, resulting in a net Medicaid allowable cost for transportation services.

(f) Cost reporting requirements. HHSC excludes from reimbursement determinations any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by LEAs.

(1) Certification. Each LEA certifies through the cost report process its total actual federal and non-federal costs and expenditures.

(2) Reimbursement determinations and allowable costs. LEAs are responsible for reporting only allowable costs on the cost report, except where HHSC prescribes that other costs are to be reported in specific lines or sections. Only allowable cost information is used to determine recommended reimbursement. All costs relating to Shared Service Arrangements and Co-operatives must be allocated to each respective LEA.

(g) Cost reconciliation. The Medicaid-allowable costs for direct medical and transportation services are added together and adjusted by the federal Medicaid assistance percentage (FMAP) to arrive at the federal share owed to the LEA. This amount is then reconciled with interim payments already made to the LEA.

(h) Cost settlement. HHSC uses a cost settlement process as follows.

(1) HHSC retains one percent of the federal share of the total certified Medicaid allowable cost as an administrative fee to be used for Health and Human Services administrative activities, including compliance monitoring, technical assistance, and to establish and maintain an audit reserve fund.

(2) If an LEA's interim payments exceed 99 percent of the LEA's federal portion of the total certified Medicaid allowable costs, HHSC recoups the overpayment using one of these two methods:

(A) HHSC offsets all future claims payments from the LEA until the amount is recovered; or

(B) the LEA returns an amount equal to the amount owed.

(3) If 99 percent of the LEA's federal portion of the total certified Medicaid allowable costs exceeds the interim Medicaid payments, HHSC pays the difference to the LEA.

(4) HHSC issues a notice of settlement within 24 months of the end of the reporting period.

(i) Informal review. An LEA who disputes an action or decision [determination] under this chapter may request an informal review under §355.110 of this chapter [title] (relating to Informal Reviews and Formal Appeals). This section provides clarification unique to the SHARS program.

(1) HHSC Provider Finance must receive a [written] request for an informal review [in a manner prescribed by HHSC] no later than 30 calendar days after [from] the date on the notice [written notification] of [the] adjustments. The informal review request must be submitted in a manner prescribed by HHSC. If the 30th [calendar] day falls on [is] a weekend or a [day,] national or state holiday, the request is due on the next business day. [or state holiday, then the first business day following the 30th calendar day is the final day the receipt of the written request will be accepted.] HHSC Provider Finance may [will] extend this deadline if a [it receives a written] request for an [the] extension is received within the same 30-day period. [in a manner prescribed by HHSC, no later than 30 calendar days from the date of the written notice of adjustments.] If the extension is approved, the requester has 45 calendar days from the date on the original notice to submit the informal review request. [The extension gives the requester a total of 45 calendar days from the date of the written notice of adjustment to file a request for an informal review.] If the 45th [calendar] day falls on [is] a weekend or a [day,] national [holiday,] or state holiday, [then] the deadline moves to [45th day is considered] the next business day. [following the 45th calendar day.] Any [A] request for an informal review or an extension that arrives after the [is not received by the stated] deadline will not be accepted.

(2) An LEA must provide [must, with its request for an informal review, submit] a brief and complete [concise] statement of the [specific] actions or decisions [determinations] it is disputing. [disputes,] The LEA must also include its recommended resolution[,] and any relevant supporting documentation. [the LEA deems relevant to the dispute.] It is the LEA's responsibility [of the LEA] to provide [render] all important [pertinent] information at the time it requests [of its request for] an informal review. HHSC will only consider any disputed items that are clearly stated in the request. [Disputed actions or determinations that are not explicitly stated in the request will not be considered by HHSC, and failure of HHSC to act on implied items of dispute will not be considered grounds for a formal appeal.] Any [A] request for an informal review that does not meet these [the] requirements [of this paragraph] will not be accepted.

[(3) The written request for the informal review or extension must be signed by an individual legally responsible for the conduct of the LEA or a legal representative for the LEA. The administrator or director of the LEA is not authorized to sign the request unless the administrator or director has this legal authority. A request for an informal review that is not signed by an individual legally responsible for the conduct of the LEA or a legal representative for the LEA will not be accepted.]

(j) General information. In addition to the requirements of this section, the cost reporting guidelines will be governed by the information in: §355.101 of this chapter (relating to Introduction); §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs); §355.103 of this chapter (relating to Specifications

for Allowable and Unallowable Costs); §355.104 of this chapter (relating to Revenues); §355.105 of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures); §355.106 of this chapter (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports); §355.107 of this chapter (relating to Notification of Exclusions and Adjustments); §355.108 of this chapter (relating to Determination of Inflation Indices); §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs); and §355.110 of this chapter (relating to Informal Reviews and Formal Appeals) [of this chapter]. If there is a conflict between an applicable section of [Chapter 355,] Subchapter A of this chapter [title] (relating [related] to Cost Determination Process) and the provisions of this section, the provisions of this section will prevail.

(k) In addition to the requirements of this section, the LEA must comply with all provisions outlined in §354.1341 [of this title] and §354.1342 of this title.

(l) Administrative contract violations. HHSC may take the following actions against an LEA for administrative contract violations.

(1) Time study. For failure to participate in or meet all time study requirements, HHSC will recoup all interim payments made during the cost reporting period and will not allow the LEA to submit a cost report for that reporting period.

(2) Interim claims. The LEA is ineligible to submit a cost report if they fail to submit interim claims in the manner and format prescribed by HHSC, or its designee, including the requirements in subsection (e)(2) of this section. If a service category, student, employee, or related cost is claimed in the cost report without having been appropriately claimed in compliance with program requirements, that specific service category, student, employee, or related cost will be disallowed from the cost report.

(3) Cost reports.

(A) For failure to submit a cost report by the due date, HHSC will recoup all interim payments made during the cost reporting period.

(B) HHSC will remove all unallowable costs and reserve the right to update a certified cost report if inaccurate information is identified or reported by the LEA.

(4) Other administrative contract violations. For all other administrative contract violations, HHSC will recoup all interim payments made during the cost reporting period.

(5) Appeals. An LEA may request a hearing to appeal HHSC's action concerning an administrative contract violation. Formal appeals are conducted in accordance with the provisions of Chapter 357, Subchapter I of this title (relating to Hearings under the Administrative Procedure Act). If there is a conflict between an applicable section of Chapter 357 of this title (relating to Hearings) and the provisions of this chapter, the provisions of this chapter will prevail.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600363



DIVISION 31. AMBULANCE SERVICES

1 TAC §355.8600

STATUTORY AUTHORITY

The amendment 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; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32.

The amendments affect Texas Government Code §§524.0151, 524.0005, 532.0051, and 532.0057(a). It also affects Texas Human Resources Code Chapter 32.

§355.8600. *Reimbursement Methodology for Ambulance Services.*

(a) Authority. Payments are made to private and governmental providers of ground and air ambulance services as specified in the ambulance program rules in Chapter 354, Subchapter A, Division 9 of this title (relating to Ambulance Services). The reimbursement determination authority is specified in §355.101 of this chapter (relating to Introduction).

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

(1) Allowable costs--Expenses that are reasonable and necessary for the normal conduct of operations relating to the provision of ground and air ambulance services.

(2) Average Commercial Rate--The average amount payable by commercial payers for the same service.

(3) Centers for Medicare and Medicaid Services (CMS)--The federal agency within the United States Department of Health and Human Services responsible for overseeing and directing Medicare and Medicaid, or its successor.

(4) Governmental ambulance provider--An ambulance service that uses paid government employees to provide ambulance services. These services must receive direct funding from a government body that has the power to collect taxes or access tax revenue. This type of provider can be a local government, hospital authority, hospital district, city, county, or the state. A private ambulance provider that has a contract with a government entity is not a governmental ambulance provider under this section.

{(4) Governmental ambulance provider--An ambulance provider that uses paid government employees to provide ambulance services. The ambulance services must be directly funded by a unit

of government that has taxing authority or has direct access to tax revenues, such as a local government, hospital authority, hospital district, city, county, or state. A private ambulance provider under contract with a governmental entity to provide ambulance services is not considered a governmental ambulance provider for the purposes of this section.}

(5) Medicaid shortfall--The unreimbursed cost to an ambulance provider of providing Medicaid ambulance services to Medicaid clients.

(6) Private ambulance provider--An ambulance provider that uses paid employees associated and financed through a private entity to provide ambulance services and may be under contract with a local, state, or federal government.

(7) Uncompensated care costs--The sum of the Medicaid shortfall and the uninsured costs.

(8) Uninsured costs--The unreimbursed cost to an ambulance provider of providing ambulance services that meet the definition of "medical assistance" in Social Security Act §1905(a) to uninsured patients as defined by CMS.

(9) Unit of service--A unit of service based on one or more allowable ambulance services provided to a client by all modes of approved transportation.

(c) Reimbursement methodologies.

(1) Fee-for-service ambulance fee. Fee-for-service reimbursement is based on the lesser of a provider's billed charges or the maximum fee established by the Texas Health and Human Services Commission (HHSC). HHSC establishes fees by reviewing the Medicare fee schedule and analyzing any other available ambulance-related data. Fee-for-service rates apply to both private and governmental ambulance providers.

(2) Supplemental payment and enhanced supplemental payment for governmental ambulance providers. For services provided through September 30, 2019, a governmental ambulance provider may be eligible to receive a supplemental payment in addition to the fee-for-service payment described in paragraph (1) of this subsection. For services provided beginning October 1, 2019, eligibility for governmental ambulance providers to receive a supplemental payment, and the methodology for calculating the payment amount, are described in §355.8210 of this subchapter (relating to Waiver Payments to Governmental Ambulance Providers for Uncompensated Charity Care).

(A) Eligibility for supplemental payments. A governmental ambulance provider must submit an eligibility request in the manner specified by HHSC. [a written request for determination of eligibility for supplemental payment in a manner designated by HHSC.] The [If eligible, a governmental ambulance] provider may [begin to] claim uncompensated care costs for [related to] services provided on or after the first day of the month after the eligibility request is approved. [after the request for determination of eligibility is approved.] HHSC will only review eligibility [considers] requests [for determination of eligibility] from governmental ambulance providers [as] defined in subsection (b) of this section. HHSC will respond to every request and state whether the provider is eligible [all written requests for consideration, indicating the requestor's eligibility] to receive supplemental payments. An acceptable request must include:

- (i) an overview of the governmental agency;
- (ii) a complete organizational chart of the governmental agency;

(iii) a complete organizational chart of the ambulance department within the governmental agency providing ambulance services;

(iv) an identification of the specific geographic service area covered by the ambulance department, by ZIP code;

(v) copies of all job descriptions for staff types or job categories of staff who work for the ambulance department and an estimated percentage of time spent working for the ambulance department and other departments of the governmental agency;

(vi) a primary contact person for the governmental agency who can respond to questions about the ambulance department; and

(vii) a signed letter documenting the governmental ambulance provider's voluntary contribution of non-federal funds.

(B) Eligibility for enhanced supplemental payments. A governmental ambulance provider must submit an application for enhanced supplemental payments to HHSC using a form designated by HHSC that includes the cost and payment data for paid Medicaid and commercial claims for all procedure codes specified in the application. If HHSC approves the application, a governmental ambulance provider may begin to claim enhanced supplemental payments based on the average commercial rate related only to ground ambulance services reimbursed by Texas Medicaid on a fee-for-service basis, provided on or after the first day of the month after the application is approved. HHSC will respond to all applications, indicating approval or disapproval of the applicant's eligibility to receive enhanced supplemental payments. An acceptable application must include:

(i) proof of enrollment as a Medicaid provider in the State of Texas at the beginning of the current demonstration year as defined in §355.8210 of this subchapter;

(ii) a primary contact person for the government agency who can respond to questions about the ambulance department;

(iii) a statement from the provider expressing its intent to participate in the program; and

(iv) a cost report that includes the cost and payment data for paid Medicaid and commercial claims for all procedure codes specified by HHSC.

(C) Cost reports. Governmental ambulance providers that are eligible for supplemental or enhanced supplemental payments must submit an annual cost report for ground and air ambulance services delivered to Medicaid and, effective March 1, 2012, uninsured clients on a cost report form specified by HHSC. Providers certify through the cost report process their total actual federal and non-federal costs and expenditures for the cost reporting period. Cost reports must be completed for a full year based on the federal fiscal year. HHSC may require newly eligible providers to submit a partial-year cost report for their first year of eligibility. The beginning date for the partial-year cost report is the provider's first day of eligibility for supplemental or enhanced supplemental payments, as determined by HHSC. The ending date of the partial-year cost report is the last day of the federal fiscal year that encompasses the cost report beginning date.

(i) Due date. The cost report is due on or before the date set by HHSC, and it [March 31 of the year following the cost reporting period ending date, September 30, and] must be certified in the [a] manner specified by HHSC. If the due date is [March 31 falls] on a federal or state holiday or a weekend, the report is due on the next business day. [the due date is the first business day after March 31.] A provider may request [in writing, by regular mail or special mail delivery,] an extension of up to 30 days. [after the due date to submit

a cost report.] HHSC will review [respond to] all extension requests and let the provider know if the request is approved. [written requests for extensions, indicating whether the extension is granted.] HHSC must receive the [a] request before the original due date; any request received after that date will be denied. [for extension before the cost report due date. A request for extension received after the due date is considered denied.] A provider that does not submit its cost report by the due date or by the approved extended due date is not eligible for supplemental or enhanced supplemental payments for that federal fiscal year. [A provider whose cost report is not received by the due date or the extended due date is ineligible for supplemental or enhanced supplemental payments for the federal fiscal year.]

(ii) Purpose. A cost report shows [documents] the provider's actual Medicaid-allowable [allowable Medicaid] and uncompensated care costs for delivering ambulance services under [in accordance with the applicable] state and federal regulations. The [Because the cost] report is used to determine supplemental and enhanced supplemental payments. Because of this, [payments,] a provider must submit a complete and acceptable cost report to qualify [be eligible] for these payments. [a supplemental or enhanced supplemental payment.]

(iii) Allocating allowable costs. A provider's total allowable reported costs for ambulance services are allocated to Medicaid and uninsured patients based on the ratio of charges for Medicaid and uninsured patients to the charges for all patients. Only allocable expenditures related to Medicaid, Medicaid managed care, and uncompensated care, as defined and approved in the Texas Healthcare Transformation and Quality Improvement 1115 Waiver Program (1115 Waiver), will be included for supplemental payment.

(D) Calculation of supplemental payments and enhanced supplemental payments.

(i) For services provided from October 1, 2011, through February 29, 2012, a governmental ambulance provider may be eligible to receive a supplemental payment. The supplemental payment equals the [equal to its] Medicaid shortfall for the cost reporting period multiplied by the Federal Medical Assistance Percentage [federal Medical assistance percentage] (FMAP) in effect during the cost reporting period.

(ii) For services provided on or after March 1, 2012, and subject to approval by CMS, a governmental ambulance provider may be eligible to receive a supplemental payment equal to its uncompensated care costs for the cost reporting period multiplied by the FMAP in effect during the cost reporting period.

(iii) Supplemental payments based on uncompensated care costs are limited by the maximum aggregate amount of the estimated uncompensated care costs for all eligible governmental ambulance providers as determined by §355.8201 of this chapter (relating to Waiver Payments to Hospitals for Uncompensated Care).

(iv) If the actual aggregate uncompensated care costs for all eligible governmental ambulance providers are [is] greater than the maximum aggregate amount of the estimated uncompensated care costs for all eligible governmental ambulance providers as described in clause (iii) of this subparagraph, then HHSC will reduce the supplemental payments for all participating governmental ambulance providers proportionately.

(v) The supplemental payment is contingent upon the governmental ambulance provider's certificate of public expenditures submitted with each cost report.

(vi) If the federal government disallows federal financial participation related to the receipt or use of supplemental pay-

ments under this section, HHSC will recoup an amount equal to the federal share of supplemental payments overpaid or disallowed.

(E) Enhanced supplemental payment.

(i) For ground services reimbursed on a fee-for-service basis provided on or after October 1, 2019, a governmental ambulance provider may be eligible to receive an enhanced supplemental payment equal to the difference between the average commercial rate and the sum of its reimbursed costs for the cost reporting period.

(I) HHSC will determine the paid Medicaid claims fees and enhanced supplemental payment amounts for all procedure codes specified in the application for each eligible publicly owned fee-for-service ground emergency ambulance service provider.

(II) HHSC will calculate an overall average commercial rate for the ambulance service providers based on the cost and payment data provided from each eligible ambulance provider.

(III) HHSC will apply the overall average commercial rate to an ambulance provider's total Medicaid utilization to determine the ambulance provider's total commercial reimbursement.

(IV) HHSC will subtract the ambulance provider's total Medicaid reimbursement from the ambulance provider's total commercial reimbursement calculated for each of the eligible services.

(V) HHSC will calculate each ambulance provider's maximum payment limit by summing each of the differences calculated in subclause (IV) of this clause for each of the provider's eligible services.

(VI) HHSC will re-determine the average commercial rate at least annually.

(VII) The enhanced supplemental payment is contingent upon the governmental ambulance provider's data submitted with each cost report. HHSC will determine payment amounts on a quarterly basis, with a reimbursement of up to 100 percent for each ambulance provider's average commercial rate.

(ii) If CMS disallows federal financial participation related to a provider's receipt or use of enhanced supplemental payments under this section, HHSC will recoup from the provider an amount equal to the disallowance. If HHSC identifies an overpayment to a provider related to the receipt or use of enhanced supplemental payments under this section, HHSC will recoup from the provider an amount equal to the overpayment.

(d) General information. In addition to the requirements of this section, cost reporting guidelines are governed by: §355.101 of this chapter (relating to Introduction); §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs); §355.103 of this chapter (relating to Specifications for Allowable and Unallowable Costs); §355.104 of this chapter (relating to Revenues); §355.105 of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures); §355.106 of this chapter (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports); §355.107 of this chapter (relating to Notification of Exclusions and Adjustments); §355.108 of this chapter (relating to Determination of Inflation Indices); §355.109 of this chapter (relating to Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs); and §355.110 of this chapter (relating to Informal Reviews and Formal Appeals). If conflicts arise between this section and other sections governing cost reporting, the provisions of this section prevail.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600364

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 730-7475



TITLE 13. CULTURAL RESOURCES

PART 8. TEXAS FILM COMMISSION

CHAPTER 121. TEXAS MOVING IMAGE INDUSTRY INCENTIVE PROGRAM

13 TAC §§121.1 - 121.10, 121.14

The Office of the Governor ("OOG") proposes amendments to 13 TAC §121.1, concerning Background and Purpose, §121.2, concerning Definitions, §121.3, concerning Eligible Projects, §121.4, concerning Ineligible Projects, §121.5, concerning Eligible and Ineligible In-State Spending, §121.6, concerning Grant Awards, §121.7, concerning Additional Grant Awards, §121.8, concerning Grant Application, §121.9, concerning Processing and Review of Applications, §121.10, concerning Disqualification of an Application, and §121.14, concerning Revocation and Recapture of Incentives. The OOG also proposes the repeal of §121.13, concerning Texas Heritage Project, elsewhere in this issue. The proposed amendments will make changes to better carry out the purpose of the program, respond to the evolving landscape of the industry in Texas, and improve readability and clarity.

EXPLANATION OF PROPOSED AMENDMENTS

The Texas Moving Image Industry Incentive Program ("TMIIP") was implemented to increase employment opportunities for Texas industry professionals, encourage tourism to the state, and boost economic activity in Texas cities and the overall Texas economy. The 89th Legislature passed Senate Bill 22, which created the Texas Moving Image Industry Incentive Fund appropriating the Texas Moving Image Industry Incentive Program \$300M each biennium until 2035. The new legislation also changed the residency threshold requirement for crew, actors, and extras from this state from 55% to 35% for the period of September 1, 2025, through August 31, 2027, to be increased by 5% each subsequent biennium until reaching 50% beginning on September 1, 2031. In addition, content requirements and additional grant awards were created for projects accepted into the program. The proposed amendments to §121.3 align the rule with section 485.023, Texas Government Code, as modified by the 89th Legislature. This rulemaking incorporates most of the changes made by Senate Bill 22, clarifies existing language, and makes other non-substantive updates for style and grammar.

The proposed amendments to §121.1 make non-substantive updates to style and grammar.

The proposed amendments to §121.2 add definitions related to changes made by Senate Bill 22, and modifies other definitions to better align them with the purpose of the program and to account for changes in the industry. The amendments also update outdated language and make non-substantive updates to style and grammar.

The proposed amendments to §121.3 clarify language related to activities that are eligible for TMIIP grants and require applicants to follow all requirements and best practices set forth in the Texas Film Commission Program Guidelines. The amendments further update outdated language and make non-substantive updates to style and grammar.

The proposed amendments to §121.4 make clarifying changes, align language with the OOG's current procedures, and insert non-substantive updates to style and grammar.

The proposed amendments to §121.5 clarify the lists of eligible and ineligible in-state expenditures under the program. The proposed amendments also make non-substantive updates to style and grammar.

The proposed amendments to §121.6 revise the potential grant amounts and corresponding budget tiers for all eligible projects in accordance with changes made by Senate Bill 22. The proposed amendments also make non-substantive updates to style and grammar.

The proposed amendments to §121.7 add new grant categories to the existing options for Applicants to receive one or more additional grants, to the extent the total grant amounts do not exceed 31% of the total in-state spending. The additional options relate to: (1) the Rural Filming Grant; (2) the Texas Historic Site Grant; and (3) the Workforce Development Grant. Consistent with section 485.025 of the Texas Government Code, as amended by Senate Bill 22, the rules establish that an Applicant may qualify for multiple options, but may not receive additional grants in amounts that exceed 31% of the total in-state expenditures for the project. Senate Bill 22 also created the Texas Heritage Grant and Faith-Based Moving Image Project Grant; those additional incentives will be addressed in a future rulemaking by the OOG. The proposed amendments also make non-substantive updates to style and grammar.

The proposed amendments to §121.8 make non-substantive updates to style and grammar.

The proposed amendments to §121.9 remove unnecessary, redundant language and make other non-substantive updates to style and grammar.

The proposed amendments to §121.10 make non-substantive updates to style and grammar.

The proposed amendments to §121.14 make non-substantive updates to style and grammar.

FISCAL NOTE

Stephanie Whallon, Director, Texas Film Commission, has determined that during each of the first five years in which the proposed amendments are in effect, there will be expected fiscal impact on state and local governments as a result of enforcing or administering the proposed amendments.

Ms. Whallon anticipates a positive fiscal impact to the local and state economy due to increased production as a result of the proposed amendments. There is also an anticipated impact to the state's return on investment (ROI) calculation, specifically

due to the lower residency requirements over the first five years. Any negative impact will decrease as the residency percentage requirements increase over time.

PUBLIC BENEFIT AND COSTS

Ms. Whallon has also determined that during each of the first five years in which the proposed amendments are in effect, the rule changes will yield the anticipated public benefit by lowering an eligibility requirement for a TMIIP grant in order to expand the number of qualifying projects, specifically at the small to mid-size budget range.

Ms. Whallon has determined there are no measurable anticipated economic costs to persons required to comply with the proposed amendments.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. Since the OOG has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Ms. Whallon has determined that during each of the first five years in which the proposed amendments are in effect, the amendments:

- 1) will not create or eliminate a government program;
- 2) will require the creation of new employee positions as approved by the legislature;
- 3) will not require an increase or decrease in future legislative appropriations to the OOG;
- 4) will not require an increase or decrease in fees paid to the OOG;
- 5) do not create a new regulation;
- 6) will expand certain existing regulations;
- 7) will not increase or decrease the number of individuals subject to the applicability of the rules; and
- 8) will positively affect the Texas economy.

TAKINGS IMPACT ASSESSMENT

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

SUBMISSION OF COMMENTS

Written comments regarding the proposed rule amendments may be submitted for 30 days following the date of publication of this notice by mail to Stephanie Whallon, Office of the Governor, Texas Film Commission, P.O. Box 12428, Austin, Texas 78711, or by email to TFCRules.Comments@gov.texas.gov with the subject line "TMIIP Rule Review." The deadline for receipt of comments is 5:00 p.m., Central Time, on March 15, 2026.

STATUTORY AUTHORITY

The amendments are proposed under Section 485.022 of the Texas Government Code, which requires the Texas Film Commission to develop procedures for the administration and calculation of grant awards under TMIIIP. The amendments are also proposed in accordance with Senate Bill 22, which took effect on September 1, 2025.

CROSS REFERENCE TO STATUTE

Chapter 485 of Texas Government Code. No other statutes, articles, or codes are affected by the proposed amendments.

§121.1. Background and Purpose.

(a) Background.

(1) The Texas Moving Image Industry Incentive Program administered by the Texas Film Commission (Commission) offers grants based upon eligible expenditures within the state by the Applicant, subject to this chapter [Chapter] and Chapter 485 of the Texas Government Code.

(2) Grants are available upon submission of all required documentation by the Applicant to the Commission, initial verification by the Commission, and a compliance review by the Office of the Governor. These grants are in addition to the sales tax exemptions described in sections [Sections] 151.318 and 151.3185 of the Texas Tax Code and §3.300 of Title 34 of the Texas Administrative Code.

(b) Purpose.

(1) The Texas Moving Image Industry Incentive Program increases employment opportunities for Texas industry professionals, encourages tourism to the state, and boosts economic activity in Texas cities and the overall Texas economy. Rather than being an exporter of talent, Texas attracts a wide range of projects from traditional film, television, and commercial productions, to technology-driven visual effects, animation, video games, and other digital interactive media productions.

(2) The Texas Moving Image Industry Incentive Program promotes the growth of the indigenous segments of media production, thereby encouraging Texas's talented workforce to stay in Texas and realize real professional growth in the industry. The program increases the value of the Texas workforce and the viability of the small businesses that rely on media production activity, increasing Texas's capacity to take on more production activity and increasing the state's competitive edge.

(3) The Texas Moving Image Industry Incentive Program is not intended for productions or projects that are permanently located in Texas, including, but not limited to, news productions, sports productions, and religious service productions.

§121.2. Definitions.

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

(1) Applicant--

(A) For Feature Films, Television Programs, Visual Effects Projects for Feature Films or Television Programs, Reality Television Projects or Educational or Instructional Videos: either the Production Company producing the project or the owner of the copyright.

(B) For Commercials or Visual Effects Projects for Commercials: the Production Company, advertising agency, or client; provided, however, that if an advertising agency or client applies as the Applicant, but a Production Company expends the funds in the state in connection with a project, then either a chain of downstream

payment from the Applicant to the Production Company or a production services agreement must be evidenced in connection with the submission of the Expended Budget.

(C) For Digital Interactive Media Productions: the Production Company, game or content developer, or game publisher.

(2) Business Day--A day other than Saturday, Sunday, or a Federal or State of Texas holiday.

(3) Cast--Actors paid by the Applicant to perform roles in Texas, including, but not limited to, featured actors, extras, stunt performers, voice-over talent, hosts, judges, announcers and roles or performers that appear on a recurring basis, but excluding talk show guests, game or contest show contestants, and litigants and witnesses in courtroom reality programs.

(4) Commercial--A live-action or animated-production advertisement, including, but not limited to, an individual advertisement, more than one advertisement created in a contiguous production period for the same client, a music video, or an infomercial that is made for the purpose of promoting a product, service, or idea and is produced for distribution via broadcast, cable, or any digital format, including, but not limited to, cable, satellite, Internet, or mobile electronic device.

(5) Crew--Independent contractors or employees paid by the Applicant to perform work in Texas that are directly contracted and credited for a specific position. An individual may work in more than one position on a production. Executive producers and/or permanent salaried employees of an Applicant who are listed on call sheets or production reports but not paid Wages on the project other than producing services, shall not be counted in Crew calculations for Texas Residency purposes. Vendors serving a traditional Crew [erew] function and providing personal services, but who are paid as independent contractors rather than through payroll, shall be counted in Crew calculations for Texas Residency purposes and must provide a Declaration of Texas Residency Form.

(6) Declaration of Texas Residency Form--A document promulgated by the [Texas Film] Commission [(Commission)] to be utilized by Applicants to prove the residency status of each Texas Resident employee, contractor, Crew, or Cast member.

(7) Digital Interactive Media Production--Software that provides a user or users with a game to play or other interactive technology experience for the purpose of entertainment or education, including for military or medical simulation training, and which is created for a game console or platform, personal computer, handheld console, or mobile electronic device used by a business or consumer [solely for bona fide amusement purposes as outlined in Section 47.01 of the Texas Penal Code].

(8) Educational or Instructional Video--An individual live-action or animated production, or a contiguous series of more than one live-action or animated production created for the same client, that is produced for exhibition in an educational or instructional setting.

(9) Episodic Television Series--A Television Program consisting of multiple episodes of a single season.

(10) Expended Budget--The final verifying documentation and worksheets submitted by an Applicant to the Commission at the completion of a project that shows the total eligible in-state spending, as defined in section [Section] 485.021(1), [of the] Texas Government Code, and includes all documentation considered by the Commission to be necessary to show compliance with the requirements of the Texas Moving Image Industry Incentive Program.

(11) Feature Film--Any live-action or animated for-profit production, including narrative and documentary productions, that is

produced for distribution in theaters or via any digital format, including, but not limited to, DVD, Internet, or mobile electronic device.

(12) Filming Day--A day of Production [as defined in paragraph (48) of this section]. When calculating 60% of Filming Days for purposes of §121.3 of this chapter (related to Eligible Projects) [Chapter], but not for purposes of calculating a percentage [25%] of Filming Days for purposes of §121.7 of this chapter (related to Additional Grant Award) [Chapter], a Filming Day may include a traditional day of Production in live-action or digital media, as well as a concurrent day of Production conducted by a second unit, so long as:

(A) such second unit, is not a splinter unit, but is utilized for a bona fide, production-related purpose and would be recognized by the Directors Guild of America as a second unit; and

(B) a call sheet, and production report, for such day is circulated and executed in connection with the activities of such second unit. Any bona fide, second unit day shall be added to both the numerator of Texas days and the denominator of total days for purposes of calculating 60% of Filming Days for purposes of §121.3 of this chapter. [Chapter.]

(13) Man Hours--A unit of one hour's work by one person.

(14) Physical Production--The period encompassing Pre-Production, Production, and Postproduction.

(15) Postproduction--The period that occurs after the end of Production, including but not limited to, animation, bug-fixing, codebase completion, compositing, editing, lighting, music, patch-creation, sound, testing, and visual effects.

(16) Pre-Production--The period that occurs before the start of Production, including, but not limited to, casting actors, estimating budgets, mechanics, scouting locations, and testing story.

(17) Principal Start Date--

(A) For a live-action Feature Film, Television Program, Reality Television Project, Educational or Instructional Video, or Commercial project: the first day of principal photography.

(B) For a Digital Interactive Media Production, Visual Effects Project or animated project: the first day of asset creation (i.e., character or environment modeling and/or rigging).

(18) Production--

(A) For a live-action Feature Film, Television Program, Reality Television Project, Educational or Instructional Video or Commercial project: the period starting the first day of principal photography through the last day of principal photography.

(B) For a Digital Interactive Media Production, Visual Effects Project or animated project: the period starting the first day of asset creation or commencement of layout (i.e., character or environment modeling and/or rigging) through the last day of animation, code freeze, and/or final layout.

(19) Production Company--A company that engages in any of the activities included in Physical Production for a Feature Film, Television Program, Reality Television Project, Educational or Instructional Video, Commercial project, or Digital Interactive Media Production.

(20) Proof of payment--Documentation that supports the disbursement and verifiably reflects the transmission, transfer, and payment of funds related to an eligible paid expenditure. Verifiable source documentation is represented by, but not limited to, a copy of a cleared/canceled check, credit card receipt, a bank statement,

EFT/ACH report or any third-party verifiable check inquiry report showing the cleared check.

(21) [(20)] Reality Series--A Reality Television Project consisting of multiple episodes of a single season.

(22) [(21)] Reality Television Project--A live-action, for-profit production based upon unscripted content, including, but not limited to, a Reality Series, a contest or game show (to include individual episodes), or a talk show (to include individual episodes), that is produced for distribution via broadcast, cable, or any digital format, including, but not limited to, satellite, Internet, or mobile electronic device.

(23) Rural Filming Area--A county with a population with a population of 300,000 or less in which a moving image project is being filmed or has Man Hours completed.

(24) [(22)] Television Program--An episodic, live-action or animated for-profit production that is produced in a narrative or documentary style, including, but not limited to, a television series, miniseries, limited series, television movie, television pilot, television episode, or a musical performance that is produced for distribution via broadcast, cable, or any digital format, including, but not limited to, satellite, Internet, or mobile electronic device (including a short narrative or documentary episode or series of episodes distributed initially as streamed content).

[(23)] Texas Heritage Project--A Feature Film or Television Program (excluding a Reality Television Project), that promotes or documents Texas's diverse cultural, historical, natural or man-made resources, and that meets the requirements established in §121.13 of this Chapter (relating to Texas Heritage Project).]

(25) Texas Domiciled Entity--A person conducting business in the state of Texas that operates a physical business location at a verifiable Texas address, other than a P.O. Box, that is registered to the entity.

(26) Texas Historic Site--A location used in the live-action filming of a Texas Moving Image Industry Incentive Program project that has received a Historic Designation by the Texas Historical Commission or is on the National Register of Historic Places as administered by the Texas Historical Commission in conjunction with the National Parks Service.

(27) Texas Institution of Higher Education--Has the meaning assigned by Section 61.003, Texas Education Code.

(28) [(24)] Texas Resident--An individual who is a permanent resident of Texas for at least 120 days prior to the Principal Start Date of the project and who has completed a Declaration of Texas Residency Form.

(29) [(25)] Underutilized and Economically Distressed Area--Has the meaning assigned to that term by Section 485.021, Texas Government Code.

[(A)] Underutilized Area--An area of the state that receives less than 15% of the total moving image industry production in the state during a fiscal year, as determined by the Commission. An area of the state wherein 15% or more of the total moving image industry production takes place during a fiscal year, as determined by the Commission, includes a thirty mile radius from city hall of that area's largest municipality.]

[(B)] Economically Distressed Area--An area within the thirty mile radius described in Subparagraph (A) of this paragraph, where the median household income does not exceed 75% of the me-

dian household income as determined by the Texas Demographic Center or its successor.]

(30) [(26)] Visual Effects Project--A self-contained production whereby computer generated images are created or manipulated to integrate with live-action footage of a Feature Film, Television Program, Educational or Instructional Video, or Commercial.

(31) [(27)] Wages--Compensation paid to an individual for work performed. Payment methods include, but are not limited to, direct payments, payments through an agent or agency, payments through a loan-out company or payments through a payroll service. Wages include, but are not limited to, gross wages, per diems (if signed for by the recipient), employer paid Social Security (Old Age, Survivors, and Disability Insurance (OASDI)) payments, employer paid Medicare (MEDI) payments, employer paid Federal Unemployment Insurance (FUI) payments, employer paid Texas State Unemployment Insurance (SUI) payments, employer paid pension, health and welfare payments, and employer paid vacation, [and] holiday pay, and sick leave. Only the first \$5,000,000 [\$1,000,000] in aggregate wages and/or compensation per person shall constitute eligible Wage expenditures.

§121.3. Eligible Projects.

(a) A project may be eligible for a grant under the Texas Moving Image Industry Incentive Program if it meets the stated minimum requirements listed in subsections [Subsections] (b) - (h) of this section [Section], is appropriate in content, and represents a potential economic impact in Texas, as assessed in §121.9(c)(3) of this chapter (related to Processing and Review of Applications) [Chapter], that is sufficient to justify acceptance in the program.

(b) Feature Films.

(1) Feature Film Applicants must expend a minimum of \$250,000 in in-state spending.

(2) Feature Film Applicants must demonstrate at least 60% of a project is filmed in Texas. The Applicant must fulfill this requirement by either:

(A) completing at least 60% of Filming Days in Texas;
or

(B) if the Texas Film Commission (Commission) provides prior written approval:

(i) completing at least 60% of the total project Man Hours in Texas; or

(ii) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(3) Except as provided in paragraph (4) of this subsection, a Feature Film Applicant must demonstrate it has met the required residency percentage specified in Section 485.023(2), Texas Government Code. The required percentages of the Crew paid by the Applicant and of the Cast, including extras, paid by the Applicant must be verified Texas Residents, unless the Commission certifies in writing that a sufficient number of qualified Crew and Cast, including extras, are not available; and the Applicant has made every effort to meet the requirements and follow best practices prescribed by the Texas Film Commission Program Guidelines to obtain Crew and Cast who are Texas Residents.

(4) For animated or documentary Feature Films, a Feature Film Applicant must demonstrate it has met the required residency percentage specified in Section 485.023(2), Texas Government Code. The percentage of the combined total of Crew and Cast, including extras, paid by the Applicant must be verified Texas Residents unless it the

Commission certifies in writing, that qualified Crew and Cast are not available; and the Applicant has made every effort to meet the requirements and follow best practices prescribed by the Texas Film Commission Program Guidelines to obtain Crew and Cast who are Texas Residents.

(c) Television Programs.

(1) Television Program Applicants must expend a minimum of \$250,000 in in-state spending.

(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(A) completing at least 60% of the total Man Hours in Texas; or

(B) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(3) Except as provided in paragraph (4) of this subsection, the percentage of the Crew paid by the Applicant and percentage of the Cast, including extras, paid by the Applicant must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines. Applicants must demonstrate they meet residency requirements as outlined in subsection (b)(3) of this section.

(4) For animated or documentary Television Programs, applicants must demonstrate they meet the residency requirements as outlined in subsection (b)(3) of this section. The percentage combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available, and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines.

(d) Reality Television Projects.

(1) Reality Television Project Applicants must expend a minimum of \$250,000 in in-state spending.

(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(A) completing at least 60% of the total Man Hours in Texas; or

(B) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(3) Applicants must demonstrate that they meet the residency requirements outlined in subsection (b)(3) of this section. The percentage of the combined total of Crew and Cast, including extras, paid by the Applicant, must be Texas Residents, unless it is determined and certified by the Commission, in writing, that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines..

(e) Commercials.

(1) Commercial Applicants must expend a minimum of \$100,000 in in-state spending.

(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(A) completing at least 60% of the total Man Hours in Texas; or

(B) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(3) Applicants must demonstrate the residency requirements as outlined in subsection (b)(3) of this section. The percentage of the combined total of Crew and Cast, including extras, paid by the Applicant must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines.

(f) Digital Interactive Media Productions.

(1) Digital Interactive Media Production Applicants must expend a minimum of \$100,000 in in-state spending.

(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(A) completing at least 60% of the total Man Hours in Texas; or

(B) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(3) Applicants must demonstrate they meet the residency requirements as outlined in subsection (b)(3) of this section. The percentage of the combined total of Crew and Cast, including extras, paid by the Applicant must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines.

(g) Educational or Instructional Videos.

(1) Educational or Instructional Video Applicants must expend a minimum of \$100,000 in in-state spending.

(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(A) completing at least 60% of the total Man Hours in Texas; or

(B) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(3) Applicants must demonstrate that they meet the residency requirements as outlined in subsection (b)(3) of this section. The percentage of the combined total of Crew and Cast, including extras, paid by the Applicant, must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines.

(h) Visual Effects Projects.

(1) Visual Effect Project for a Feature Film or Television Program:

(A) Applicants must expend a minimum of \$250,000 in in-state spending.

(B) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(i) completing at least 60% of the total Man Hours in Texas; or

(ii) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(C) The Applicant must demonstrate they have met the residency requirements outlined in subsection (b)(3) of this section. The percentage of the Crew paid by the Applicant and percentage of the Cast, including extras, paid by the Applicant must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines.

(2) Visual Effect Project for an Educational or Instruction Video or Commercial:

(A) Applicants must expend a minimum of \$100,000 in in-state spending.

(B) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:

(i) completing at least 60% of the total Man Hours in Texas; or

(ii) locating in Texas at least 60% of the actual locations used and paid for, not including basecamps.

(C) The Applicant must demonstrate that they have met the residency requirements outlined in subsection (b)(3) of this section. The percentage of the combined total of Crew and Cast, including extras, paid by the Applicant must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirements and best practices as prescribed by the Texas Film Commission Program Guidelines.

~~[(b) Feature Films.]~~

~~[(1) Feature Film Applicants must expend a minimum of \$250,000 in in-state spending.]~~

~~[(2) Applicants must film at least 60% of a project in Texas. Applicants must fulfill this requirement by:]~~

~~[(A) completing at least 60% of Filming Days in Texas; or]~~

~~[(B) if the Texas Film Commission (Commission) provides prior written approval:]~~

~~[(i) completing at least 60% of the total project Man Hours in Texas; or]~~

~~[(ii) having at least 60% of the actual locations used and paid for, not including basecamps, in Texas.]~~

~~[(3) Except as provided in paragraph (4) of this Subsection, 55% of the Crew paid by the Applicant and 55% of the Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient~~

number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(4) For animated or documentary Feature Films, 55% of the combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(e) Television Programs.}]

[(1) Television Program Applicants must expend a minimum of \$250,000 in in-state spending.}]

[(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:}]

[(A) completing at least 60% of the total Man Hours in Texas; or}]

[(B) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas.}]

[(3) Except as provided in paragraph (4) of this Subsection, 55% of the Crew paid by the Applicant and 55% of the Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(4) For animated or documentary Television Programs, 55% of the combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(d) Reality Television Projects.}]

[(1) Reality Television Project Applicants must expend a minimum of \$250,000 in in-state spending.}]

[(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:}]

[(A) completing at least 60% of the total Man Hours in Texas; or}]

[(B) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas.}]

[(3) 55% of the combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(e) Commercials.}]

[(1) Commercial Applicants must expend a minimum of \$100,000 in in-state spending.}]

[(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:}]

[(A) completing at least 60% of the total Man Hours in Texas; or}]

[(B) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas.}]

[(3) 55% of the combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(f) Digital Interactive Media Productions.}]

[(1) Digital Interactive Media Production Applicants must expend a minimum of \$100,000 in in-state spending.}]

[(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:}]

[(A) completing at least 60% of the total Man Hours in Texas; or}]

[(B) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas.}]

[(3) 55% of the combined total of Crew and Cast paid by the Applicant must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(g) Educational or Instructional Videos.}]

[(1) Educational or Instructional Video Applicants must expend a minimum of \$100,000 in in-state spending.}]

[(2) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:}]

[(A) completing at least 60% of the total Man Hours in Texas; or}]

[(B) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas.}]

[(3) 55% of the combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that qualified Crew and Cast are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.}]

[(h) Visual Effects Projects.}]

[(1) Visual Effect Project for a Feature Film or Television Program:}]

[(A) Applicants must expend a minimum of \$250,000 in in-state spending.}]

[(B) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:}]

[(i) completing at least 60% of the total Man Hours in Texas; or}]

[(ii) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas.}]

[(C) 55% of the Crew paid by the Applicant and 55% of the Cast paid by the Applicant, including extras, must be Texas Res-

idents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.]

[(2) Visual Effect Project for an Educational or Instruction Video or Commercial:]

[(A) Applicants must expend a minimum of \$100,000 in in-state spending:]

[(B) 60% of the project must be filmed in Texas. This must be fulfilled by completing at least 60% of the Filming Days in Texas, or, if permitted by the Commission in its sole discretion:]

[(i) completing at least 60% of the total Man Hours in Texas; or]

[(ii) at least 60% of the actual locations used and paid for, not including basecamps, being located in Texas:]

[(C) 55% of the combined total of Crew and Cast paid by the Applicant, including extras, must be Texas Residents, unless it is determined and certified by the Commission in writing that a sufficient number of qualified Crew and Cast, including extras, are not available and every effort has been made by the production to meet the requirement by the Principal Start Date.]

§121.4. Ineligible Projects.

(a) The following types of projects are not eligible for grants under this program:

(1) pornography or obscene material, as described [defined] by section [Section] 43.21 of the Texas Penal Code;

(2) news, current event or public access programming, political advertising, including public service announcements which advance a public policy or political position, or programs that include weather or market reports;

(3) local events or religious services;

(4) productions not intended for commercial, educational, or instructional distribution;

(5) sporting events or activities;

(6) awards shows, galas, telethons or programs that solicit funds;

(7) projects intended for undergraduate or graduate course credit;

(8) application software, system software, or middleware;

(9) casino-type video games and interactive digital media experiences used in a gambling device, as [such term is] defined by section [in Section] 47.01, [of the] Texas Penal Code; or

(10) Commercials or advertising for the State of Texas or any Texas state agency or department.

(b) The Texas Film Commission (Commission) is not required to act on any application and may deny an application or eventual grant payments because of inappropriate content or content that portrays Texas or Texans in a negative fashion, as determined by the Commission. In determining whether to act on or deny an application, the Commission shall consider general standards of decency and respect for the diverse beliefs and values of the citizens of Texas. As part of the preliminary application process, the Commission shall review the Content Document, as defined in §121.8(a)(1)(C) of this chapter (related to Grant Application) [Chapter and shall advise the potential Ap-

plicant on whether the content precludes the project from receiving a grant].

(c) Once an approved project has been completed, the Commission shall review the final content before issuing the grant payment to determine if any substantial changes occurred during Production to include content described by subsection [Subsection] (a) or (b) of this section [Section].

§121.5. Eligible and Ineligible In-State Spending.

(a) The following are eligible expenditures:

(1) Wages paid to Texas Residents for work performed in Texas, including additional compensation paid as part of a contractual or collective bargaining agreement.

(2) Additional compensation or reimbursements paid to Texas Residents, including, but not limited to:

(A) mileage or car allowance;

(B) housing allowance; and

(C) box or kit rentals for use of personal equipment.

(3) Workers compensation insurance premiums for Texas Residents, but only if the premiums are paid to a [Texas-based insurance] company operating a physical business location in Texas [or broker].

(4) Payroll company service fees for Texas Residents, but only if paid to a Texas-based payroll company that processes payroll within Texas.

(5) Payments made to Texas Domiciled Entities [-domiciled entities], sole proprietorships, or individuals for goods and services used in Texas that are directly attributable to the Physical Production of the project. In the case of Digital Interactive Media Productions, Visual Effects Projects, and animated projects, the amount attributable to Pre-Production and research and development costs shall be limited to an amount not to exceed 30% of the project's overall in-state spending.

(6) Payments for shipping on shipments originating in Texas.

(7) Air travel to and from Texas on a Texas-based airline or on a Texas-based air charter service, provided that an itemized receipt showing an itinerary and passenger name from the airline is provided confirming payment.

(8) Rentals of vehicles registered and licensed in the State of Texas or rented from a Texas Domiciled Entity [-domiciled entity] or sole proprietorship, including, but not limited to, national rental car companies operating [with] one or more physical business locations at verifiable [outlets in] Texas addresses that are not P.O. boxes.

(9) Fees paid to Texas Residents to compose, orchestrate, and perform music that is specifically created for the project.

(10) Legal fees directly attributable to the Physical Production of the project that are paid to Texas-based lawyers or law firms.

(11) Internet purchases, but only if purchased from an [a Texas-domiciled] entity or sole proprietorship or a retailer with a physical store or outlet in Texas. Items purchased must be shipped directly to Texas.

(12) Capital expenditures for purchases from a business or sole proprietorship physically located in Texas that are:

(A) less than \$1,000 for an individual item [from a Texas-domiciled entity or sole proprietorship]; or

(B) equal to or greater than \$1,000 for an individual item purchased that is not exhausted during the course of Production, so long as such item is sold or appropriately disposed of at the end of Production and evidence of such sale or disposition is furnished to the Texas Film Commission (Commission). Evidence of sale or disposition must show that only the difference between the purchase price and the sale price is submitted as an eligible expenditure and a copy of the check or receipt for the sale must be included as back up with the original purchase documentation.

(13) Location fees, if an executed location agreement by and between the Applicant and the location owner or owner's representative is provided to the Commission with the Applicant's Expended Budget.

(b) The following are ineligible expenditures:

(1) Payments made to ~~[non-Texas-domiciled]~~ entities, to include [or if] a sole proprietorship or individual, not having a physical location in Texas, and to non-Texas Residents.

(2) Payments made for goods and services not used in Texas.

(3) Payments made for goods and services that are not directly attributable to the Physical Production of the project.

(4) Payments made by Digital Interactive Media Productions, Visual Effects Projects, and animated projects for Pre-Production costs that exceed 30% of the project's overall in-state spending.

(5) Expenses related to distribution, publicity, marketing, or promotion of the project, including, but not limited to, promotional stills.

(6) Payments, other than properly allowable location fees, for facilities and automobiles that are part of a permanent/continuous business operation including, but not limited to, rental, lease or mortgage payments, utilities, software, and insurance.

(7) Wages paid to non-Texas Residents, including additional compensation paid as part of a contractual or collective bargaining agreement.

(8) Payments made to a company, entity, association, or person that acts as an agent or broker for companies, entities, associations, or persons outside of Texas to provide goods, services, or labor for the purpose of utilizing [taking advantage of] the Texas Moving Image Industry Incentive Program to their benefit (also known as "pass-through" entities).

(9) Fees for story rights, music rights, or clearance rights and licensing fees.

(10) Additional compensation or reimbursements paid to non-Texas Residents, including, but not limited to:

(A) mileage or car allowance;

(B) housing allowance; and

(C) box or kit rentals for use of personal equipment.

(11) Workers' compensation insurance payments for non-Texas Residents.

(12) Payroll company or workers' compensation company service fees [for non-Texas Residents or those] paid to a company that does not operate a physical business location in Texas [non-Texas-based payroll company].

(13) Payments for shipments originating outside of Texas.

(14) Payments for mobile and landline telephone service if the service ~~[or billing]~~ address is not in Texas.

(15) Payments for alcoholic beverages, cigarettes, and tobacco products.

(16) Payments to adult-oriented businesses or for adult-oriented material.

(17) Payments for entertainment, including, but not limited to, parties, event tickets, movies, hotel mini-bar items, meals unrelated to the Physical Production of the project, and personal gifts.

(18) Payments for tips and gratuities.

(19) Capital expenditures for an individual item over \$1,000 which item is not exhausted during the course of Production, unless purchased in Texas [such purchase is from a Texas-domiciled entity or sole proprietorship], the item is sold at the end of the Production and evidence of such sale is furnished to the Commission. The documentation provided to the Commission must show that only the difference between the purchase price and the sale price is submitted as an eligible expenditure and a copy of the check or receipt for the sale should be included as back up with the original purchase documentation.

(20) Payments to any business that sells alcohol or tobacco products reflected on receipts which are not itemized, even if the submitted item itself is otherwise eligible.

(21) Any "talent handling fees," "overage fees," and "production fees" for a Commercial where the Applicant is a Production Company rather than the client or advertisement agency, other than the following items which must have been budgeted on the original, awarded bid to be eligible expenditures: the Applicant's insurance fees from the actual column of the actual Association of Independent Commercial Producers (AICP) budget (if it does not exceed the original, awarded bid and if a Texas-based insurance company or broker is used); editorial or Postproduction fees from the actual column of the AICP budget (if such fees do not exceed the Postproduction fees on the original, awarded bid); and any bona fide internal billing items which do not exceed the usual and customary cost of the goods or services, such as when Production Company employees work directly on the production using equipment and/or studio space owned by the Applicant that is "'rented'" to the production in lieu of using an outside vendor.

(22) Any payments made other than by the Applicant, including, but not limited to, payments made on behalf of the Applicant by a third party, unless a production services agreement or similar documentation is provided to show sufficient proof, as determined by the Commission in its sole discretion, of the relationship between the Applicant and the third party.

(c) The Commission has [reserves] the sole and exclusive authority [right] to determine which expenses are eligible or ineligible.

§121.6. *Grant Awards.*

(a) Feature Films, Television Programs, and Visual Effects Projects for Feature Films or Television Programs with total eligible in-state spending of:

(1) At least \$250,000 but less than \$1 million shall be eligible to receive a grant equal to 5% of eligible in-state spending.

(2) At least \$1 million but less than \$1.5 million [~~\$3.5 million~~] shall be eligible to receive a grant equal to 10% of eligible in-state spending.

(3) At least \$1.5 million [~~\$3.5 million~~] shall be eligible to receive a grant equal to ~~25%~~ [20%] of eligible in-state spending.

(b) Digital Interactive Media Productions with total eligible in-state spending of:

(1) At least \$100,000 but less than \$1 million shall be eligible to receive a grant equal to 5% of eligible in-state spending.

(2) At least \$1 million but less than ~~\$1.5 million~~ [~~\$3.5 million~~] shall be eligible to receive a grant equal to 10% of eligible in-state spending.

(3) At least ~~\$1.5 million~~ [~~\$3.5 million~~] shall be eligible to receive a grant equal to ~~25%~~ [20%] of eligible in-state spending.

(c) Reality Television Projects with total eligible in-state spending of:

(1) At least \$250,000 but less than \$1 million shall ~~will~~ be eligible to receive a grant equal to 5% of eligible in-state spending.

(2) At least \$1 million shall ~~will~~ be eligible to receive a grant equal to 10% of [total] eligible in-state spending.

(d) Commercials, Educational or Instructional Videos, and Visual Effects Projects for Commercials or Educational or Instructional Videos with total eligible in-state spending of:

(1) At least \$100,000 but less than \$1 million shall ~~will~~ be eligible to receive a grant equal to 5% of eligible in-state spending.

(2) At least \$1 million shall ~~will~~ be eligible to receive a grant equal to 10% of [total] eligible in-state spending.

§121.7. Additional Grant Awards [Award].

An applicant ~~may~~ [shall] be eligible for one or more [a single] additional grants. The total grant amount a project may receive will be [grant] equal to an amount no greater than 31% [~~2.5%~~] of total in-state spending by meeting one or more of the following:

(1) Rural Filming Grant--Projects that complete [Completing] at least 35% [25%] of [their] total Filming Days or Man Hours in a county in this state with a population of 300,000 or less may receive an additional 2.5% of total in-state spending[, as applicable, in Underutilized or Economically Distressed Areas (UEDAs)].

[(A) In the event that multiple locations are utilized within a single Filming Day, in order to calculate the 25% of total Filming Days in UEDAs necessary to receive this additional grant, the Texas Film Commission (Commission) shall pro-rate a given Filming Day by the number of shooting locations reflected on production reports furnished by an Applicant to the Commission. For example, if eight shooting locations are utilized in a Filming Day, and five are located in UEDAs, 5/8 of that Filming Day shall count in calculating the 25% of total Filming Days necessary for this additional grant.]

[(B) If one or more shooting locations is not located in a UEDA, but is serviced by a basecamp located in a UEDA, such shooting locations shall be deemed to be located in a UEDA when calculating the 25% of total Filming Days necessary for this additional grant. A Production Company must have paid financial consideration to the owner/leaseholder of the basecamp location pursuant to a location agreement to be considered a "basecamp" under this subparagraph. The basecamp location must be listed on the call sheets and/or other relevant production documentation.]

[(C) The Commission shall identify the areas that qualify for designation as UEDAs.]

(2) Texas Veterans Grant--Projects demonstrating [Demonstrating] that 5% of the combined total of paid Crew and paid Cast, including extras, who are paid by the Applicant are Texas Resident Veterans may receive an additional 2.5% of total in-state spending. ["Veterans."]

(A) For purposes of this section [Section], a Veteran ["Veteran"] is a person who served in and has been honorably discharged from the United States Army, Navy, Marine Corps, Air Force, or Coast Guard; the National or Air National Guard of the United States; the Texas Army National Guard; the Texas Air National Guard; a Reserve component of any of the aforementioned military organizations; or any other military service that the Texas Film Commission (Commission) determines to be allowable.

(B) The Applicant shall submit sufficient information confirming the Veteran's status, including military-issued discharge documentation and other information requested by the Commission to support a determination that the person qualifies as a Veteran.

(3) Texas Historic Site Grant--Projects utilizing historic sites in this state as filming locations for 5% or more of total production days may receive an additional 2.5% of total in-state spending. To qualify for a grant under this section, filming locations must:

(A) be used for filming and not basecamps; and

(B) have either a Historic Designation from the Texas Historical Commission or be listed on the National Historic Places Register as administered by the Texas Historical Commission in conjunction with the National Parks Service.

(4) Workforce Development Grant--Projects partnering with a Texas Institution of Higher Education to provide moving image industry workforce development opportunities during the production of the project may receive an additional 2.5% of total in-state spending. To qualify for a grant under this section, a project must satisfy workforce development training criteria as determined by the Commission

(5) Postproduction Grant--Projects expending 25% of the total eligible in-state spending on eligible expenditures during Postproduction, including labor, vendors, and music costs. Costs associated with utilizing Texas music may receive an additional 1% of total in-state spending.

[(3) Expending 10% of the total eligible in-state spending on eligible expenditures during Postproduction, including labor, vendors, and music costs.]

§121.8. Grant Application.

(a) Initial Submission

(1) A Qualifying Application includes:

(A) A completed Qualifying Application form for the Texas Moving Image Industry Incentive Program;

(B) An itemized budget detailing only estimated Texas expenditures; and

(C) A Content Document:

(i) for Feature Films, Television Programs (except Episodic Television Series) and Visual Effects Projects for Feature Films and Television Programs: the full script;

(ii) for Episodic Television Series: the full script of the first episode in the series to be filmed in Texas and, if requested, full scripts for subsequent episodes to be filmed in Texas;

(iii) for Commercials, Educational or Instructional Videos, and Visual Effects Projects for Commercials or Educational or Instructional Videos: the scripts, storyboards, or detailed outlines/summaries of content;

(iv) for Digital Interactive Media Productions: a summary of game content providing sufficient detail concerning the platform, themes, settings, story, characters, and events; or

(v) for Reality Television Projects: a detailed treatment or outline of program content.

(2) Application forms for each type of project are available by request to the Commission via telephone, Internet, or other means if additional special needs facilitation is required.

(3) Applications shall not be accepted earlier than 180 calendar days prior to a project's Principal Start Date.

(4) Applications must be received no later than 5:00 p.m. Central Time on the fifth Business Day prior to the Principal Start Date.

(5) Only one application by a single Applicant is allowed for a project.

(6) Within 5 Business Days of the Principal Start Date indicated on the Qualifying Application form, an Applicant for a Feature Film, Television Program, Reality Television Project, Digital Interactive Media Production, Visual Effects Project or Educational or Instructional Video must confirm with the Texas Film Commission (Commission) in writing, to include e-mail, that the production began on time. If the start of the project is delayed for more than 30 days, an application may be disqualified, and the Applicant may be required to reapply. If an Applicant fails to confirm that the production began on time within such 5 Business Day period, the Commission may, at its sole election but with no obligation to do so, disqualify the application.

(b) The Office of the Governor, as a state agency, must comply with the Texas Public Information Act (the "Act"). In the event that a public information request related to the Applicant and/or the application is submitted to the agency, the Office of the Governor shall notify the Applicant within a reasonable amount of time using the Applicant's most current contact information provided to the Commission.

§121.9. Processing and Review of Applications.

(a) All applications shall be reviewed in the order they are received.

(b) Initial Review.

(1) Each application shall go through an initial review process when the Qualifying Application is received. If an Applicant submits a Qualifying Application without all required materials, the Texas Film Commission (Commission) shall notify the Applicant by e-mail that the Applicant's application requires additional materials or documentation, and that not receiving them by the fifth Business Day prior to the project's Principle Start Date may result in disqualification of the application.

~~{(1) Each application shall go through an initial review process when the Qualifying Application is received.}~~

~~{(A) If an Applicant submits a Qualifying Application with all required materials, the Texas Film Commission (Commission) shall notify the Applicant by e-mail that the Commission has received the Applicant's complete application, and the preliminary eligibility determination process shall begin.}~~

~~{(B) If an Applicant submits a Qualifying Application without all required materials, the Commission shall notify the Applicant by e-mail that the Applicant's application requires additional materials or documentation, and that not receiving them by the fifth Business Day prior to the project's Principle Start Date may result in disqualification of the application.}~~

(2) Applicants may amend information on their application. The Commission shall determine whether an Applicant's amendment(s) require the Applicant to reapply.

(c) Preliminary Eligibility Determination.

(1) During the preliminary eligibility determination process, the Commission shall review the project's Qualifying Application and budget to identify eligible expenditures and to determine if the Applicant meets the minimum program requirements for in-state spending, Texas Filming Days, and Texas Residency.

(2) The Commission shall also review the Content Document, as defined in §121.8(a)(1)(C) of this chapter (related to Grant Application) [Chapter], to determine if the content qualifies for program eligibility [is appropriate].

(3) The Commission shall examine the Qualifying Application in light of the following criteria to assess, in the aggregate, the potential magnitude of the economic impact of the project in the State of Texas:

(A) the financial viability of the Applicant and the likelihood of successful project execution and planned spending in the State of Texas;

(B) proposed spending on existing state production infrastructure, including soundstages and industry vendors;

(C) the number of Texas jobs estimated to be created by the project;

(D) the ability to promote Texas as a tourist destination through the conduct of the project and planned expenditure of funds;

(E) the magnitude of estimated expenditures in Texas; and

(F) whether the project will be directed or produced by an individual who is a Texas Resident, with the term "produced by" meaning a non-honorary producer who has direct involvement in the day-to-day production of the project above the level of line producer.

(4) The Commission shall notify the Applicant by e-mail that the Qualifying Application is approved if:

(A) the Qualifying Application meets all minimum program requirements for in-state spending, Texas Filming Days, and Texas Residency, as determined by the Commission;

(B) the Commission determines there will be sufficient economic impact of the project in the State of Texas based on the criteria specified in paragraph (3) of this subsection [Subsection];

(C) the Commission determines the content, as described in the Content Document, is appropriate;

(D) appropriated funds are available at such time of determination; and

(E) the Commission, in its sole discretion, elects to approve the Qualifying Application based on the totality of the circumstances.

(5) If the Commission denies a Qualifying Application, the Commission shall notify the Applicant by e-mail that the Qualifying Application is denied. The notice shall inform the Applicant whether the denial is based on failure to meet the minimum program requirements, insufficient economic impact, inappropriate content, or some other reason. Qualifying Applications shall be assessed in the order in which they are received.

(6) All funding decisions made by the Commission are final and are not subject to appeal.

(d) Grant Agreement.

(1) Upon Commission approval of the Qualifying Application, the Commission shall issue a conditional award letter, which shall be contingent upon execution of a grant agreement between the Office of the Governor and the Applicant. The estimated grant amount shall be based upon the Applicant's estimated in-state spending.

(2) The grant agreement must be returned to the Commission with original signatures. The Commission may disqualify a project for the Applicant's failure to return the grant agreement with original signatures.

(e) Periodic Tracking and Review. After the grant agreement has been executed by both parties, the Commission may periodically review production activity including, but not limited to, requesting quarterly reports that describe in-state spending, production locations, and number of Texas Residents hired, and may require documentation for all of the above.

(f) Encumbrance of Funds.

(1) The Office of the Governor will not encumber funds until an Applicant provides a completed W-9 and a Texas Application for Payee Identification Number Form.

(2) The amount encumbered for a project shall be equal to the estimated grant amount in the grant agreement.

(3) Provided sufficient funds are available, the Commission, in its sole discretion, may adjust the amount encumbered, but only if an Applicant amends the estimated Texas spending amount on their Qualifying Application in writing, prior to submitting their Expended Budget as described in §121.11 of this chapter (related to Confirmation and Verification of Texas Expenditures) [~~Chapter~~].

(g) Verifying Texas Residency.

(1) In order to verify Texas Residency, the Applicant shall provide the Commission with completed Declaration of Texas Residency Forms for each Texas Resident Crew and Cast member.

(2) Declaration of Texas Residency Forms are available on the Commission's web site or by request to the Commission via telephone, Internet, or other means if additional special needs facilitation is required.

(3) In the event that a Crew or Cast member possesses one of the documents specified in the Declaration of Texas Residency Form, but not for the required 120 days, Texas Residency may also be verified if:

(A) the project consists of at least 30 Filming Days; and

(B) the Applicant provides one of the following documents naming said Crew or Cast member and dated at least 120 days and no more than 13 months prior to the project's Principal Start Date:

(i) an executed HUD-1 settlement statement showing the purchase of residential real property located in Texas; or

(ii) a notice of appraised value or bill assessing property tax on residential real property located in Texas.

(4) If a Crew or Cast member does not possess any of the documents specified in the Declaration of Texas Residency Form, Texas Residency may also be verified by attaching to the Declaration a copy of their military ID card and their military orders that:

(A) name said Crew or Cast member, or their spouse, parent, or legal guardian, as applicable;

(B) show a permanent change of station to a military station in Texas; and

(C) are dated at least 120 days prior to the project's Principal Start Date.

(h) [~~Texas Film~~] Commission Logo. The Commission may require as a condition of the grant agreement that the Applicant must include the Texas Film Commission logo in the closing credits of a Feature Film, Reality Series or Television Production, or in the credits of a Digital Interactive Media Production.

§121.10. *Disqualification of an Application.*

(a) A Qualifying Application may be disqualified at any time if a project does not meet the necessary requirements or if a Qualifying Application is incomplete. If a Qualifying Application is disqualified, the Texas Film Commission (Commission) shall notify the Applicant by e-mail. Qualifying Applications that have been disqualified may be resubmitted with the required changes or additional information, no earlier than 180 calendar days before the Principal Start Date, and no later than 5:00 p.m. Central Time on the fifth Business Day preceding the Principal Start Date.

(b) In the event that the principal start or completion date is changed, the Applicant must notify the Commission in writing, to include e-mail, of the new principal start or completion date, and must provide sufficient reasoning for the change. If the start of the project is delayed two or more times or for more than 30 days, a Qualifying Application may be disqualified and the Applicant may be required to reapply.

(c) A Qualifying Application may be disqualified for reasons including, but not limited to:

(1) failure to submit required documents and notifications, or additional documents as requested or as required by this chapter [~~Chapter~~];

(2) failure to meet minimum requirements for in-state spending, number of Texas Residents hired, and/or percentage of Filming Days;

(3) submission of false information;

(4) inappropriate content as described in section [~~Section~~] 43.21 of the Texas Penal Code or content described by §121.4(b) of this chapter (related to Ineligible Projects) [~~Chapter~~];

(5) lack of available funding;

(6) ineligible project as listed in §121.4 of this chapter [~~Chapter~~];

(7) pursuant and subject to §121.8(a)(6) of this chapter (related to Grant Application) [~~Chapter~~], if an Applicant fails to confirm that the production began on time;

(8) lack of meaningful production activity on a project, as determined in the Commission's sole discretion, for a period of at least six months; or

(9) a written, voluntary notification by the Applicant to the Commission of the cancellation of the project.

§121.14. *Revocation and Recapture of Incentives.*

(a) An Applicant's eligibility for funds may be revoked after the project is completed for the reasons enumerated in §121.10(c) of this chapter (related to Disqualification of an Application) [~~Chapter~~] or in accordance with the grant agreement.

(b) If an Applicant has already received grant funds under this chapter [Chapter] and the Texas Film Commission (Commission) determines the Applicant does not meet a requirement, the Commission may require that the Applicant return any sum of the grant funds paid to the Applicant.

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

Filed with the Office of the Secretary of State on February 2, 2026.

TRD-202600479

Stephanie Whallon

Director, Texas Film Commission

Texas Film Commission

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-9200



13 TAC §121.13

The Office of the Governor ("OOG") proposes the repeal of 13 TAC §121.13, concerning Texas Heritage Project. The OOG identified the necessity of the proposed repeal while reviewing the rule in response to the passage of Senate Bill 22 (89-R), which significantly modified provisions of the Texas Moving Image Industry Incentive Program ("TMIIP") statutes.

REASONED JUSTIFICATION

The Texas Moving Image Industry Incentive Program ("TMIIP") was implemented to increase employment opportunities for Texas industry professionals, encourage tourism to the state, and boost economic activity in Texas cities and the overall Texas economy. The 89th Legislature passed Senate Bill 22, which among other actions, significantly modified the Texas Heritage Grant. In a future rulemaking, the OOG will propose a new rule regarding the Texas Heritage Grant, as well as another incentive created by Senate Bill 22, the Texas Faith-Based Moving Image Project grant.

FISCAL NOTE

Stephanie Whallon, Director, Texas Film Commission, has determined that during each year of the first five years in which the proposed amendments are in effect, there will be no expected fiscal impact on state and local governments as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT

Ms. Whallon has determined that for each year of the first five years the proposed repeal is in effect, the public benefit will be consistency and clarity in the OOG's rules regarding the administration of certain additional incentive grants.

PROBABLE ECONOMIC COSTS

There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed repealed rules

GOVERNMENT GROWTH IMPACT STATEMENT

Ms. Whallon has determined that during each year of the first five years in which the proposed repealed and new rules are in effect, the repeals and new rules:

- 1) will not create or eliminate a government program;
- 2) will not require the creation of new employee positions or the elimination of existing employee positions;
- 3) will not require an increase or decrease in future legislative appropriations to the OOG;
- 4) will not require an increase or decrease in fees paid to the OOG;
- 5) do not create new regulations;
- 6) will repeal existing regulations;
- 7) will not increase or decrease the number of individuals subject to the applicability of the rules; and
- 8) will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT

Ms. Whallon has determined that there are no private real property interests affected by the proposed repeal. Thus, the Office is not required to prepare a takings impact assessment pursuant to Section 2007.043, Texas Government Code.

REQUEST FOR PUBLIC COMMENTS

Written comments regarding the proposed rule amendments may be submitted for 30 days following the date of publication of this notice by mail to Stephanie Whallon, Office of the Governor, Texas Film Commission, P.O. Box 12428, Austin, Texas 78711, or by email to TFCRules.Comments@gov.texas.gov with the subject line "TMIIP Rule Review." The deadline for receipt of comments is 5:00 p.m., Central Time, on March 15, 2026.

STATUTORY AUTHORITY.

The amendments are proposed under Section 485.022 of the Texas Government Code, which requires the Texas Film Commission to develop procedures for the administration and calculation of grant awards under TMIIP. The amendments are also proposed in accordance with Senate Bill 22, which took effect on September 1, 2025.

CROSS REFERENCE TO STATUTE

13 TAC §121.13. No other statutes, articles, or codes are affected by the proposed repeals.

§121.13. Texas Heritage Project.

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

Filed with the Office of the Secretary of State on February 2, 2026.

TRD-202600480

Stephanie Whallon

Director, Texas Film Commission

Texas Film Commission

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-9200



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 97. MOTOR FUEL METERING AND QUALITY

The Texas Department of Licensing and Regulation (Department) proposes the repeal of an existing rule at 16 Texas Administrative Code (TAC), Chapter 97, Subchapter A, §97.1, new rules at Subchapter A, §97.1; Subchapter B, §97.32; Subchapter C, §97.44 and §97.45; and Subchapter D, §97.61, and amendments to existing rules at Subchapter A, §97.2 and §97.3; Subchapter B, §97.29 and §97.30; Subchapter C, §§97.40, 97.42, 97.43; Subchapter D, §97.58 and §97.59; and Subchapter E, §97.71, regarding the Motor Fuel Metering and Quality program. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 97 implement Texas Occupations Code Chapter 2310, Texas Business and Commerce Code, Chapters 607, 607A, and Texas Government Code Chapter 426.

The proposed rules are necessary to implement Senate Bill (SB) 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and House Bill (HB) 4690, 89th Legislature, Regular Session (2025), which amend state law regarding motor fuel quality and testing standards, stop-sale orders, and skimmer reporting requirements for service technicians.

SECTION-BY-SECTION SUMMARY

The proposed rules repeal existing §97.1, Authority. The provisions in this repealed rule have been updated and supplemented under new §97.1, Authority.

The proposed rules add new §97.1, Authority. This new rule includes provisions from existing §97.1, which is being repealed, and updates and supplements the existing authority by adding Texas Business and Commerce Code Chapter 607A and Texas Government Code Chapter 426, to the list of applicable statutes authorizing the rules under Chapter 97.

The proposed rules amend §97.2, Definitions, by adding a definition for "Center"; amending the definitions for "Device," "Operator," and "Test standard" to remove references to "weighing" and "weight"; amending the definition for "Tamper-evident security" to correct punctuation; adding a definition for "Electronic terminal;" amending the definition for "Skimmer" to reference newly passed legislation, and renumbering the remaining provisions accordingly.

The proposed rules amend §97.3, Adoption of Standards by Reference, by removing and adding standards adopted by reference to bring the rules in line with the requirements of HB 4690; noting statutory exceptions to motor fuel quality standards; adopting standards for the collecting, sampling, and handling of motor fuel; and renumbering sections accordingly.

The proposed rules amend §97.29, Detection and Reporting of Skimmers, by removing the term "Payment Card" from the section title so that it reads "Detection and Reporting of Skimmers." The proposed rules also clarify that the section applies to skimmers on or in devices as defined by the proposed rules.

The proposed rules amend §97.30, Unauthorized Removal of Skimmers Prohibited, to clarify that the section applies to skimmers on or in devices as defined by the proposed rules.

The proposed rules add new §97.32, Device Specifications and Tolerances, to set the specifications and tolerances for devices

under these proposed rules to be the same as the most recently adopted National Institute of Standards and Technology (NIST) standards, as required by HB 4690.

The proposed rules amend §97.40, Distributor, Supplier, Wholesaler--Certificate of Compliance, by removing the term "Jobber" from the section title so that it reads "Distributor, Supplier, Wholesaler--Certificate of Compliance" and removing the term "jobber" from the rule text.

The proposed rules amend §97.42, Stop-Sale Order; Appeal; Remediation, by revising the section title from "Stop-Sale Order" to "Stop-Sale Order; Appeal; Remediation"; amending subsection (a) to allow the Department, with the approval of the executive director, to issue a stop-sale order; amending subsection (b) to include offering to sell motor fuel as an act prohibited by a stop-sale order and to clarify that a stop-sale order is lifted if a dealer or operator prevails in an appeal of the order; and adding new subsection (c) to clarify the process for issuance of a remediation plan to violators following a stop-sale order and to explain the factors the Department may consider when lifting a stop-sale order.

The proposed rules amend §97.43, Fuel Delivery Records, to remove the term "jobbers" from the rule text.

The proposed rules add new §97.44, Methods and Procedures for Collecting, Sampling, and Handling Motor Fuel. The proposed new rule requires the Department or an authorized representative of the Department to collect, sample, and handle motor fuel following the methods and procedures set out in the applicable standards as prescribed under new §97.3(5) and subject to the needs of the Department.

The proposed rules add new §97.45, Methods and Procedures for Testing Motor Fuel Quality. The proposed new rule requires the Department or an authorized representative of the Department to test motor fuel according to the applicable standards as prescribed by §97.3(2).

The proposed rules amend §97.58, Test Standards and Laboratories, by revising the section title from "Test Standards" to "Test Standards and Laboratories"; and adding new subsection (d) to provide that a metrology laboratory certified by the NIST is approved by the Department to inspect and correct the standards for motor fuel used to perform device maintenance activities.

The proposed rules amend §97.59, Inspection for Skimmers, by removing the term "Payment Card" from the section title so that it reads "Inspection for Skimmers."

The proposed rules add new §97.61, Reporting Skimmers on Electronic Terminals. The proposed new rule requires service technicians, or the service company that employs them, to notify owners or operators of the presence of skimmers on electronic terminals and report the skimmer to the Financial Crimes Intelligence Center (FCIC).

The proposed rules amend §97.71, Distributor, Wholesaler, and Supplier Fees, by removing the term "jobber" from the section title so that it reads "Distributor, Wholesaler, and Supplier Fees"; removing the term "jobber" from the rule text; and renumbering the remaining provisions accordingly.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Senior Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or

reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to local government, and no estimated increase in revenue to state government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be that TDLR standards are aligned with industry standards for motor fuel quantity, quality, and testing practices; ensuring that fuel quality standards remain high and contaminated fuel can be quickly remediated; removing general references to standards and replacing them with specific standards; enhancing FCIC's ability to track and fight financial crimes by requiring service technicians to report skimmers on electronic terminals; clarifying the stop sale remediation process for licensees.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

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

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules require an increase or decrease in fees paid to the agency. The proposed rules require a decrease in

fees paid to the agency by eliminating the jobber certificate of compliance.

5. The proposed rules create a new regulation. The proposed rules create a new regulation by creating exceptions to motor fuel quality standards; adding motor fuel collecting, sampling, handling, and testing standards and procedures, and device specifications and tolerances; and authorizing the provision of a remediation plan for a device or fuel subject to a stop-sale order.

6. The proposed rules expand, limit, or repeal an existing regulation. The proposed rules expand an existing regulation by stating a metrology laboratory certified by NIST is also approved by TDLR. The proposed rules repeal an existing regulation by eliminating the jobber certificate of compliance.

7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.

8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENTS AND INFORMATION RELATED TO THE COST, BENEFIT, OR EFFECT OF THE PROPOSED RULES

The Department is requesting public comments on the proposed rules and information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rules. Please do not submit copyrighted, confidential, or proprietary information.

Comments on the proposed rules and responses to the request for information may be submitted electronically on the Department's website at https://ga.tdlr.texas.gov:1443/form/FMQ_Rule_Making; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §97.1

STATUTORY AUTHORITY

The proposed repeal is proposed under Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeal are those set forth in Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426. No other statutes, articles, or codes are affected by the proposed repeal.

The legislation that enacted the statutory authority under which the proposed repeal is proposed to be adopted is SB 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and HB 4690, 89th Legislature, Regular Session (2025).

§97.1. Authority.

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

Filed with the Office of the Secretary of State on February 2, 2026.

TRD-202600482

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-7750



16 TAC §§97.1 - 97.3

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and HB 4690, 89th Legislature, Regular Session (2025).

§97.1. Authority.

This chapter is promulgated under the authority of Texas Occupations Code Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426.

§97.2. Definitions.

The following words and terms, when used in this chapter must have the following meanings, unless the context clearly indicates otherwise.

(1) ASTM--ASTM International; the national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems and services and the promotion of related knowledge.

(2) Center--The Financial Crimes Intelligence Center established under Texas Government Code Chapter 426.

(3) [(2)] Code--The Texas Occupations Code, Chapter 2310, [^]Motor Fuel Metering and Quality.[^]

(4) [(3)] Commission--Texas Commission of Licensing and Regulation.

(5) [(4)] Controlling person--An [an] individual who:

(A) is a sole proprietor;

(B) is a general partner of a partnership;

(C) is a controlling person of a business entity that is a general partner of a partnership;

(D) possesses direct or indirect control of at least 25 percent of the voting securities of a corporation;

(E) is the president, the secretary, or a director of a corporation; or

(F) possesses the authority to set policy or direct the management of a business entity.

(6) [(5)] Department--Texas Department of Licensing and Regulation.

(7) [(6)] Device--A [~~commercial weighing or measuring device used for motor fuel sales, also defined as a~~] motor fuel metering device as defined by §2310.001(7) of the Code.

(8) [(7)] Device performance review (DPR)--The comprehensive inspection and testing of a motor fuel metering device to ensure it is calibrated and operating according to NIST and Manufacturer specifications.

(9) Electronic terminal--This term has the meaning assigned by Texas Business and Commerce Code §607A.001 and does not include motor fuel metering devices as defined by §2310.001 of the Code or motor fuel unattended payment terminals as defined by Texas Business and Commerce Code §607.001.

(10) [(8)] Gasoline--A liquid or combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include compressed natural gas, liquefied natural gas, racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas, as defined in §162.001(29) of the Texas Tax Code.

(11) [(9)] GPM--Gallons per minute.

(12) [(10)] ISO--International Organization for Standardization; an independent, non-governmental organization that develops voluntary international standards to facilitate world trade by providing common standards among nations.

(13) [(11)] Merchant--A person whose business includes the sale of motor fuel through motor fuel metering devices, as defined by §607.001(4) of the Texas Business and Commerce Code.

(14) [(12)] Motor fuel--Gasoline, diesel fuel, gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine, as defined in §162.001(42) of the Texas Tax Code.

(15) [(13)] NIST--The National Institute of Standards and Technology; a non-regulatory federal agency under the United States Department of Commerce, which certifies and provides standard reference materials used to perform instrument calibrations, verifies the accuracy of specific measurements and supports the development of new measurement methods.

(16) [(14)] Operator--A person in possession or control of a [~~weighing or~~] measuring device, as defined in §2310.001(8) of the Code.

(17) [(15)] Skimmer--A wire or electronic device that is capable of unlawfully intercepting electronic communications or data

to perpetrate fraud, as defined by §607.001(8) and 607A.001(11) of the Texas Business and Commerce Code.

(18) [(16)] Tamper-evident security label--A [label""A] label or tape that, once applied to a surface, cannot be removed without self-destructing, or otherwise leaving a clear indication that the label or tape has been removed.

(19) [(17)] Test standard--A certified [weight or] measure used to test a device for accuracy.

§97.3. *Adoption of Standards by Reference.*

In accordance with [Chapter 2310 of] the Code, the department adopts the currently published edition of each of the following nationally recognized minimum standards with certain exceptions for the purpose of administering and enforcing this chapter:

(1) Legal standards for [weights and] measures. NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices."

(2) Motor fuel quality [testing] standards.

(A) ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," as the standard specifications for gasoline or gasoline blended with ethanol;

[(A) NIST Handbook 130, "Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality," relating to "Uniform Fuels and Automotive Lubricants Regulations," as standard specifications for ethanol blends with the following modifications:]

[(i) vapor pressure tolerance not exceeding one pound per square inch for motor fuels blended with up to 15 volume percent ethanol, excluding the time period from May 1 through October 1 for counties required to have low emissions fuels;]

[(ii) vapor pressure seasonal specifications may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification must not be offered for retail sale prior to the effective date of the higher volatility classification; and]

[(iii) the vapor/liquid ratio specification must be waived for motor fuels blended with ethanol.]

[(B) ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," as the standard specifications for gasoline with the following modification, vapor pressure and vapor/liquid ratio seasonal specifications may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification must not be offered for retail sale prior to the effective date of the higher volatility classification.]

(B) [(C)] ASTM D975, "Standard Specification for Diesel Fuel," as the standard specifications for diesel motor fuels and renewable diesel fuels;

(C) [(D)] ASTM D5798, "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines," as the standard specifications for 51 volume percent to 83 volume percent ethanol fuel;

(D) [(E)] ASTM D6751, "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels;"

(E) [(F)] ASTM D7467, "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20);" and

(F) [(G)] ASTM D7794, "Standard Practice for Blending Mid-Level Ethanol Fuel Blends for Flexible Fuel Vehicles with

Automotive Spark-Ignition Engines," as the standard specification for gasoline ethanol blends containing 16 to 50 volume percent ethanol.

(3) Exceptions to motor fuel quality standards. Exceptions to motor fuel quality standards shall be those set out by §2310.2031 of the Code.

(4) [(3)] Automotive Fuel Rating. The testing methods, standards, and specifications used to determine the automotive fuel rating shall be those prescribed by the most current editions of:

(A) ASTM D2699, "Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel;"

(B) ASTM D2700, "Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel;"

(C) ASTM D2885 "Standard Test Method for Determination of Octane Number of Spark-Ignition Engine Fuels by On-Line Direct Comparison Technique;" and

(D) ASTM D5599, "Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection."

(5) Collecting, sampling, and handling motor fuel. The standards for collecting, sampling, and handling motor fuel shall be those prescribed by the most current edition of:

(A) ASTM D4057, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products;"

(B) ASTM D5842, "Standard Practice for Sampling and Handling of Fuels for Volatility Measurement;" and

(C) ASTM D5854, "Standard Practice for Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products."

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

Filed with the Office of the Secretary of State on February 2, 2026.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-7750



SUBCHAPTER B. MOTOR FUEL METERING DEVICES

16 TAC §§97.29, 97.30, 97.32

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 2310,

Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and HB 4690, 89th Legislature, Regular Session (2025).

§97.29. Detection and Reporting of [Payment Card] Skimmers.

(a) An owner or operator who discovers or is notified of the presence of a skimmer on or in a device by a service technician or employee must:

- (1) immediately make a report to local law enforcement that a skimmer has been discovered and is still installed in the device;
- (2) notify the department within 24 hours of the discovery on a form prescribed by the department;
- (3) request the law enforcement report or case number and submit it in a manner prescribed by the department; and
- (4) place each affected device out of service and block access to the dispenser to prevent tampering with evidence until the skimmer has been removed as authorized under this chapter.

(b) The owner or operator must cooperate with law enforcement, the department, and the Center in the investigation of a suspected or discovered skimmer.

(c) The owner or operator must provide a copy of available photographic and/or video surveillance of the retail facility to law enforcement.

§97.30. Unauthorized Removal of Skimmers Prohibited.

(a) In order to preserve evidence and the chain of custody, an owner or operator, retail facility employee, or unlicensed service technician is prohibited from removing a skimmer from a device unless instructed to do so by law enforcement or the department.

(b) If neither law enforcement nor the department has arrived to remove a skimmer from a device within 48 hours after the owner or operator has notified the department as required by §97.29(a)(2), the skimmer may be removed in accordance with subsection (c).

(c) When removing a skimmer under this section, an individual must:

- (1) wear sterile gloves while removing the skimmer(s);
- (2) place each skimmer in a clear plastic bag, seal the bag, and label the sealed bag with the date and time the skimmer was removed and bagged, along with the initials of the person removing the skimmer; and
- (3) transfer the skimmer(s) to local law enforcement and request the law enforcement case or report number.

(d) The owner or operator must provide the law enforcement case or report number to the department in a manner prescribed by the department following transfer of the skimmer to law enforcement.

§97.32. Device Specifications and Tolerances.

Specifications and tolerances for devices under this chapter shall be the same as the most recently adopted NIST standards at the time the device is used.

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

Filed with the Office of the Secretary of State on February 2, 2026.

TRD-202600484

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-7750

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SUBCHAPTER C. SALE, DELIVERY, AND
QUALITY OF MOTOR FUEL

16 TAC §§97.40, 97.42 - 97.45

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and HB 4690, 89th Legislature, Regular Session (2025).

§97.40. Distributor, [Jobber,] Supplier, Wholesaler--Certificate of Compliance.

(a) To be eligible for a certificate of compliance, a distributor, [jobber,] supplier, or wholesaler must:

- (1) submit complete business, facility, and contact information in a manner prescribed by the department; and
- (2) pay the fee required under §97.71.

(b) A change in the name or contact information of the owner or operator must be submitted to the department within 30 calendar days.

(c) A certificate of compliance is valid for two years from the date of issuance by the department.

§97.42. Stop-Sale Order; Appeal; Remediation.

(a) The [executive director of the] department, with the approval of the executive director, may issue an order to stop sale of:

- (1) motor fuel sold or offered for sale in violation of this chapter; or
- (2) motor fuel sold or offered for sale by or through a device that is in violation of this chapter.

(b) Motor fuel subject to a stop-sale order may not be sold or offered for sale until: [the order has been discharged by a court pursuant to §2310.060 of the Code, or]

(1) the [executive director receives notice acceptable to the] department finds that the motor fuel or device is in compliance with this chapter; or[-]

(2) the dealer or operator prevails in an appeal of the department's order as prescribed by §2310.060 of the Code.

(c) Following the issuance of a stop-sale order under subsection (a), the department may provide a license holder with a remediation plan that contains suggested measures to cure violations. To make a finding that the motor fuel or device is in compliance with this chapter under subsection (b)(1), the department may consider the license holder's compliance with any provided remediation plan. The department may evaluate evidence of remediation provided by the license holder or request additional information. The department or an authorized representative may conduct additional testing to verify the motor fuel or device is in compliance with this chapter.

§97.43. Fuel Delivery Records.

(a) Dealers, distributors, [jobbers,] suppliers, and wholesalers must keep the following records for four years:

(1) all invoices, receipts, or other transmittal records of the purchase, sale, delivery, or distribution of motor fuel; and

(2) any record or other document related to the sampling and testing of motor fuel purchased, sold, delivered, or distributed.

(b) All delivery tickets and letters of certification related to automotive fuel rating must be maintained by dealers, distributors, [jobbers,] suppliers, and wholesalers for one year.

(c) All records required to be maintained shall be made available upon request by the department or an authorized representative of the department.

§97.44. Methods and Procedures for Collecting, Sampling, and Handling Motor Fuel.

(a) The department or an authorized representative of the department shall collect, sample, and handle motor fuel following the methods and procedures set out in the applicable ASTM standards as prescribed under §97.3(5) and subject to the needs of the department.

(b) These procedures are used in conjunction with the stop-sale order requirements under §2310.060 of the Code and §97.42 of this chapter.

§97.45. Methods and Procedures for Testing Motor Fuel Quality.

(a) The department or an authorized representative of the department may collect samples and conduct testing at any location where motor fuel is kept, transferred, sold, or offered for sale to verify that the motor fuel complies with the minimum standards as prescribed under the most recently adopted or amended ASTM standard on the date of the test.

(b) The department or the authorized representative of the department will follow the methods and procedures set out in the applicable standards as prescribed under §97.3(2).

(c) These procedures are used in conjunction with the motor fuel quality testing requirements established by section 2310.203 of the Code.

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

Filed with the Office of the Secretary of State on February 2, 2026.

TRD-202600485

Doug Jennings
General Counsel

Texas Department of Licensing and Regulation
Earliest possible date of adoption: March 15, 2026
For further information, please call: (512) 463-7750



SUBCHAPTER D. SERVICE COMPANIES AND SERVICE TECHNICIANS

16 TAC §§97.58, 97.59, 97.61

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and HB 4690, 89th Legislature, Regular Session (2025).

§97.58. Test Standards and Laboratories.

(a) Test standards must be certified annually by a recognized or accredited laboratory that adheres to ISO 17025 standards. A service company must maintain at least one test standard per licensed device category as follows:

(1) Low flow: five-gallon or greater test measure or prover;

(2) High flow: prover with a capacity that exceeds the amount of liquid delivered by the device in one minute at the maximum flow rate.

(b) A test standard that becomes damaged must be taken out of operation immediately and recalibrated prior to use. A test standard that is beyond repair must be taken out of service permanently.

(c) A service company must maintain the minimum test standards per licensed device category at all times.

(d) For purposes of §2310.106(f) of the Code, a metrology laboratory certified by the National Institute of Standards and Technology is approved by the department.

§97.59. Inspection for [Payment Card] Skimmers.

(a) A service technician must inspect for the presence of a skimmer:

(1) during a device performance review; and

(2) each time a motor fuel dispenser is opened to perform device maintenance activities.

(b) A service technician or the service company that employs the technician must report the finding of a skimmer:

(1) immediately to the owner or operator; and

(2) within 24 hours to the department on a form prescribed by the department.

(c) In order to preserve evidence and the chain of custody, a service technician must not remove a skimmer unless instructed by law enforcement or the department.

(d) If neither law enforcement nor the department has arrived to remove a skimmer within 48 hours after the owner or operator has notified the department as required by §97.29, the skimmer may be removed in accordance with subsection (e).

(e) When removing a skimmer under this section, an individual must:

(1) wear sterile gloves while removing the skimmer(s);

(2) place each skimmer in a clear plastic bag, seal the bag, and label the sealed bag with the date and time the skimmer was removed and bagged, along with the initials of the person removing the skimmer; and

(3) transfer the skimmer(s) to local law enforcement and request the law enforcement case or report number.

(f) The service technician must provide the law enforcement case or report number to the department in a manner prescribed by the department following transfer of the skimmer to law enforcement.

§97.61. Reporting Skimmers On Electronic Terminals.

If a service technician discovers a skimmer in or on an electronic terminal, the service technician or service company that employs the technician shall notify the owner or operator of the presence of a skimmer and report the skimmer to the Center using the secure portal on its website, <https://fcic.texas.gov>.

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

Filed with the Office of the Secretary of State on February 2, 2026.

TRD-202600486

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-7750



SUBCHAPTER E. FEES

16 TAC §97.71

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 2310, Texas Business and Commerce Code Chapters 607 and 607A, and Texas Government Code Chapter 426. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is SB 246, 88th Legislature, Regular Session (2023), SB 2371, 89th Legislature, Regular Session (2025), and HB 4690, 89th Legislature, Regular Session (2025).

§97.71. Distributor, [Jobber,] Wholesaler, and Supplier Fees.

(a) Certificate of Compliance Fees:

(1) Distributor--\$80.

~~{(2) Jobber--\$80.}~~

(2) ~~[(3)]~~ Wholesaler--\$80.

(3) ~~[(4)]~~ Supplier--\$2600.

(b) Late fees do not apply to this section.

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

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING HIGH SCHOOL GRADUATION

19 TAC §74.1023

The Texas Education Agency (TEA) proposes an amendment to §74.1023, concerning the financial aid application requirement for high school graduation. The proposed amendment would reflect statutory requirements and update the methods of proof to verify completion of a financial aid application.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §28.0256, requires a student to complete a financial aid application, either the Free Application for Federal Student Aid (FAFSA) or the Texas Application for Student Financial Aid (TASFA), in order to graduate. The statute provides an exception for students to opt out of the financial aid application requirement by submitting a form signed by a parent, guardian, or student aged 18 years old or older that authorizes the student to decline to comply with the financial aid application graduation requirement. A high school counselor may also authorize a student to decline to comply with the financial aid application graduation requirement for good cause. The opt-out form must be approved by TEA. Additionally, the statute prohibits a counselor from indicating that a student has not complied with

the financial aid requirement if the school district or open-enrollment charter school has not provided an opt-out form to the student or student's parent or legal guardian and prohibits a counselor from indicating the manner in which a student met the requirement, except for the purpose of complying with reporting requirement under TEC, §28.0256(e)(2).

The proposed amendment to 19 TAC §74.1023 would align the rule with statute. The proposed amendment would update the methods of proof for verification that a student has completed the financial aid application requirement for graduation; prohibit a counselor from indicating that a student has not complied with the financial aid requirement if the school district or open-enrollment charter school has not provided an opt-out form to the student or student's parent or legal guardian; and prohibit a counselor from indicating the manner in which a student met the requirement, except for the purpose of complying with reporting requirement under TEC, §28.0256(e)(2).

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and programs, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by adding to the methods of proof of compliance, specifying what a school counselor can report about a student's compliance with the requirement, and establishing that a counselor may not indicate that a student has not complied with the requirement if the school district or charter school did not provide the form.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify the appropriate use of student infor-

mation for the financial aid application reporting requirement in Texas Student Data System Public Education Information Management System and expand the methods by which compliance maybe demonstrated.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and 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 on the proposal begins February 13, 2026, and ends March 16, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on February 13, 2026. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under TEC, §28.0256(a), which requires each student to complete and submit a FAFSA or a TASFA before graduating from high school; TEC, §28.0256(b), which allows a student to formally opt out of the financial aid application requirement by submitting a TEA-approved form; TEC, §28.0256(c), which requires that the adopted opt-out form provide the option for the student's parent or legal guardian, as applicable, to decline to complete and submit an application; TEC, §28.0256(d), which prohibits a counselor from indicating that a student has not complied with the financial aid application requirement if the school district or open-enrollment charter school has not provided the adopted opt-out form to the student or student's parent or legal guardian. Additionally, TEC, §28.0256(d), establishes that a counselor may indicate the manner in which a student complied with the financial aid application requirement only as necessary for the district or school to comply with reporting requirements under TEC §28.0256(e)(2); and TEC, §28.0256(d) and (e)(2), which add open-enrollment charter schools to the financial aid application requirements.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §28.0256(a)-(e).

§74.1023. Financial Aid Application Requirement for High School Graduation.

(a) In accordance with Texas Education Code (TEC), §28.0256, beginning with students enrolled in Grade 12 during the 2021-2022 school year, a student shall complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) as a requirement for receiving a high school diploma except as otherwise provided by subsection (b) of this section.

(b) A student may graduate under the Foundation High School Program without completing a financial aid application [opt out of the financial aid application requirement in subsection (a) of this section] under one of the following conditions:

(1) the student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person declines or authorizes the student to decline to complete and submit the financial aid application;

(2) the student signs and submits the form described by paragraph (1) of this subsection on the student's own behalf if the student is 18 years of age or older or is emancipated under the Texas Family Code, Chapter 31; or

(3) a school counselor signs and submits the form described by paragraph (1) of this subsection indicating that the school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

(c) The board of trustees for each school district and open-enrollment charter school shall adopt the standard opt-out form provided by the Texas Education Agency (TEA) for the purpose of the exceptions under subsection (b) of this section.

(1) The opt-out form shall be available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program under TEC, Chapter 29, Subchapter B, in the district or charter school. Districts and charter schools are responsible for translations not provided by TEA.

(2) The opt-out form must include the student's signature of intent in order for the student to decline to complete a financial aid application prior to the student's anticipated graduation date.

(d) Each school district and open-enrollment charter school shall provide students with the following notifications regarding the financial aid application requirement.

(1) Standard information regarding the financial aid requirement and the exceptions under subsection (b) of this section shall be provided at the time a student first registers for one or more classes required for high school graduation.

(2) Detailed information regarding instructions for the completion and submission of a financial aid application shall be provided to a student at the beginning of Grade 12 or at the time a student in Grade 12 transfers into a high school from a non-public school or a public school outside of Texas. The instructions shall include:

(A) an explanation of the FAFSA and TASFA and the difference between the two;

(B) instructions for how to access the FAFSA and TASFA, including key dates and deadlines for completion and submission;

(C) resources available to support completion and submission of the FAFSA and TASFA;

(D) documents and information required to complete the FAFSA or TASFA; and

(E) contact information for school staff or local community resources available to support completion of the forms.

(3) Options available to a student under subsection (b) of this section if a student or parent wishes to decline to complete and submit a financial aid application shall be provided to a student at the beginning of Grade 12 or at the time a student in Grade 12 transfers into a high school from a non-public school or a public school outside of Texas. The options shall include:

(A) the opt-out form and explanation of required signatures; and

(B) notification that if the parent or student chooses to opt out for the purposes of the student's graduation, the student will still be eligible to complete the FAFSA or TASFA that year or in subsequent years.

(e) Each school district and open-enrollment charter school shall require one of the following methods of proof that a student has completed and submitted the FAFSA or TASFA as required by this section.

~~[(1) Completion and submission of the FAFSA shall be confirmed through one of the following methods:]~~

~~(1) [(A)] ApplyTexas Counselor Suite financial aid application [FAFSA] data;~~

~~(2) [(B)] notification from the United States Department of Education or the Texas Higher Education Coordinating Board that demonstrates a student has completed and submitted a financial aid application [FAFSA]; or~~

~~(3) [(C)] a local policy developed by a school district or an open-enrollment charter school for the method by which a student must provide proof that the student has completed a financial aid application [FAFSA].~~

~~[(2) School districts and open-enrollment charter schools shall develop a local policy for the method by which a student must provide proof that the student has completed a TASFA.]~~

~~(f) A school counselor may only notify a school district or open-enrollment charter school whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements and may not indicate the manner in which the student complied, except as necessary for the district or charter school to comply with Texas Student Data System Public Education Information Management System (TSDS PEIMS) reporting requirements under subsection (e) of this section.~~

~~(g) A school counselor may not indicate that a student has not complied with the financial aid application graduation requirement if the school district or open-enrollment charter school fails to provide the opt-out form described by subsection (c) of this section to the student or the student's parent or guardian.~~

~~(h) [(F)] Each school district and open-enrollment charter school shall report through the TSDS PEIMS [Texas Student Data System Public Education Information Management System (TSDS PEIMS)] the following information not later than December 1 of each school year for students awarded diplomas in the previous school year:~~

~~(1) the number of students who completed and submitted a financial aid application; and~~

~~(2) the number of students who submitted an exception.~~

~~(i) [(H)] Each school district and open-enrollment charter school shall maintain student financial aid application information securely and ensure compliance with federal law regarding the confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.~~

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

Filed with the Office of the Secretary of State on February 2, 2026.



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 749. MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §§749.801, 749.811, 749.813, 749.831, 749.833, 749.861, 749.863 - 749.865, 749.867 - 749.869, 749.881 - 749.883, 749.885, 749.887, 749.889, 749.911, 749.913, 749.915, 749.930, 749.931 - 749.933, 749.935, 749.937, 749.939, 749.941, 749.943 - 749.945, 749.947, 749.949, 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1021, 749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115, 749.1131, 749.1133, 749.1135, 749.1137, 749.1151, 749.1153, 749.1155, 749.1181, 749.1183, 749.1185, 749.1187, 749.1189, 749.1251, 749.1253, 749.1255, 749.1281, 749.1291, 749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323, 749.1331, 749.1333, 749.1335 - 749.1337, 749.1339, 749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, 749.1377, 749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437, 749.1461, 749.1463, 749.1469, 749.1501, 749.1503, 749.1521, 749.1541, 749.1543, 749.1545, 749.1561, 749.1563, 749.1565, 749.1581, 749.1583, 749.1603, 749.1605, 749.1607, 749.1609, 749.1611, 749.1641, 749.1643, 749.1645, 749.1647, 749.1671, 749.1673, 749.1675, 749.1801, 749.1803, 749.1805, 749.1807, 749.1809, 749.1811, 749.1813, 749.1815, 749.1817, 749.1819, 749.1821, 749.1841, 749.1861, 749.1863, 749.1865, 749.1891, 749.1893, 749.1895, 749.1921, 749.1923, 749.1925, 749.1927, 749.1951, 749.1953, 749.1955, 749.1957, 749.1959, 749.1961, 749.2001, 749.2051, 749.2053, 749.2055, 749.2059, 749.2061, 749.2063, 749.2101, 749.2103, 749.2105, 749.2107, 749.2151, 749.2153, 749.2201, 749.2203, 749.2205, 749.2231, 749.2233, 749.2281, 749.2283, 749.2301, 749.2303, 749.2305, 749.2307, 749.2331, 749.2333, 749.2335, 749.2337, 749.2339, 749.2381, 749.2383, 749.2401, 749.2403, 749.2405, 749.2407, 749.2445, 749.2447, 749.2449, 749.2451, 749.2453, 749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497, 749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539, 749.2550, 749.2551, 749.2555, 749.2557, 749.2591, 749.2593, 749.2595, 749.2597, 749.2599, 749.2601, 749.2603, 749.2605, 749.2607, 749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635, 749.2651, 749.2653, 749.2655, 749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817, 749.2819, 749.2821, 749.2823, 749.2825, 749.2901 - 749.2905,

749.2907 - 749.2909, 749.2911, 749.2913, 749.2915, 749.2917, 749.2931, 749.2961, 749.2963, 749.2965, 749.2967, 749.3021, 749.3023, 749.3025, 749.3027, 749.3029, 749.3031, 749.3033, 749.3035, 749.3037, 749.3039, 749.3041, 749.3043, 749.3061, 749.3063, 749.3065, 749.3067, 749.3069, 749.3071, 749.3073, 749.3075, 749.3077, 749.3079, 749.3081, 749.3101, 749.3103, 749.3105, 749.3107, 749.3109, 749.3111, 749.3131, 749.3133, 749.3135, 749.3137, 749.3139, 749.3141, 749.3143, 749.3145, 749.3147, 749.3149, and 749.3151; and new §§749.801, 749.803, 749.805, 749.807, 749.821, 749.823, 749.825, 749.831, 749.901, 749.903, 749.905, 749.921, 749.923, 749.925, 749.927, 749.929, 749.931, 749.933, 749.935, 749.937, 749.951, 749.953, 749.955, 749.957, 749.959, 749.973, 749.975, 749.977, 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1031, 749.1033, 749.1035, 749.1037, 749.1051, 749.1053, 749.1061, 749.1063, 749.1065, 749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1201, 749.1203, 749.1205, 749.1207, 749.1209, 749.1211, 749.1213, 749.1215, 749.1217, 749.1231, 749.1233, 749.1235, 749.1237, 749.1251, 749.1253, 749.1301, 749.1303, 749.1305, 749.1307, 749.1401, 749.1403, 749.1405, 749.1407, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1419, 749.1421, 749.1423, 749.1501, 749.1503, 749.1505, 749.1601, 749.1603, 749.1605, 749.1607, 749.1621, 749.1623, 749.1625, 749.1631, 749.1633, and 749.1635.

BACKGROUND AND PURPOSE

The purpose of this proposal is to (1) comply with Texas Human Resources Code (HRC) §42.042(b); (2) implement an HHSC initiative for reasonable regulatory reform stemming from HRC §42.027, created by Senate Bill (SB) 593, 88th Legislature, Regular Session, 2023; and (3) implement House Bill (HB) 1403, 89th Legislature, Regular Session, 2025.

HRC §42.042(b) requires HHSC Child Care Regulation (CCR) to conduct a comprehensive review of minimum standards at least once every six years. SB 593 requires HHSC to contract with an independent entity to assess HHSC rules, minimum standards, Texas Department of Family and Protective Services contract requirements, and standards or oversight requirement prescribed by law.

The purpose of the comprehensive review is to (1) identify any minimum standards that need clarification and to make amendments; (2) identify any minimum standards that may not have the intended outcome and amend or repeal those identified; and (3) ensure that minimum standards are consistent with current research, best practices, and other guidelines. This is also the purpose of reasonable regulatory reform; however, reasonable regulatory reform also identified opportunities to eliminate requirements that were outdated, redundant, or unnecessarily burdensome to providers and HHSC staff, while streamlining and improving requirements that are necessary to protect the health, safety, and well-being of children in foster care.

The purpose of HB 1403 is to ensure the confidentiality of foster homes related to firearms. HB 1403 prohibits HHSC or a child-placing agency (CPA) from requiring a foster home to (1) disclose the specific types of firearms that are present in the home; or (2) notify the CPA if there is any change in the types of firearms present in the home.

Additionally, the rules have been written in plain language to improve understanding and effectiveness of the rules.

SECTION-BY-SECTION SUMMARY

The proposed repeal of Subchapter F, Training and Professional Development, consisting of §§749.801, 749.811, 749.813, 749.831, 749.833, 749.861, 749.863 - 749.865, 749.867 - 749.869, 749.881 - 749.883, 749.885, 749.887, 749.889, 749.911, 749.913, 749.915, 749.930, 749.931 - 749.933, 749.935, 749.937, 749.939, 749.941, 749.943, 749.944, 749.945, 749.947, and 749.949, deletes the subchapter and the rules it contains as the requirements have been consolidated into a new Subchapter F, Training Requirements.

Proposed new Subchapter F, Training Requirements, establishes training requirements for caregivers and employees.

Proposed new Division 1, Caregiver Training Requirements, in Subchapter F, establishes the training requirements that apply to caregivers.

Proposed new §749.801, Caregiver Pre-Verification Requirements, establishes the training requirements each caregiver must complete before a CPA can verify the foster home.

Proposed new §749.803, General Caregiver Training Requirements, establishes the general training requirements that at least one foster parent must complete before the CPA places a child in care in the foster home. The rule also establishes the training requirements and timeframe for completion for other caregivers in the foster home and allows the CPA to determine if emergency behavior intervention training is necessary based on the ages of the children in care of the home and the types of services provided.

Proposed new §749.805, Pediatric First Aid and Pediatric Cardiopulmonary Resuscitation (CPR) Requirements, requires one foster parent to be certified in pediatric first aid and pediatric CPR before the home's verification. The rule requires other caregivers to be certified within 90 days after the CPA issues the home's verification. The rule clarifies that the training must (1) include training related to rescue breathing and choking, and (2) adhere to guidelines for CPR established by the American Heart Association.

Proposed new §749.807, Additional Caregiver Training Requirements, establishes the additional training requirements for caregivers. The rule requires the CPA to evaluate the foster home for concerns at least once every year. If the CPA identifies concerns, the rule requires the CPA to provide all caregivers in the home with additional training appropriate to the identified concerns. The rule also requires the CPA to provide at least one hour of annual training to each foster parent who provides care to a child in care receiving treatment services.

Proposed new Division 2, Employee Training Requirements, in Subchapter F, establishes the training requirements that apply to CPA employees.

Proposed new §749.821, Employee Orientation Requirements, establishes orientation requirements for employees. The rule requires each employee to have orientation before beginning job duties that includes (1) an overview of the minimum standards in Chapter 749; (2) the CPA's structure, policies, and services; and (3) the needs and characteristics of the children the CPA serves.

Proposed new §749.823, New Employee Training Requirements, establishes the general new employee training requirements and timeframes for completion. The rule requires that within 30 days after the employee's start date, CPA administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers complete training in normalcy, trauma informed care, preventing

the spread of communicable diseases, and emergency behavior intervention. The rule clarifies that there are certain exemptions for employees exclusively assigned responsibilities related to adoption services and employees exclusively assigned responsibilities related to the care of children in care receiving treatment services for primary medical needs. The rule requires employees defined as caregivers to obtain pediatric first aid and CPR training.

Proposed new §749.825, Employee Annual Training Requirements, establishes the annual employee training requirements. The rule requires child placement staff, child placement management staff, executive director, treatment directors, and CPA administrators to complete at least 15 hours of annual training. The rule specifies that at least one hour of the 15 required hours must cover prevention, recognition, and reporting of child abuse, neglect, and exploitation. The rule allows for a CPA to establish the method the CPA will use to track annual training.

Proposed new Division 3, Employee and Caregiver Training Documentation Requirements, in Subchapter F, contains requirements for documenting caregiver and employee training.

Proposed new §749.831, Employee and Caregiver Documentation of Required Trainings, establishes documentation requirements for caregiver and employee trainings. The rule requires the CPA to document if a training requirement is waived and how the CPA determined waiving the requirement was appropriate. It also requires that training certificates for pediatric first aid and pediatric CPR have an expiration date and be renewed before the expiration date.

The proposed repeal of Subchapter G, Children's Rights, consisting of 749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, and 749.1021, deletes the subchapter and the rules it contains as the requirements have been consolidated into new Subchapter L, Child Rights.

Proposed new Subchapter G, Foster Home Screenings and Verifications, establishes requirements for screening and verifying a foster home.

Proposed new Division 1, Foster Home Screenings, in Subchapter G, contains rules relating to the requirements for foster home screenings.

Proposed new §749.901, Foster Home Screenings, describes the specific categories of information the CPA must obtain, discuss, assess, and document through interviews with each prospective foster parent, joint interviews with prospective foster parents, and reference checks required in proposed new §749.903. The rule also requires a CPA to report any information obtained about domestic violence to CCR.

Proposed new §749.903, Required Interviews and Reference Checks, establishes the required interviews and reference checks that must be completed when a CPA conducts a home screening. The rule allows CPAs to skip certain interviews after showing they attempted to contact the individual at least three separate times.

Proposed new §749.905, Home Screening Documentation Requirements, establishes the documentation requirements for a home screening.

Proposed new Division 2, Foster Home Verification, in Subchapter G, establishes the requirements to verify a foster home.

Proposed new §749.921, General Requirements, establishes the general requirements for a foster home verification. The rule (1) requires foster parents to be at least 18 years old; (2) establishes circumstances when a CPA can verify an individual spouse as a foster parent; and (3) prohibits a foster home from being verified by more than one CPA at a time for foster care services.

Proposed new §749.923, Verifying a Foster Home, establishes steps the CPA takes to complete a foster home verification, including documentation requirements, interviews, and inspections. The rule also requires the CPA to obtain approval from the child placement management staff for the home screening and verification.

Proposed new §749.925, Temporary Foster Home Verifications, establishes requirements for a CPA to issue a temporary foster home verification.

Proposed new §749.927, Provisional Verifications, establishes requirements for a CPA to issue a provisional foster home verification.

Proposed new §749.929, Previously Verified Foster Homes, establishes requirements for working with foster homes that were previously verified by or transferring from another CPA.

Proposed new §749.931, Releasing Information About a Previously Verified Foster Home, establishes requirements for releasing information about a previously verified foster home. The rule requires a CPA to release background information about current and previous foster homes to other CPAs and independent contractors who are hired or required by the court.

Proposed new §749.933, Foster Home Verification Changes, establishes requirements for changing the verification status of a foster home. The rule (1) describes changes a CPA must inform CCR about within two business days; (2) requires that child placement management staff ensure that any additional services offered by a foster home do not create a conflict of care with children currently in the home; and (3) requires background checks and impact analysis when a foster home adds a new, unrelated household member.

Proposed new §749.935, Foster Homes that Provide Day Care, establishes requirements for foster homes that also provide day care.

Proposed new §749.937, Transferring or Closing a Foster Home, establishes the criteria for a transfer or closing summary for a foster home, including details for the summary and timeframes for completion.

Proposed new Division 3, Capacity and Supervision, in Subchapter G, establishes capacity limits for a foster home and supervision requirements.

Proposed new §749.951, Capacity and Child/Caregiver Ratio, establishes capacity limits for a foster home and the criteria a CPA must assess and document when determining a foster home's capacity.

Proposed new §749.953, Expanding Capacity of a Foster Home, establishes requirements for a CPA to approve a capacity of seven or eight children for a foster home.

Proposed new §749.955, Supervision, establishes supervision requirements at a foster home. The rule outlines the factors the CPA must consider when determining supervision needs for each child in care. The rule also addresses the caregiver's re-

sponsibilities and the information a caregiver must have when a child in care participates in an unsupervised childhood activity.

Proposed new §749.957, Supervision with Video Cameras, establishes the circumstances under which video cameras may be used for supervision.

Proposed new §749.959, Transitional Living Program Supervision, establishes supervision requirements for a transitional living program.

Proposed new Division 4, Babysitting, Overnight Care, and Respite Care, in Subchapter G, establishes requirements for babysitters, overnight care, and respite care providers.

Proposed new §749.973, Children in Care as Babysitters, establishes requirements for when a child, including a child in care, may act as a babysitter.

Proposed new §749.975, Respite Child-Care Services, establishes requirements for respite care services.

Proposed §749.977, Information Sharing with Babysitter, Overnight Care Provider, or Respite Care Providers, establishes the information that a CPA must share with a babysitter or provider.

The proposed repeal of Subchapter H, Foster Care Services: Admission and Placement, consisting of 749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115, 749.1131, 749.1133, 749.1135, 749.1137, 749.1151, 749.1153, 749.1155, 749.1181, 749.1183, 749.1185, 749.1187, 749.1189, 749.1251, 749.1253, 749.1255, 749.1281, and 749.1291, deletes the subchapter and the rules it contains as the requirements have been consolidated into new Subchapter J, Admission and Placement.

Proposed new Subchapter H, Health and Safety Requirements, contains rules relating to health and safety, environment, space, and equipment in foster homes.

Proposed new Division 1, Physical Environment Safety, in Subchapter H, establishes requirements for the foster home's physical environment, fire and health inspections, emergency plans, animals, tobacco use, nutrition, and transportation.

Proposed new §749.1001, Physical Environment of a Foster Home, establishes requirements related to the safety of indoor and outdoor space and equipment. The rule requires the home to ensure that indoor and outdoor space and equipment does not pose a safety risk to a child in care. The rule also includes supervision requirements to prevent a child in care from having access to space or equipment that poses a safety risk to a child in care.

Proposed new §749.1003, Health Inspections, establishes requirements for health inspections or evaluations at a foster home. The rule describes who must conduct the inspection or evaluation and requires a home to correct deficiencies and comply with any conditions or restrictions.

Proposed new §749.1005, Fire Inspections, establishes requirements for fire inspections or evaluations at a foster home. The rule describes who must conduct the inspection or evaluation and requires a home to correct deficiencies and comply with any conditions or restrictions.

Proposed new §749.1007, Fire Safety, establishes fire safety requirements. The rule includes the places in a foster home where there must be a working smoke detector; a requirement for the home to have at least one non-expired and operational fire ex-

tinguisher that is accessible in an emergency; and that the home must ensure that exits to the home are not blocked.

Proposed new §749.1009, Emergency Plans, establishes requirements for a written plan that a foster home must have for handling potential disasters and emergencies, including fire and severe weather. The rule requires the CPA that verified the home to annually review and evaluate the plan with all caregivers and children in the care of the home.

Proposed new §749.1011, Animals, requires that any animals at a foster home do not pose a health or safety threat to children in care and that all pets are vaccinated according to state law against diseases that can transmit to humans.

Proposed new §749.1013, Tobacco and E-Cigarette Use, prohibits household members and visitors from smoking tobacco products, e-cigarettes, or vaporizers in the presence of children in care and inside the foster home or motor vehicle.

Proposed new §749.1015, Nutrition and Food Safety, establishes requirements for food and food safety at a foster home, including that (1) caregivers provide children in care with drinking water and food that is served in a safe and sanitary manner; and (2) all food items are stored in a manner that protects them from contamination, spoiling, insects, and rodents.

Proposed new §749.1017, Transportation, establishes requirements for transporting a child in care. The rule requires caregivers to (1) secure safe and reliable transportation; (2) make special provisions for transporting children in care who are non-ambulatory or non-mobile; and (3) secure each child in care in a safety seat or safety belt appropriate to their age, height, and weight.

Proposed new §749.1019, Documentation of Health and Safety Requirements, establishes health and safety requirements a CPA must document in a foster home's record.

Proposed new Division 2, Weapons, Firearms, Explosive Materials, and Projectiles, in Subchapter H, contains rules related to the use and presence of weapons, firearms, explosive materials, and projectiles.

Proposed new §749.1031, Weapons, Firearms, Explosive Materials, and Projectiles in a Foster Home, establishes requirements related to weapons, firearms, explosive materials, and projectiles in a foster home. The rule (1) requires each CPA to have a policy identifying specific precautions to ensure a child in care does not have unsupervised access to these items; and (2) requires the CPA to determine whether it is appropriate for a specific child in care to use a weapon, firearm, explosive material, or projectile or to use a toy that explodes or shoots.

Proposed new §749.1033, Storage of Weapons, Firearms, Explosive Materials, or Projectiles in a Foster Home, establishes factors the CPA must consider when determining if a weapon, firearm, explosive material, or projectile is stored adequately in a foster home. The rule specifies that a CPA may not require a foster home to disclose the specific types of firearms that are stored or otherwise present in the foster home, nor may a CPA require a foster home to notify the CPA if there is any change in the types of firearms present in the home. The rule exempts firearms that are inoperable and solely ornamental from storage requirements.

Proposed new §749.1035, Determining if Weapons, Firearms, Explosive Materials, or Projectiles are Present in a Foster Home, establishes how a CPA determines if weapons, firearms, ex-

plosive materials, and projectiles are present at a foster home. The rule requires the CPA to assess this information during the home screening and document (1) whether weapons, firearms, explosive materials, or projectiles are present in the home; and (2) specific precautions the caregiver must take to ensure that the children in care do not have unsupervised access. The rule specifies that a CPA may not require a foster home to disclose the specific types of firearms that are stored or otherwise present in the home or to notify the CPA if there is any change in the types of firearms present in the home. The rule further requires the CPA to discuss these items with the foster home during the annual evaluation.

Proposed new §749.1037, Transporting a Child in Care in a Vehicle Where Firearms, Weapons, Explosive Materials, or Projectiles are Present, establishes requirements for transporting a child in care in a vehicle where firearms, explosive materials, or projectiles are present. Due to the statutory requirements in HRC §42.042(e-2), the rule addresses requirements related to transporting a child in care in a vehicle where a handgun is present separately from the requirements related to transporting a child in care in a vehicle where another type of firearm or an explosive material or projectile is present.

Proposed new Division 3, Sleeping Space and Bathroom Requirements, in Subchapter H, contains rules relating to space and bathrooms.

Proposed new §749.1051, Indoor Space: Sleeping Spaces and Sleeping Surfaces, establishes requirements related to sleeping spaces and surfaces used by a child in care, as well as what CPMS must determine and document before approving a child in care to share a sleeping space or surface with another individual.

Proposed new §749.1053, Indoor Space: Bathrooms, describes bathroom requirements for a foster home.

Proposed new Division 4, Pools and Water Activities, in Subchapter H, contains rules relating to swimming pools and water activities.

Proposed new §749.1061, Water Safety: Pools, Hot Tubs, and Bodies of Water, establishes general safety rules for swimming pools, hot tubs, and bodies of water, including barriers and locks.

Proposed new §749.1063, Swimming Supervision, establishes supervision requirements for swimming activities.

Proposed new §749.1065, Swimming Ratios, establishes child-to-caregiver ratios when children in care are swimming.

The proposed repeal of Subchapter I, Foster Care Services: Service Planning, Discharge, consisting of 749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323, 749.1331, 749.1333, 749.1335 - 749.1337, 749.1339, 749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, and 749.1377, deletes the subchapter and the rules it contains as the requirements have been consolidated into new Subchapter K, Service Planning and Discharge.

Proposed new Subchapter I, Foster Home Management and Evaluation, establishes requirements for ongoing management and evaluation of foster homes.

Proposed new §749.1101, Foster Home Verification Change Management, requires a new or temporary verification to be issued to a foster home that experiences a change that invalidates the home's verification. The rule clarifies what changes automatically invalidate a home's verification.

Proposed new §749.1103, Foster Home Compliance Evaluation, establishes what a CPA evaluates to assess a foster home's ongoing compliance. The rule establishes the steps a CPA must take if a deficiency is noted during an evaluation.

Proposed new §749.1105, Foster Home Supervisory Visits, establishes the requirements for supervisory visits to a foster home, including how often the supervisory visits must be completed, who must be present, and what must be evaluated.

Proposed new §749.1107, Inactive Foster Homes, establishes requirements for foster homes to be placed on inactive status and requirements to become active again.

Proposed new §749.1109, Ongoing Monitoring Documentation Requirements, establishes documentation requirements for the ongoing monitoring of a foster home. The rule specifies documentation requirements for when a CPA is evaluating the home for compliance or completing a supervisory visit and when a home is placed on or removed from inactive status.

The proposed repeal of Subchapter J, Foster Care Services: Medical and Dental, consisting of 749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437, 749.1461, 749.1463, 749.1469, 749.1501, 749.1503, 749.1521, 749.1541, 749.1543, 749.1545, 749.1561, 749.1563, 749.1565, 749.1581, 749.1583, 749.1603, 749.1605, 749.1607, 749.1609, 749.1611, 749.1641, 749.1643, 749.1645, 749.1647, 749.1671, 749.1673, and 749.1675, deletes the subchapter and the rules it contains as the requirements have been consolidated into new Subchapter M, Medical and Dental Requirements.

Proposed new Subchapter J, Admission and Placement, establishes requirements for admission and placement.

Proposed new §749.1201, Admission Criteria, establishes that a CPA may admit a child or young adult into care who meets the CPA's admission policy.

Proposed new §749.1203, Initial Requirements at the Time of Admission or Verification, establishes the initial admission information that a CPA must attempt to obtain when admitting a child into the care of a foster home. It requires the CPA to provide the prospective caregivers with the initial admission information within 24 hours after the date of admission.

Proposed new §749.1205, Admission Assessment, establishes the information that a CPA must obtain when completing the admission assessment. The rule requires the admission assessment to be complete within 15 days after the date of a child's admission and requires the admission assessment to be provided to the caregivers and professional service providers within five days after the assessment is completed. The rule also establishes additional admission assessment criteria for children in care who receive treatment services for primary medical needs.

Proposed new §749.1207, Admission Orientation Requirements, requires the CPA to provide orientation to each child five years of age or older in care within seven days of admission. The rule requires orientation to include information about the CPA's child-care policies.

Proposed new §749.1209, Placement Agreement, establishes requirements for the placement agreement. The rule requires the placement agreement to define the CPA's roles and responsibilities and authorizes the CPA to obtain or provide services for the child in care.

Proposed new §749.1211, Pre-Placement Requirements, establishes requirements the CPA must complete with the child in care before placing the child in a foster home: (1) discuss the reason for the placement with the child in care; (2) visit the foster home at least once if the child in care is over six months old; (3) observe the interactions between the child in care and household members; and (4) meet privately and separately with the child in care and foster parents to discuss placement after the visit.

Proposed new §749.1213, Post-Placement Contacts, requires the CPA staff to have monthly in-person visits with the child in care. The rule requires that this visit must occur in the foster home every other month and establishes what must take place during the visit.

Proposed new §749.1215, Ongoing Placement of Young Adults, establishes requirements for young adults to remain in care at a foster home.

Proposed new §749.1217, Admission and Placement Information Documentation, establishes documentation requirements for admission and placement of children into the care of a foster home.

Proposed new Subchapter K, Service Planning and Discharge, establishes requirements related to service planning and discharge.

Proposed new Division 1, Service Planning, establishes requirements related to service planning.

Proposed new §749.1231, General Service Plan Requirements, establishes the general requirements for a service plan. The rule allows the CPA to use the child's most recent service plan developed by the agency that referred the child for placement, or for the CPA to complete a service plan and subsequent reviews.

Proposed new §749.1233, Initial Service Plan Requirements, establishes requirements for the service planning team to complete an initial service plan, including the specific needs that must be identified and addressed. The rule has additional requirements for children in care that receive treatment services. The rule requires the initial service plan to be completed within 60 days after the child is admitted into care and reviewed at least every 180 days after the date of the last service plan.

Proposed new §749.1235, Service Plan Requirements for Children in Care Receiving Treatment Services, requires the CPA to obtain a psychosocial assessment, or equivalent assessment or evaluation, for each child in care receiving treatment services for emotional disorders, autism spectrum disorders, or intellectual disabilities. The rule establishes a timeframe for the assessment to be completed.

Proposed new §749.1237, Service Plan Documentation Requirements, establishes the documentation requirements for the service plan and psychosocial assessment.

Proposed new Division 2, Discharge and Transfer Planning, in Subchapter K, establishes requirements related to discharge and transfer for a child in care.

Proposed new §749.1251, Discharge and Transfer Requirements, establishes requirements for discharging or transferring a child in care. The rule establishes who a child in care can be discharged to and the information that must be shared with that individual and outlines the CPA's responsibilities for discharging or transferring a child in care, including the requirements for a discharge or transfer summary.

Proposed new §749.1253, Discharge and Transfer Documentation Requirements, establishes what the CPA must document when completing a discharge or transfer.

The proposed repeal of Subchapter K, Foster Care Services: Daily Care, Problem Management, deletes the subchapter and the rules it contains as the requirements have been consolidated into proposed new Subchapter M, Daily Care, Education, and Discipline.

Proposed new Subchapter L, Child Rights, consisting of §§749.1301, 749.1303, 749.1305, and 749.1307, establishes the rights guaranteed to children in care and the CPA's responsibilities for ensuring the rights of a child in care are not violated.

Proposed new §749.1301, Child-Placing Agency Responsibilities Related to Child Rights, establishes the CPA's responsibilities related to child rights for a child in care. The rule requires the CPA to (1) protect rights of a child in care; (2) remove a child in care from situations where abuse, neglect, or exploitation exists; (3) review the child's rights with the child in care and the child's parent; and (4) ensure child's rights are written in plain language that can be understood by the individual they are reviewed with.

Proposed new §749.1303, Child Rights, establishes the child's rights that a CPA must adhere to: (1) safety and care; (2) family contacts; (3) living a normal life; (4) discipline; (5) plans for the child while in care of the CPA; (6) medical care and records; and (7) making complaints.

Proposed new §749.1305, Conducting Searches for Items that Endanger a Child's Safety, establishes requirements for an employee or caregiver conducting searches for items that endanger the safety of a child in care. The rule specifies when a search can be conducted, who can conduct the search, and prohibits body cavity searches.

Proposed new §749.1307, Child Rights Documentation Requirements, establishes documentation requirements for review of a child's rights, plans for contact between a child in care and the family of the child in care, and the results of specific searches involving a child in care.

The proposed repeal of Subchapter L, Foster Care Services: Emergency Behavior Intervention, consisting of 749.2001, 749.2051, 749.2053, 749.2055, 749.2059, 749.2061, 749.2063, 749.2101, 749.2103, 749.2105, 749.2107, 749.2151, 749.2153, 749.2201, 749.2203, 749.2205, 749.2231, 749.2233, 749.2281, 749.2283, 749.2301, 749.2303, 749.2305, 749.2307, 749.2331, 749.2333, 749.2335, 749.2337, 749.2339, 749.2381, and 749.2383, deletes the subchapter and the rules it contains as the requirements have been consolidated into proposed new Subchapter O, Emergency Behavior Intervention Requirements.

Proposed new subchapter M, Daily Care, Education, and Discipline, contains rules relating to the daily care, education, and discipline of children in care.

Proposed new §749.1401, Infants: Basic Care and Supervision, establishes basic care and supervision requirements for infants in a foster home. The rule establishes (1) that infants must receive individual and prompt attention; (2) environmental requirements, including (A) keeping the area free of harmful objects, including diaper changing items, and (B) ensuring electrical outlets are inaccessible; and (3) that an infant may never be left unsupervised. The rule defines infant supervision requirements and what is considered supervision for a sleeping infant and an awake infant.

Proposed new §749.1403, Infants: Cribs, establishes crib requirements for infants. The rule (1) requires a foster home to have an individual crib that meets certain requirements for an infant; (2) clarifies when the home may use a portable or mesh-side crib; (3) prohibits (A) using a stackable crib for an infant, and (B) leaving an infant in a portable crib or mesh-side crib with a side folded down; (4) clarifies that special items may be used to assist with safe sleep in a crib used by an infant with primary medical needs with the written recommendation from a health care professional; and (5) requires the CPA to notify the parent of each child in care of each foster home verified by the CPA if specific rules in the rule are cited as deficient.

Proposed new §749.1405, Infants: Safe Sleep Requirements, establishes safe sleep requirements for infants. The rule requires caregivers to (1) place an infant who is unable to roll over without help on the infant's back to sleep unless a health care professional orders otherwise; (2) ensure the infant's head, face, and crib are not covered by any item; (3) ensure the infant does not (A) co-sleep with an individual, or (B) sleep in a restrictive device, such as a car seat, swing, or highchair; and (4) ensure swaddling is only used for infants who cannot roll over without help. The rule requires the CPA to notify the parent of each child in care of each foster home verified by the CPA if specific rules in the rule are cited as deficient.

Proposed new §749.1407, Infants: Equipment Safety, establishes equipment safety requirements for infants.

Proposed new §749.1409, Infants: Feeding Requirements, establishes feeding requirements for infants. The rule requires caregivers to (1) feed an infant based on the recommendations of the infant's health-care professional; (2) hold infants birth through six months of age or unable to sit unassisted while feeding; (3) never prop a bottle with anything other than the infant's or adult's hands; and (4) sterilize shared bottles and clean highchair trays before each use when caring for more than one infant.

Proposed new §749.1411, Toddlers: Basic Care Requirements, establishes basic care requirements for toddlers. The rule includes (1) environmental requirements, including (A) keeping the area free of harmful objects, and (B) ensuring electrical outlets are inaccessible; and (2) supervision requirements, including (A) never leaving a toddler unsupervised, and (B) ensuring the toddler is within eyesight or hearing range. The rule allows for the use of video camera or audio monitoring if the caregiver is close enough to intervene as needed.

Proposed new §749.1413, Additional Requirements for Pregnant Children in Care, establishes additional requirements for children in care who are pregnant. The rule requires the CPA to ensure information, training, and counseling is available to the child in care.

Proposed new §749.1415, Additional Requirements for Children in Care Receiving Treatment Services for Primary Medical Needs or Intellectual Disabilities, establishes additional requirements for children in care receiving treatment services for primary medical needs or intellectual disabilities. The rule requires caregivers to (1) follow recommendations from the medical providers for a child in care; and (2) ensure that a child in care receiving treatment services for primary medical needs, or an intellectual disability, has opportunities for physical and sensory stimulation.

Proposed new §749.1417, Discipline and Punishment, establishes discipline and punishment requirements in a foster home.

The rule requires that (1) only a caregiver known to a child in care can discipline the child; and (2) all disciplinary measures be consistent with child's rights related to discipline and punishment.

Proposed new §749.1419, Normalcy and Reasonable and Prudent Parent Requirements, requires a foster parent use the reasonable and prudent parent standard to ensure a child in care can participate in childhood activities, including unsupervised activities, which are appropriate in relation to the age and developmental needs of the child in care.

Proposed new §749.1421, Educational Services: General, establishes general educational requirements for children in care. The rule requires the CPA to arrange appropriate education that includes an approved or accredited educational facility or program, and to advocate for a child in care to receive educational and related services to which they are entitled under federal and state law. The rule also requires the CPA to designate a liaison between the CPA and the school for a child in care who receives treatment services.

Proposed new §749.1423, Educational Services: Caregiver Responsibilities, establishes caregiver responsibilities related to education. The rule requires caregivers to (1) request educational meetings with the school if concerns are identified; (2) attend scheduled educational meetings and conferences; and (3) know what is in the Individual Education Plan or Individual Transitional Planning for a child in care.

The proposed repeal of Subchapter M, Foster Homes: Screenings and Verifications, consisting of 749.2401, 749.2403, 749.2405, 749.2407, 749.2445, 749.2447, 749.2449, 749.2451, 749.2453, 749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497, 749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539, 749.2550, 749.2551, 749.2555, 749.2557, 749.2591, 749.2593, 749.2595, 749.2597, 749.2599, 749.2601, 749.2603, 749.2605, 749.2607, 749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635, 749.2651, 749.2653, and 749.2655, deletes the subchapter and the rules it contains as the requirements have been consolidated into proposed new Subchapter G, Foster Home Screenings and Verifications.

Proposed new Subchapter N, Medical and Dental Requirements, establishes the requirements for the medical and dental care of a child in care.

Proposed new §749.1501, General Medical, Dental, and Medication Requirements, establishes medical, dental and medication requirements for children in care. The rule requires children in care to have (1) timely routine, emergency, and follow-up care; (2) verification of previous medical and dental exams at admission; and (3) medication administered only by an individual who is trained and authorized. The CPA must ensure caregivers follow orders and recommendations from physicians and other health-care professionals and store medication according to the label's instructions and inaccessible to children in care.

Proposed new §749.1503, Immunizations Requirements, requires the CPA to ensure each child in care meets applicable immunization requirements as specified by the Texas Department of State Health Services.

Proposed new §749.1505, Documentation Requirements for Medical and Dental Care, establishes the documentation re-

quirements for medical and dental care. The rule requires the CPA to maintain documentation of emergency medical and dental visits, immunizations, known contraindicated medications, and insertion of a nasogastric tubes. The rule also requires the foster home to maintain (1) a daily medication log for all prescription medications and any non-prescription medications administered to someone under the age of five, and (2) a record of all medication errors, adverse reactions, and side effects.

The proposed repeal of Subchapter N, Foster Homes: Management and Evaluation, consisting of 749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817, 749.2819, 749.2821, 749.2823, 749.2825, and 749.2901 - 749.2905, deletes the subchapter and the rules it contains as the requirements have been consolidated into proposed new Subchapter H, Health and Safety Requirements.

Proposed new Subchapter O, Emergency Behavior Intervention Requirements, establishes requirements for a CPA that allows the use of emergency behavior intervention (EBI).

Proposed new Division 1, Administering Emergency Behavior Intervention, in Subchapter O, establishes requirements for caregivers when administering EBI.

Proposed new §749.1601, Types of Emergency Behavior Intervention (EBI), establishes that a CPA must use a method of EBI that is recognized by CCR. The rule states that EBI may only be used in a situation when preventative de-escalation and redirection was not effective. The rule establishes when a caregiver can use personal restraints, short personal restraints, and emergency medication, and prohibits the use of chemical restraints, mechanical restraints, or seclusion.

Proposed new §749.1603, Administering Emergency Behavior Intervention (EBI) Requirements, requires that during a restraint the caregiver must (1) use the minimal amount of reasonable and necessary physical force, (2) protect the health, safety, and well-being of a child in care, and (3) explain to the child in care what the child needs to do to be released from the personal restraint or short personal restraint.

Proposed new §749.1605, Restraint Minimum Safety Requirements, establishes safety requirements for all personal and short personal restraints. The rule addresses breathing, positioning, and release requirements. The rule requires that the child in care be released after the danger is averted, when the external hazard is no longer present, or when the maximum timeframe is reached.

Proposed new §749.1607, Written Orders for Emergency Medication and Combinations of Emergency Behavior Intervention, establishes that a caregiver may not administer emergency medication or combinations of emergency behavior interventions to a child in care without a written order from a licensed physician or licensed psychiatrist. The rule states the written orders must be given to the parent and all the caregivers of a child in care.

Proposed new Division 2, Follow-Up Actions and Documentation, in Subchapter O, establishes follow-up actions and documentation that must be completed following the implementation of a personal restraint or use of emergency medication.

Proposed new §749.1621, Restraint and Emergency Medication Follow-Up Actions Requirements, establishes how a caregiver must monitor a child in care following use of a personal restraint or emergency medication. The rule establishes topics that must be discussed during the post-intervention discussion. The rule

also requires the caregiver to debrief with the child placement staff within 72 hours after the incident.

Proposed new §749.1623, Restraint and Emergency Medication Documentation Requirements, establishes the criteria that caregivers must document following the use of a personal restraint or emergency medication.

Proposed new §749.1625, Post-Restraint and Emergency Medication Parental Notification Requirements, requires a CPA to notify the parent of a child in care no later than 72 hours after a personal restraint or emergency medication is administered. The notification must be written and maintained in the record of the child in care. The rule establishes what must be included in the notice.

Proposed new Division 3, Triggered Reviews and Annual Operation Evaluation, in Subchapter O, establishes a CPA's responsibilities when completing a triggered review and annual review.

Proposed new §749.1631, Triggered Reviews General Requirements, requires a CPA to complete a triggered review of the placement, service plan, and orders or recommendations for EBI for a child in care based on how many times and how frequently the child in care is restrained. The rule establishes that after four triggered reviews in a 90-day period the child in care must be examined by a mental health professional and the CPA must follow the mental health professional's recommendations.

Proposed new §749.1633, Triggered Reviews Documentation Requirements, establishes documentation requirements when a triggered review is completed. The rule requires the documentation to be maintained in the record of the child in care.

Proposed new §749.1635, Annual Operation Evaluation, requires the CPA to conduct an annual operation evaluation to determine that EBI is administered safely, appropriately, and effectively. The rule establishes review and documentation requirements during the annual operation evaluation and reporting requirements to CCR.

The proposed repeal of Subchapter O, Foster Homes: Health and Safety Requirements, Environment, Space and Equipment, consisting of 749.2901 - 749.2905, 749.2907 - 749.2909, 749.2911, 749.2913, 749.2915, 749.2917, 749.2931, 749.2961, 749.2963, 749.2965, 749.2967, 749.3021, 749.3023, 749.3025, 749.3027, 749.3029, 749.3031, 749.3033, 749.3035, 749.3037, 749.3039, 749.3041, 749.3043, 749.3061, 749.3063, 749.3065, 749.3067, 749.3069, 749.3071, 749.3073, 749.3075, 749.3077, 749.3079, 749.3081, 749.3101, 749.3103, 749.3105, 749.3107, 749.3109, 749.3111, 749.3131, 749.3133, 749.3135, 749.3137, 749.3139, 749.3141, 749.3143, 749.3145, 749.3147, 749.3149, and 749.3151, deletes the subchapter and the rules it contains as the requirements have been consolidated into proposed new Subchapter H, Health and Safety Requirements.

FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new regulations;
- (6) the proposed rules will repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

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; do not impose a cost on regulated persons; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Rachel Ashworth-Mazerolle, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rules are in effect the public benefit will be (1) regulatory requirements that reflect current research, best practices, and guidelines around child safety and well-being, and confidentiality; (2) elimination of requirements that are outdated, redundant, or unnecessarily burdensome; (3) streamlined and improved requirements that are necessary to protect the health, safety and well-being of children; and (4) rules that comply with state law.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the rules do not impose fees and are an overall reduction in regulatory oversight and requirements.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail

Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R029" in the subject line.

SUBCHAPTER F. TRAINING AND PROFESSIONAL DEVELOPMENT

DIVISION 1. DEFINITIONS

26 TAC §749.801

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.801. What do certain words and terms mean in this subchapter?
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Karen Ray
Chief Counsel

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For further information, please call: (512) 438-3269



DIVISION 2. OVERVIEW OF TRAINING AND EXPERIENCE REQUIREMENTS

26 TAC §749.811, §749.813

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to

carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.811. What are the training and experience requirements for a caregiver?

§749.813. What are the training requirements for an employee?

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

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DIVISION 3. ORIENTATION

26 TAC §749.831, §749.833

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.831. What is the orientation requirement for caregivers and employees?

§749.833. When may a caregiver or employee be exempt from orientation?

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

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DIVISION 4. PRE-SERVICE EXPERIENCE AND TRAINING

26 TAC §§749.861, 749.863 - 749.865, 749.867 - 749.869

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.861. *What are the pre-service experience requirements for caregivers?*

§749.863. *What are the pre-service training requirements for a caregiver?*

§749.864. *What are the pre-service training requirements for an employee?*

§749.865. *Can time spent in orientation training count towards pre-service training?*

§749.867. *What caregivers or employees are exempt from certain pre-service training requirements?*

§749.868. *Can a child-placing agency waive pre-service training requirements for a foster parent?*

§749.869. *How must pre-service training be conducted?*

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

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DIVISION 5. CURRICULUM COMPONENTS FOR PRE-SERVICE TRAINING

26 TAC §§749.881 - 749.883, 749.885, 749.887, 749.889

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.881. *What curriculum components must be included in the general pre-service training?*

§749.882. *What curriculum components must be included in the pre-service training for normalcy?*

§749.883. *What curriculum components must be included in the pre-service training for safe sleeping?*

§749.885. *What curriculum components must be included in the pre-service training for administering psychotropic medication?*

§749.887. *If I do not allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?*

§749.889. *If I allow the use of emergency behavior intervention, what curriculum components must be included in the pre-service training for emergency behavior intervention?*

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DIVISION 6. PEDIATRIC FIRST AID AND PEDIATRIC CPR CERTIFICATION

26 TAC §§749.911, 749.913, 749.915

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.911. *Who must have pediatric first aid and pediatric CPR training?*

§749.913. *Are there any exemptions from pediatric first aid and pediatric CPR certification?*

§749.915. *What documentation must I maintain for pediatric first-aid and pediatric CPR certifications?*

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

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DIVISION 7. ANNUAL TRAINING

26 TAC §§749.930 - 749.933, 749.935, 749.937, 749.939

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.930. What are the annual training requirements for a caregiver?

§749.931. What are the annual training requirements for an employee?

§749.932. What exemptions or waivers may apply to the annual training requirements for a caregiver?

§749.933. When must an employee or caregiver complete the annual training?

§749.935. What types of hours or instruction can be used to complete the annual training requirements?

§749.937. Does Licensing approve training resources or trainers for annual training hours?

§749.939. How must annual training be conducted?

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

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DIVISION 8. TOPICS AND CURRICULUM COMPONENTS FOR ANNUAL TRAINING

26 TAC §§749.941, 749.943 - 749.945, 749.947, 749.949

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.941. What areas or topics are appropriate for annual training?

§749.943. What curriculum components must be included in the annual training for normalcy?

§749.944. What curriculum components must be included in the annual training for employees on the prevention, recognition, and reporting of child abuse, neglect, and exploitation?

§749.945. What curriculum components must be included in the annual training for administering psychotropic medication?

§749.947. What curriculum components must be included in the annual training for emergency behavior intervention?

§749.949. What documentation must I maintain for annual training?

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

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SUBCHAPTER G. CHILDREN'S RIGHTS

26 TAC §§749.1001, 749.1003, 749.1005, 749.1007, 749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019, 749.1021

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1001. How must I protect the rights of children served by my child-placing agency?

§749.1003. What rights does a child in care have?

§749.1005. How must I inform a child and the child's parents of their rights?

§749.1007. What are a child's rights regarding education?

§749.1009. What right does a child have regarding contact with a parent?

§749.1011. *What right does a child have regarding contact with siblings?*

§749.1013. *What right to privacy does a child have with respect to his contact with others?*

§749.1015. *Under what circumstances may I conduct a search for prohibited items or items that endanger a child's safety?*

§749.1017. *May a caregiver conduct a body cavity search of a child in care?*

§749.1019. *What must a caregiver document regarding a search?*

§749.1021. *What techniques am I prohibited from using on a child?*

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

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SUBCHAPTER H. FOSTER CARE SERVICES:

ADMISSION AND PLACEMENT

DIVISION 1. ADMISSIONS

26 TAC §§749.1101, 749.1103, 749.1105, 749.1107, 749.1109, 749.1111, 749.1113, 749.1115

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1101. *Who may I admit?*

§749.1103. *After a child in my care turns 18 years old, may the person remain in my care?*

§749.1105. *May I admit a young adult into care?*

§749.1107. *What information must I document in the child's record at the time of admission?*

§749.1109. *What is a placement agreement?*

§749.1111. *What orientation must I provide a child?*

§749.1113. *What information must I share with the parent at the time of placement?*

§749.1115. *What information must I provide caregivers when I admit a child?*

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

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DIVISION 2. ADMISSION ASSESSMENT

26 TAC §§749.1131, 749.1133, 749.1135, 749.1137

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1131. *When must I complete the admission assessment?*

§749.1133. *What information must an admission assessment include?*

§749.1135. *What are the additional admission assessment requirements when I admit a child for treatment services?*

§749.1137. *What if I cannot obtain the required information for an admission assessment?*

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

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DIVISION 3. REQUIRED ADMISSION INFORMATION

26 TAC §§749.1151, 749.1153, 749.1155

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to

carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1151. *What are the medical requirements when I admit a child into care?*

§749.1153. *What are the dental requirements when I admit a child into care?*

§749.1155. *What must I document when I re-admit a child for care?*

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

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DIVISION 4. EMERGENCY ADMISSION

26 TAC §§749.1181, 749.1183, 749.1185, 749.1187, 749.1189

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1181. *For which of my programs may I accept emergency admissions?*

§749.1183. *What constitutes an emergency admission to my child-placing agency?*

§749.1185. *May I take possession of a child from a law enforcement officer?*

§749.1187. *For an emergency admission, when must I complete all of the requirements for an admission assessment?*

§749.1189. *At the time of an emergency admission, what information must I document in the child's record?*

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

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DIVISION 5. FOSTER CARE PLACEMENT

26 TAC §§749.1251, 749.1253, 749.1255

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1251. *What are the requirements for pre-placement visits for a child?*

§749.1253. *What must staff do to prepare a child for a placement?*

§749.1255. *What information from an admission assessment must I share with the caregivers responsible for the child's care?*

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

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DIVISION 6. SUBSEQUENT PLACEMENT

26 TAC §749.1281

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.1281. *What are the requirements when I move a child from one foster home to another?*

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

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Karen Ray

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Health and Human Services Commission

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For further information, please call: (512) 438-3269



DIVISION 7. POST-PLACEMENT CONTACT

26 TAC §749.1291

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.1291. What are the requirements for contact between child placement staff and children in foster care?

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

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SUBCHAPTER I. FOSTER CARE SERVICES: SERVICE PLANNING, DISCHARGE

DIVISION 1. SERVICE PLANS

26 TAC §§749.1301, 749.1305, 749.1307, 749.1309, 749.1311 - 749.1313, 749.1315, 749.1317, 749.1319, 749.1321, 749.1323

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and

Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1301. What are the requirements for a preliminary service plan?

§749.1305. Who must be involved in developing the preliminary service plan?

§749.1307. When must I complete an initial service plan?

§749.1309. What must a child's initial service plan include?

§749.1311. Who must be involved in developing an initial service plan?

§749.1312. Can the service planning team discuss and develop a child's service plan in separate meetings?

§749.1313. When must I inform the child's parents and foster parents of an initial service plan meeting?

§749.1315. Must a professional service provider or a professional who must participate in a child's service plan be an employee of my agency?

§749.1317. What roles do professional service providers have in service planning?

§749.1319. What must I document regarding a professional service provider's participation in the development of an initial service plan?

§749.1321. With whom do I share the initial service plan?

§749.1323. When must I implement a service plan?

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

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DIVISION 2. SERVICE PLAN REVIEW AND UPDATES

26 TAC §§749.1331, 749.1333, 749.1335 - 749.1337, 749.1339

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1331. *How often must I review and update a service plan?*
§749.1333. *How does a child's transfer affect the timing of the review of the child's service plan?*
§749.1335. *How do I review and update a service plan?*
§749.1336. *Can the child-placing agency continue to review and update a child's previous service plan without creating a new service plan?*
§749.1337. *Are the notification, participation, implementation, and documentation requirements for a service plan review and update the same as for an initial service plan?*

§749.1339. *How often must I re-evaluate the intellectual functioning of a child receiving treatment services for intellectual disabilities?*

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

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DIVISION 3. DISCHARGE AND TRANSFER PLANNING

26 TAC §§749.1361, 749.1363, 749.1365, 749.1367, 749.1369, 749.1371, 749.1373, 749.1377

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1361. *What does a "transfer" of a child in care mean?*

§749.1363. *Who must plan a child's non-emergency discharge or transfer?*

§749.1365. *May a foster home release a child to any person without my consent?*

§749.1367. *To whom can I discharge a child in a non-emergency situation?*

§749.1369. *How do I discharge or transfer a child who is an immediate danger to self or others?*

§749.1371. *What must I document in the child's record at the time of a discharge or transfer?*

§749.1373. *When I discharge a child, what information must I provide to the next placement or caregiver?*

§749.1377. *What constitutes an emergency discharge or transfer?*

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

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SUBCHAPTER J. FOSTER CARE SERVICES: MEDICAL AND DENTAL

DIVISION 1. MEDICAL AND DENTAL CARE

26 TAC §§749.1401, 749.1403, 749.1405, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1421, 749.1423, 749.1425, 749.1427, 749.1429, 749.1431, 749.1433, 749.1435, 749.1437

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1401. *What general medical requirements must my agency meet?*

§749.1403. *Who determines the need and frequency for ongoing maintenance of medical care and treatment for a child?*

§749.1405. *Who must perform medical care examinations and provide medical treatment for a child?*

§749.1409. *What general dental requirements must my agency meet?*

§749.1411. *Who must determine the frequency and need for ongoing maintenance of dental health for a child?*

§749.1413. *Who must perform dental examinations and provide dental treatment?*

§749.1415. *What health precautions must I take if a person in care, employee, caregiver, someone else in one of my foster homes, or someone else in my agency has a communicable disease?*

§749.1417. *Who must have a tuberculosis (TB) examination?*

§749.1421. *What immunizations must a child in my care have?*

§749.1423. *What exemptions or exceptions are there concerning immunization requirements?*

§749.1425. *What documentation is acceptable for an immunization record?*

§749.1427. *Must children in my care have a vision and hearing screening?*

§749.1429. *What must I do if a child in my care is identified as needing a diagnostic vision or hearing examination?*

§749.1431. *What special equipment must I provide for a child with a physical disability?*

§749.1433. *How often must the physician review a child's primary medical needs?*

§749.1435. *What are the requirements for using a nasogastric tube?*

§749.1437. *How must a caregiver respond when a child is injured or ill and requires immediate treatment by a health-care professional?*

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

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DIVISION 2. ADMINISTRATION OF MEDICATION

26 TAC §§749.1461, 749.1463, 749.1469

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1461. *What consent must I obtain to administer medications?*

§749.1463. *What are the requirements for administering prescription medication?*

§749.1469. *What are the requirements for administering non-prescription medication and supplements?*

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

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DIVISION 3. SELF-ADMINISTRATION OF MEDICATION

26 TAC §749.1501, §749.1503

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1501. *What are the requirements for a self-medication program?*

§749.1503. *Who must record the medication dosage if the child is on a self-medication program?*

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

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DIVISION 4. MEDICATION STORAGE AND DESTRUCTION

26 TAC §749.1521

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.1521. *What medication storage and destruction requirements must a foster home meet?*

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DIVISION 5. MEDICATION RECORDS

26 TAC §§749.1541, 749.1543, 749.1545

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1541. What records must caregivers maintain for each child receiving medication?

§749.1543. Where must a child's medication records be maintained?

§749.1545. What other requirements must I meet regarding medication records?

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

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DIVISION 6. MEDICATION AND LABEL ERRORS

26 TAC §§749.1561, 749.1563, 749.1565

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1561. What is a medication error?

§749.1563. What must a caregiver do if the caregiver finds a medication error?

§749.1565. What must a caregiver do if the caregiver finds a medication label error?

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

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DIVISION 7. SIDE EFFECTS AND ADVERSE REACTIONS TO MEDICATION

26 TAC §§749.1581, §749.1583

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1581. What must a caregiver do if a child has an adverse reaction to a medication?

§749.1583. What must a caregiver do if a child experiences side effects from any medications?

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

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DIVISION 8. USE OF PSYCHOTROPIC MEDICATION

26 TAC §§749.1603, 749.1605, 749.1607, 749.1609, 749.1611

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1603. *If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give consent before requesting his consent for the child to be placed on psychotropic medication?*

§749.1605. *If my agency does not employ or contract with the health-care professional who prescribes psychotropic medications to a child in care, what information must I provide the person legally authorized to give medical consent prior to the health-care professional prescribing psychotropic medications to a child in care?*

§749.1607. *What are the requirements if a physician orders administration of a psychotropic medication to a child in an emergency?*

§749.1609. *What information must be documented about a child's use of psychotropic medication?*

§749.1611. *If my agency employs or contracts with a health-care professional who prescribes psychotropic medications to a child in care, what are the requirements for evaluating whether a child should continue taking a psychotropic medication?*

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

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DIVISION 9. PROTECTIVE DEVICES

26 TAC §§749.1641, 749.1643, 749.1645, 749.1647

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1641. *What is a protective device?*

§749.1643. *What does "involuntary self-injurious behavior" mean when used in this division?*

§749.1645. *May I use protective devices?*

§749.1647. *Who may use PRN orders with respect to protective devices?*

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

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DIVISION 10. SUPPORTIVE DEVICES

26 TAC §§749.1671, 749.1673, 749.1675

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1671. *What is a supportive device?*

§749.1673. *May I use supportive devices?*

§749.1675. *Who may use PRN orders with respect to supportive devices?*

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

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SUBCHAPTER K. FOSTER CARE SERVICES:
DAILY CARE, PROBLEM MANAGEMENT
DIVISION 1. ADDITIONAL REQUIREMENTS
FOR INFANT CARE

26 TAC §§749.1801, 749.1803, 749.1805, 749.1807,
749.1809, 749.1811, 749.1813, 749.1815, 749.1817, 749.1819,
749.1821

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

- §749.1801. *What do certain words mean in this division?*
§749.1803. *What are the basic care requirements for an infant?*
§749.1805. *What furnishings and equipment must I have in an infant care area?*
§749.1807. *What specific safety requirements must my cribs meet?*
§749.1809. *Are mesh cribs or port-a-cribs allowed?*
§749.1811. *What equipment must have safety straps before I can use it with an infant?*
§749.1813. *What types of equipment may a foster home not use with infants?*
§749.1815. *What are the specific sleeping requirements for infants?*
§749.1817. *May I allow an infant to sleep in a restrictive device?*
§749.1819. *What are the specific requirements for feeding an infant?*
§749.1821. *May I swaddle an infant to help the infant sleep?*

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DIVISION 2. ADDITIONAL REQUIREMENTS
FOR TODDLER CARE

26 TAC §749.1841

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of

services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.1841. *What are the basic care requirements for a toddler?*

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DIVISION 3. ADDITIONAL REQUIREMENTS
FOR PREGNANT CHILDREN

26 TAC §§749.1861, 749.1863, 749.1865

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1861. *What information must I provide a pregnant child regarding her pregnancy?*

§749.1863. *Is the use of emergency behavior intervention of a pregnant child permitted in a foster home?*

§749.1865. *If my policies permit the admission of adolescent parents with their child(ren), who is responsible for the care of an adolescent's child?*

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DIVISION 4. EDUCATIONAL SERVICES

26 TAC §§749.1891, 749.1893, 749.1895

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1891. What responsibilities do I have for the education of a child in care?

§749.1893. What responsibilities do caregivers have for the educational needs of a child in their care?

§749.1895. What are the specific requirements for the educational program of a child diagnosed with autism spectrum disorder?

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DIVISION 5. RECREATIONAL SERVICES

26 TAC §§749.1921, 749.1923, 749.1925, 749.1927

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1921. What responsibilities do foster parents have for providing a child with opportunities for recreational activities?

§749.1923. What physical fitness activities must caregivers provide for a child receiving treatment services for primary medical needs or intellectual disability?

§749.1925. What type of daily schedule must caregivers provide for a child receiving treatment services for primary medical needs or intellectual disability?

§749.1927. To what extent must a child receiving treatment services for primary medical needs or intellectual disabilities have normal life experiences?

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DIVISION 6. DISCIPLINE AND PUNISHMENT

26 TAC §§749.1951, 749.1953, 749.1955, 749.1957, 749.1959, 749.1961

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1951. What are the requirements for disciplinary measures?

§749.1953. May I use corporal punishment for children in care?

§749.1955. What is "unproductive work"?

§749.1957. What other methods of punishment are prohibited?

§749.1959. To what extent may a caregiver restrict a child's activities as a behavior management tool?

§749.1961. May a person in care discipline or punish another person in care?

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

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SUBCHAPTER L. FOSTER CARE SERVICES:
EMERGENCY BEHAVIOR INTERVENTION
DIVISION 1. DEFINITIONS

26 TAC §749.2001

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.2001. What do certain terms mean in this subchapter?

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

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DIVISION 2. TYPES OF EMERGENCY
BEHAVIOR INTERVENTION THAT MAY BE
ADMINISTERED

**26 TAC §§749.2051, 749.2053, 749.2055, 749.2059,
749.2061, 749.2063**

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2051. What types of emergency behavior intervention may I administer?

§749.2053. Who may administer emergency behavior intervention?

§749.2055. What actions must a caregiver take before using a permitted type of emergency behavior intervention?

§749.2059. What is the appropriate use for a short personal restraint?

§749.2061. What precautions must a caregiver take when implementing a short personal restraint?

§749.2063. Are there any purposes for which emergency behavior intervention cannot be used?

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

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DIVISION 3. ORDERS

26 TAC §§749.2101, 749.2103, 749.2105, 749.2107

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2101. Are written orders required to administer emergency behavior intervention, and if so, who can write them?

§749.2103. Must the written order be in a child's record before a caregiver can use an emergency behavior intervention on a child?

§749.2105. What information must a written order include?

§749.2107. Under what conditions are PRN orders permitted for a specific child?

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

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DIVISION 4. RESPONSIBILITIES DURING ADMINISTRATION OF ANY TYPE OF EMERGENCY BEHAVIOR INTERVENTION

26 TAC §749.2151, §749.2153

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2151. What responsibilities does a caregiver have when implementing a type of emergency behavior intervention?

§749.2153. When must a caregiver release a child from an emergency behavior intervention?

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

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DIVISION 5. ADDITIONAL RESPONSIBILITIES DURING ADMINISTRATION OF A PERSONAL RESTRAINT

26 TAC §§749.2201, 749.2203, 749.2205

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2201. Who must monitor a personal restraint?

§749.2203. What is the appropriate action for a caregiver to take to ensure the child's adequate respiration, circulation, and overall well-being?

§749.2205. What personal restraint techniques are prohibited?

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

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DIVISION 6. COMBINATIONS OF EMERGENCY BEHAVIOR INTERVENTION

26 TAC §749.2231, §749.2233

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2231. May a caregiver successively use emergency behavior interventions on a child?

§749.2233. May a caregiver simultaneously use emergency medication in combination with personal restraint?

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

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DIVISION 7. TIME RESTRICTIONS FOR EMERGENCY BEHAVIOR INTERVENTION

26 TAC §749.2281, §749.2283

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2281. *What is the maximum length of time that an emergency behavior intervention can be administered to a child?*

§749.2283. *Can a caregiver exceed the maximum length of time that an emergency behavior intervention can be administered to a child?*

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

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DIVISION 8. GENERAL CAREGIVER RESPONSIBILITIES, INCLUDING DOCUMENTATION, AFTER THE ADMINISTRATION OF EMERGENCY BEHAVIOR INTERVENTION

26 TAC §§749.2301, 749.2303, 749.2305, 749.2307

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2301. *What follow-up actions must caregivers take after the child's behavior no longer constitutes an emergency situation?*

§749.2303. *What must the caregiver document after discussing with the child the use of the emergency behavior intervention?*

§749.2305. *When must a caregiver document the use of an emergency behavior intervention, and what must the documentation include?*

§749.2307. *What notice must I provide to the parent when I use an emergency behavior intervention with a child in care?*

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

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DIVISION 9. TRIGGERED REVIEWS

26 TAC §§749.2331, 749.2333, 749.2335, 749.2337, 749.2339

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2331. *What circumstances trigger a review of the use of emergency behavior intervention for a specific child?*

§749.2333. *When must a triggered review occur?*

§749.2335. *Who must participate in the triggered review?*

§749.2337. *What must the triggered review include and what must be documented in the child's record?*

§749.2339. *What if there are four triggered reviews within a 90-day period?*

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DIVISION 10. OVERALL OPERATION EVALUATION

26 TAC §§749.2381, §749.2383

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and

Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2381. *What is an overall agency evaluation?*

§749.2383. *What data must be collected?*

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

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SUBCHAPTER M. FOSTER HOMES: SCREENINGS AND VERIFICATIONS DIVISION 1. GENERAL REQUIREMENTS

26 TAC §§749.2401, 749.2403, 749.2405, 749.2407

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2401. *In what circumstances may I verify an individual spouse as a foster parent?*

§749.2403. *What minimum age requirement must foster parents and caregivers meet?*

§749.2405. *Will my home have to be re-verified if I am a single foster parent and I get married after my home is verified?*

§749.2407. *May a home be verified or approved by more than one child-placing agency simultaneously?*

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

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DIVISION 2. FOSTER HOME SCREENINGS

26 TAC §§749.2445, 749.2447, 749.2449, 749.2451, 749.2453

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2445. *What is a foster home screening?*

§749.2447. *What information must I obtain for the foster home screening?*

§749.2449. *Whom must I interview when conducting a foster home screening?*

§749.2451. *What must I document regarding interviews I conduct for a foster home screening?*

§749.2453. *When must I update the foster home screening?*

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

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DIVISION 3. VERIFICATION OF FOSTER HOME

26 TAC §§749.2470, 749.2473, 749.2475, 749.2477, 749.2479, 749.2481, 749.2483, 749.2485, 749.2487 - 749.2489, 749.2491, 749.2493, 749.2495, 749.2497

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

- §749.2470. *What must I do to verify a foster family home?*
- §749.2473. *What must I do to verify a foster home that another child-placing agency has previously verified?*
- §749.2475. *To whom must I release information regarding a family on which I previously conducted a foster home screening, pre-adoptive home screening, or post placement adoptive report?*
- §749.2477. *May I verify a foster home prior to approval by child placement management staff?*
- §749.2479. *May I place children in a foster home before verifying the home?*
- §749.2481. *What type of certificate must a foster home have in order to prove verification?*
- §749.2483. *Do foster parent applicants have to own the home they live in for it to be their primary residence?*
- §749.2485. *What are the requirements for verifying a foster home at a residence that I own?*
- §749.2487. *What are the requirements for an agreement that I have with a foster home that I verify?*
- §749.2488. *What statement must I provide to foster parents regarding foster parent and child-placing agency rights and responsibilities?*
- §749.2489. *What information must I submit to Licensing about a foster home's verification status?*
- §749.2491. *May I verify a foster home to provide different services?*
- §749.2493. *May a foster home provide day care in addition to foster care?*
- §749.2495. *Do foster home verifications expire?*
- §749.2497. *What requirements are there for a transfer or closing summary?*

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DIVISION 4. TEMPORARY, TIME-LIMITED, AND PROVISIONAL VERIFICATIONS

26 TAC §§749.2520, 749.2521, 749.2523, 749.2525 - 749.2527, 749.2529, 749.2531, 749.2533, 749.2535, 749.2537, 749.2539

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

- §749.2520. *What is the purpose of a temporary verification?*
 - §749.2521. *What must I do prior to issuing a temporary verification?*
 - §749.2523. *For what length of time can I issue a temporary verification?*
 - §749.2525. *Can foster children remain in the foster home while a temporary verification is in effect?*
 - §749.2526. *What is the purpose of a time-limited verification?*
 - §749.2527. *What must I do to issue a time-limited verification?*
 - §749.2529. *For what length of time may I issue a time-limited verification?*
 - §749.2531. *Can I extend a time-limited verification or change the verification from time-limited to non-expiring?*
 - §749.2533. *What is the purpose of a provisional verification?*
 - §749.2535. *What must I do prior to issuing a provisional verification?*
 - §749.2537. *For what length of time can I issue a provisional verification?*
 - §749.2539. *Can foster children remain in the foster home while a provisional verification is in effect?*
- The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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DIVISION 5. CAPACITY AND CHILD/CARE-GIVER RATIO

26 TAC §§749.2550, 749.2551, 749.2555, 749.2557

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

- §749.2550. *What does "children with primary medical needs requiring total care" mean when used in this Division?*

§749.2551. *What is the maximum number of children a foster family home may care for?*

§749.2555. *How do I determine capacity?*

§749.2557. *May a foster home exceed its verified capacity?*

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DIVISION 6. SUPERVISION

26 TAC §§749.2591, 749.2593, 749.2595, 749.2597, 749.2599

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2591. *How am I responsible for ensuring adequate supervision of children in care?*

§749.2593. *What responsibilities does a caregiver have when supervising a child?*

§749.2595. *May I use a video camera to supervise a child in the child's bedroom?*

§749.2597. *Where must the caregivers reside in order to supervise children who are in a transitional living program?*

§749.2599. *Can a child serve as a babysitter?*

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

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DIVISION 7. NORMALCY

26 TAC §§749.2601, 749.2603, 749.2605, 749.2607

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2601. *What is "normalcy"?*

§749.2603. *Are children in care required to participate in childhood activities?*

§749.2605. *What is the "reasonable and prudent parent standard"?*

§749.2607. *Who makes the decision regarding a foster child's participation in childhood activities?*

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DIVISION 8. RESPITE CHILD-CARE SERVICES

26 TAC §§749.2621, 749.2623, 749.2625, 749.2627, 749.2629, 749.2631, 749.2633, 749.2635

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2621. *What are respite child-care services?*

§749.2623. *What must occur before I place a child for respite child-care services?*

§749.2625. *What information regarding the child must I share with the babysitter, overnight care provider, and respite care provider?*

§749.2627. *What must occur before one of my foster homes accepts a child for respite child-care service?*

§749.2629. *In addition to the requirements of this division, what requirements of this chapter apply to respite child-care services that a foster home provides?*

§749.2631. *How long may a child be in respite child-care services?*

§749.2633. *How frequently may a foster home provide respite child-care services?*

§749.2635. *May I place a child for babysitting, overnight care, or respite care services in a home that Licensing does not regulate?*

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DIVISION 9. AGENCY--FOSTER FAMILY RELATIONSHIPS

26 TAC §§749.2651, 749.2653, 749.2655

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2651. *May a foster home accept adults into the home for care?*

§749.2653. *What are the requirements for an unrelated adult to reside in a foster home?*

§749.2655. *When must a foster home notify you of changes that affect the foster home?*

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SUBCHAPTER N. FOSTER HOMES: MANAGEMENT AND EVALUATION

26 TAC §§749.2801, 749.2803, 749.2805, 749.2807, 749.2809, 749.2811, 749.2813 - 749.2815, 749.2817, 749.2819, 749.2821, 749.2823, 749.2825

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2801. *When must I evaluate a foster home for compliance with Licensing rules?*

§749.2803. *What changes affect a foster home's verification?*

§749.2805. *What is a "major life change in the foster family"?*

§749.2807. *How do I evaluate a foster home's compliance with the relevant Licensing rules affecting the need for the evaluation?*

§749.2809. *What must a plan for achieving compliance include?*

§749.2811. *How do I follow-up to ensure compliance?*

§749.2813. *How do I evaluate Licensing rules for each home every two years?*

§749.2814. *How do I evaluate a foster home prior to extending its time-limited verification or changing its verification from time-limited to non-expiring?*

§749.2815. *How often must I have supervisory visits with the foster home and what must be evaluated during a supervisory visit?*

§749.2817. *Must I monitor and have supervisory visits with a foster home where no children are placed?*

§749.2819. *When may I place a foster home on inactive status?*

§749.2821. *How do the foster parents meet their training requirements while their home is on inactive status?*

§749.2823. *Are background checks required on homes that are on inactive status?*

§749.2825. *How do I take a foster home off inactive status?*

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

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SUBCHAPTER O. FOSTER HOMES:
HEALTH AND SAFETY REQUIREMENTS,
ENVIRONMENT, SPACE AND EQUIPMENT
DIVISION 1. HEALTH AND SAFETY

26 TAC §§749.2901 - 749.2905, 749.2907 - 749.2909,
749.2911, 749.2913, 749.2915, 749.2917

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2901. *What health and safety regulations must each foster home meet in addition to Licensing rules?*

§749.2902. *What health and safety measures are required at a foster home?*

§749.2903. *What fire safety measures are required at a foster family home not serving children receiving treatment services for primary medical needs?*

§749.2904. *What fire safety measures are required at a foster family home serving children receiving treatment services for primary medical needs?*

§749.2905. *How often must fire and health inspections be conducted at a foster home?*

§749.2907. *What disaster and emergency plans must each foster home have?*

§749.2908. *How must a foster home practice disaster and emergency plans?*

§749.2909. *How many smoke detectors must a foster home have?*

§749.2911. *How must smoke detectors be installed and maintained at a foster home?*

§749.2913. *How many fire extinguishers must a foster home have?*

§749.2915. *Where must a foster home store dangerous tools and equipment?*

§749.2917. *What are the requirements for animals that are present at a foster home?*

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DIVISION 2. TOBACCO AND E-CIGARETTE
USE

26 TAC §749.2931

STATUTORY AUTHORITY

The repealed section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed section affects Texas Government Code §524.0151 and HRC §42.042.

§749.2931. *What policies must I enforce regarding tobacco products and e-cigarettes?*

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

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DIVISION 3. WEAPONS, FIREARMS,
EXPLOSIVE MATERIALS, AND PROJECTILES

26 TAC §§749.2961, 749.2963, 749.2965, 749.2967

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.2961. *Are weapons, firearms, explosive materials, and projectiles permitted in a foster home?*

§749.2963. *What factors must I consider when determining whether weapons, firearms, explosive materials, or projectiles are stored adequately?*

§749.2965. *How must I determine whether weapons, firearms, explosive materials, or projectiles are present in a foster home?*

§749.2967. *May a caregiver transport a child in a vehicle where firearms, other weapons, explosive materials, or projectiles are present?*

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DIVISION 4. SPACE AND EQUIPMENT

26 TAC §§749.3021, 749.3023, 749.3025, 749.3027, 749.3029, 749.3031, 749.3033, 749.3035, 749.3037, 749.3039, 749.3041, 749.3043

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.3021. *How much space must bedrooms used by foster children have?*

§749.3023. *Which rooms in the home may not be used as bedrooms?*

§749.3025. *May an adult in care share a bedroom with a child in care?*

§749.3027. *May a child in care share a bedroom with an adult caregiver in the foster home?*

§749.3029. *May children of opposite genders share a bedroom?*

§749.3031. *What are the requirements for beds and bedding?*

§749.3033. *What type of personal storage space must a foster child have?*

§749.3035. *What bathroom accommodations must a home have?*

§749.3037. *What are the requirements for indoor space that children can use?*

§749.3039. *What are the requirements for outdoor recreation equipment?*

§749.3041. *What are the requirements for a foster home's physical environment?*

§749.3043. *When is a product considered unsafe and what are a caregiver's responsibilities regarding unsafe products in a foster home?*

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DIVISION 5. NUTRITION AND FOOD PREPARATION

26 TAC §§749.3061, 749.3063, 749.3065, 749.3067, 749.3069, 749.3071, 749.3073, 749.3075, 749.3077, 749.3079, 749.3081

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.3061. *What are the requirements for feeding children in care?*

§749.3063. *What types of food and water must caregivers provide children?*

§749.3065. *What must the caregiver do if a child refuses to or cannot eat a meal or snack that is offered?*

§749.3067. *May a caregiver use food as a reward or punishment or as part of any behavior management program?*

§749.3069. *May caregivers offer a child in care different food choices than what the family is eating?*

§749.3071. *What must I do if a child requires a therapeutic or special diet?*

§749.3073. *What are the nutrition requirements for a child with primary medical needs?*

§749.3075. *What are the feeding requirements for children receiving treatment services for primary medical needs or intellectual disabilities?*

§749.3077. *What are the requirements for tube-feeding formula?*

§749.3079. *What are the requirements for storing food?*

§749.3081. *How must kitchen, dining areas, supplies, and equipment be maintained?*

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DIVISION 6. TRANSPORTATION

26 TAC §§749.3101, 749.3103, 749.3105, 749.3107, 749.3109, 749.3111

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.3101. *What are the requirements for the vehicles used to transport foster children?*

§749.3103. *What are the requirements for transporting foster children?*

§749.3105. *May children transport other foster children?*

§749.3107. *May caregivers teach or supervise foster children in learning to drive?*

§749.3109. *What are the special requirements for transporting a child who requires increased supervision or is non-ambulatory or non-mobile?*

§749.3111. *Do the seat belt requirements prohibit transporting children in the bed of a pick-up truck or other parts of the vehicle on the foster parents' property or public roads?*

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DIVISION 7. SWIMMING POOLS, BODIES OF WATER, SAFETY

26 TAC §§749.3131, 749.3133, 749.3135, 749.3137, 749.3139, 749.3141, 749.3143, 749.3145, 749.3147, 749.3149, 749.3151

STATUTORY AUTHORITY

The repealed sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to

carry out the requirements of Texas Human Resources Code Chapter 42.

The repealed sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.3131. *Who is responsible for complying with the requirements in this subchapter?*

§749.3133. *What are the requirements for a swimming pool at a foster home?*

§749.3135. *What general requirements must caregivers meet for children regarding a body of water?*

§749.3137. *What are the child/adult ratios for swimming activities?*

§749.3139. *May I include volunteers or relatives who do not meet minimum qualifications for caregivers in the swimming child/adult ratio?*

§749.3141. *When must a child wear a life jacket?*

§749.3143. *Must persons who are counted in the swimming child/adult ratio know how to swim and carry out a water rescue?*

§749.3145. *What are the safety requirements for wading pools?*

§749.3147. *What are the requirements for a hot tub?*

§749.3149. *What must I document regarding a body of water that is on or adjacent and accessible to the premises of a foster home?*

§749.3151. *Can foster parents approve a child to participate in swimming activities as an unsupervised childhood activity without complying with the rules of this division?*

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SUBCHAPTER F. TRAINING REQUIREMENTS

DIVISION 1. CAREGIVER TRAINING REQUIREMENTS

26 TAC §§749.801, 749.803, 749.805, 749.807

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.801. Caregiver Pre-Verification Training Requirements.

Prior to foster home verification, the CPA must ensure each caregiver completes pre-verification training that includes:

- (1) an overview of the relevant and applicable laws and rules of this chapter;
- (2) the CPA's philosophy, organizational structure, policies, services, and programs the CPA provides;
- (3) a review of the reasonable and prudent parent standard, and how the standard ensures child safety;
- (4) a review of the CPA and foster parent verification agreements; and
- (5) a review of the Child Care Regulation Statement of Foster Parent and Child-Placing Agency Rights and Responsibilities form, or a form created by the CPA with the same information.

§749.803. General Caregiver Training Requirements.

(a) Before a child-placing agency (CPA) places a child in the care of the foster home (home), at least one foster parent must complete:

- (1) four hours of general caregiver training;
- (2) six hours emergency behavior intervention training (EBI); and
- (3) safe sleeping training, if the foster home will care for a child in care younger than two years old.

(b) Other caregivers, including the second foster parent, must complete the training required under subsection (a) of this section within 90 days after the CPA places the child in the care of the foster home.

(c) All caregivers who provide psychotropic medication must finish training for administering psychotropic medication before administering a psychotropic medication.

(d) General caregiver training must include:

- (1) topics appropriate to the needs of each child for whom the caregiver will be providing care;
- (2) trauma informed care;
- (3) measures to prevent, recognize, and report suspected occurrences of child abuse, including sexual abuse;
- (4) procedures to follow in emergencies, such as weather-related emergencies, volatile persons, and severe injury or illness of a child or adult; and
- (5) preventing the spread of communicable diseases.

(e) EBI training, safe sleeping training, and psychotropic medication training must include curriculum determined by the CPA.

(f) The CPA may decide not to require a foster parent to take EBI training if the CPA determines the training does not directly apply to the:

- (1) ages of each child in care, and
- (2) types of services the home will provide.

§749.805. Pediatric First Aid and Pediatric Cardiopulmonary Resuscitation (CPR) Requirements.

(a) One foster parent must be certified in pediatric first aid and pediatric CPR before a child-placing agency (CPA) issues the foster

home verification. Other caregivers, including a second foster parent, must be certified in pediatric first aid and CPR within 90 days after the CPA verifies the home.

(b) Pediatric first aid must include training related to rescue breathing and choking.

(c) Pediatric CPR training must adhere to the guidelines for CPR established by the American Heart Association.

§749.807. Additional Caregiver Training Requirements.

(a) From the date a child-placing agency (CPA) verifies a foster home (home), the CPA must annually evaluate the home to identify any areas of non-compliance with minimum standards. The CPA will evaluate the following:

- (1) immediate needs of the household;
- (2) compliance history of the home; and
- (3) investigation history of the home.

(b) If the CPA identifies areas of non-compliance in the home, the CPA must provide all caregivers in that home with additional training appropriate to address the areas of non-compliance.

(c) For each home that provides care to a child receiving treatment services for emotional disorders, intellectual disabilities, or autism spectrum disorder, the CPA must provide at least one hour of annual training to each caregiver relating to the treatment services the child in care receives, regardless of whether the CPA identifies concerns in the home.

(d) Except for the training required in subsection (c) of this section, the CPA may decide not to require the additional training for all caregivers if no concerns are found during the annual check.

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DIVISION 2. EMPLOYEE TRAINING REQUIREMENTS

26 TAC §§749.821, 749.823, 749.825

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.821. Employee Orientation Requirements.

Before beginning work in a child-placing agency each employee must go through an orientation that includes:

- (1) an overview of the relevant and applicable laws and rules of this chapter;
- (2) information about how the CPA is organized, its rules, and the services and programs it offers; and
- (3) the needs and characteristics of each child in care that the CPA is licensed to serve.

§749.823. New Employee Training Requirements.

(a) Within 30 days after starting the job, child-placing agency administrators, treatment directors, child placement staff, child placement management staff, and full-time professional service providers must complete:

(1) at least two hours of training that addresses normalcy, trauma informed care, and preventing the spread of communicable diseases; and

(2) emergency behavior intervention (EBI) training, consistent with the child-placing agency's EBI curriculum.

(b) An employee who only handles adoption services responsibilities does not have to complete any new employee training.

(c) An employee who only handles responsibilities for a child in care receiving treatment services for primary medical needs does not have to complete EBI training.

(d) Before acting as a caregiver, an employee must have pediatric first aid and pediatric cardiopulmonary resuscitation training.

§749.825. Employee Annual Training Requirements.

(a) Each child placement staff, child placement management staff, executive director, treatment director, and child-placing agency (CPA) administrator must complete at least 15 hours of annual training.

(b) At least one hour of the training must be about preventing, recognizing, and reporting child abuse, neglect, and exploitation, specifically:

(1) the factors indicating a child is at risk for abuse, neglect, or exploitation;

(2) the warning signs indicating a child may be a victim of abuse, neglect, or exploitation;

(3) the procedures for reporting child abuse, neglect, or exploitation; and

(4) a list of community organizations that have training programs on preventing, recognizing, and reporting child abuse, neglect, and exploitation that are available to CPA staff members, each child in care, and parents.

(c) A CPA must have a clear way to track annual training, based on either the hire date, calendar year, or fiscal year, and use this method consistently.

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DIVISION 3. EMPLOYEE AND CAREGIVER TRAINING DOCUMENTATION REQUIREMENTS

26 TAC §749.831

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new section affects Texas Government Code §524.0151 and HRC §42.042.

§749.831. Employee and Caregiver Documentation of Required Trainings.

(a) A child-placing agency (CPA) must check that all training teaches job-related skills. The CPA must document how the CPA determined the training met this requirement.

(b) A test must be given at the end of every training that shows the caregiver's or employee's understanding of how to apply the skills in the foster home or work environment. The test must be signed and dated by the caregiver or employee.

(c) The CPA must document and maintain proof in the caregiver's or employee's record that the caregiver or employee completed the following training:

(1) for all caregivers:

(A) pre-verification training;

(B) caregiver training;

(C) pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) training; and

(D) additional training topics covered, including:

(i) the results of the annual evaluation for concerns about health, safety, and well-being of each child in care; and

(ii) if the CPA determines that a foster home requires additional training to address areas of non-compliance identified during the CPA's annual evaluation of the foster home, an explanation of how the CPA chose the training topics for each caregiver's additional training; or

(iii) when the CPA does not find any areas of non-compliance, the reasoning the CPA used for each caregiver for not requiring annual training for each caregiver; and

(2) for all employees:

(A) orientation;

- (B) new employee training;
- (C) pediatric first aid and pediatric CPR training, if applicable; and
- (D) annual training, including a statement signed by the employee that the abuse, neglect, and exploitation training requirements were met.

(d) If the CPA determines that a caregiver is not required to complete an annual training not required by statute, the CPA must document the reason the training was not required.

(e) Certificates for pediatric first aid and pediatric cardiopulmonary resuscitation must have an expiration date, and the training documented on the certificate must be renewed before the expiration date.

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SUBCHAPTER G. FOSTER HOME SCREENINGS AND VERIFICATIONS DIVISION 1. FOSTER HOME SCREENINGS

26 TAC §§749.901, 749.903, 749.905

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.901. Foster Home Screenings.

(a) A child-placing agency (CPA) must complete a foster home (home) screening as detailed in this section before verifying a home.

(b) The CPA must update the home screening with an addendum any time there is a major life change in the foster family or a change that affects the home's verification.

(c) Through interviewing each prospective foster parent or completing a joint interview, the CPA must obtain, discuss, assess, and document the following information about a prospective home.

(1) The age of each prospective foster parent and any other member of the household.

(2) The basic competency of each prospective foster parent, including ensuring and documenting that each prospective foster parent:

(A) can meet basic competencies, including basic reading, writing, and math; or

(B) have a support system in place that can immediately assist with these competencies.

(3) The personal characteristics of the prospective foster parents, including an assessment of each parent's:

(A) emotional stability, character, health, and ability to manage adult responsibility;

(B) motivation and willingness to provide foster care, including the parents' expectations for the child in care and willingness to adjust those expectations based on the needs of the child in care; and

(C) ability to provide a caring environment, appropriate supervision, and responsible discipline.

(4) History of current interpersonal relationships, including marriages, common-law marriages, and other relationships between people who share or have shared a domestic life without being married, and family relationships, including:

(A) the current relationship status and quality of the relationship between the prospective foster parents; and

(B) the quality of the relationship between the prospective foster parents and the prospective foster parents' children living in or out of the home, including:

(i) strengths and problems in all relationships; and

(ii) how the strengths and problems may impact a child placed in the care of the home.

(5) The financial status of the prospective foster parents, including:

(A) discussing with the prospective foster parents the current reimbursement process, if applicable, and ensuring the prospective foster parents' understanding of that process; and

(B) the CPA's determination that the prospective foster parents have or have reasonable access to sufficient resources to support the household and all children in care.

(6) The results of criminal history and central registry background checks conducted on the prospective foster parents and on any non-client 14 years old or older who regularly or frequently stays at or is present in the home, including:

(A) confirmation that the required Child Care Regulation (CCR) background checks were conducted and assessed on:

(i) each prospective foster parent; and

(ii) any non-client who is at least 14 years old or older who will be regularly or frequently staying at or is present in the home, excluding children or young adults in care;

(B) documentation the CPA assessed all background check results received from CCR and any background check information self-disclosed by the prospective foster parents and any person connected to the home;

(C) documentation, including the background check Eligibility Determination provided by the Texas Health and Human Services Commission; and

(D) the CPA must not include any background check results received from CCR in the home screening document.

(7) A history of the prospective foster parents' residence, including the length of time spent at each residence for the last two years. The history must include each full street address, and the CPA must:

(A) ask the prospective foster parents if the police have come to any of the homes in the past two years;

(i) if the police have come to any of the prospective foster parents' homes, obtain service call information from the appropriate law enforcement agency for each of the prospective foster parents' addresses over the past two years; and

(ii) regardless of background check results, if the prospective foster parents report any incident requiring the police to come to any of the homes, request background information from each law enforcement agency that responded, and discuss the incident and any additional background information that the CPA obtains with the prospective foster parents; and

(B) report to CCR the information obtained about the prospective foster family's domestic violence history, as applicable. The CPA must report this information regardless of whether the CPA verifies the home. This report must be made to CCR within two days of learning about the history.

(8) Health status of all persons living in the home, including:

(A) information about the current and previous physical and mental health status (including substance abuse history) of all persons living in the home in relation to the family's ability to provide foster care; and

(B) whether any noted health-related issue may affect the prospective foster parents' ability to care for a child placed in the care of the home.

(9) The prospective foster parents' values, feelings, and practices regarding child-care and discipline, including:

(A) each prospective foster parent's experience caring for children;

(B) the ways each prospective foster parent was disciplined as a child and the prospective foster parent's reactions to the discipline;

(C) each prospective foster parent's discipline styles, techniques, and ability to recognize and respect differences in children and use discipline methods suitable to an individual child; and

(D) the CPA's approved disciplinary methods, and if a prospective foster parent's current discipline methods are different from those the CPA approves the CPA must discuss and assess how the foster parent would change child care discipline practices to conform to the CPA's approved methods.

(10) Each prospective foster parent's sensitivity to and feelings about a child in care who may have been subjected to abuse, neglect, or exploitation, including each prospective foster parent's:

(A) understanding of the dynamics of child abuse, neglect, and exploitation;

(B) understanding and methods of dealing with the prospective foster parents' own past experiences of abuse and neglect, if the prospective foster parents have any; and

(C) understanding of how these issues and experiences may affect the prospective foster parents, other family members of the prospective foster parents, and a child in care.

(11) The attitude of other household members about the prospective foster parents' plan to provide foster care, including each household member's:

(A) involvement in the care of a child in care;

(B) attitudes toward a child in care; and

(C) acceptance of the verification and of being a foster family for a child in care.

(12) Support systems available to each prospective foster parent, and support the family may receive from these resources, including information about any person who may provide support as a caregiver during an unexpected event or crisis, such as an illness or disability of a kinship parent, loss of transportation, or death of an immediate family member.

(13) Prospective foster parent's ability to work with specific kinds of behaviors and backgrounds, including each prospective foster parent's:

(A) willingness and ability to:

(i) work with children who have challenging behaviors;

(ii) care for children of a specific sex and age range;

(iii) care for a specific number of children, including children who are part of the same sibling group; and

(iv) provide additional services, such as respite care;

and

(B) understanding of the:

(i) concepts of trauma informed care and how to use those concepts in the care, treatment, and management of a child placed in the home; and

(ii) dynamics of separation and loss and the effects of these experiences on a child.

(14) Obtain and assess background information from all other CPAs that have previously verified the home and document the reason the home was closed. Before approving and verifying the home, the receiving CPA must address the closure or any identified risk indicators, as applicable, with the prospective foster parents before approval and verification of the home if the background information indicates the home:

(A) was closed by the previous CPA;

(B) had potential risk indicators that the previous CPA did not adequately address; or

(C) was recommended for closure by a Texas Health and Human Services Commission Agency Home Closure Recommendation.

§749.903. Required Interviews and Reference Checks.

(a) Interviews and reference checks for a foster home (home) screening must include:

(1) one individual interview with each prospective foster parent and each household member at least three years old or older living in the home either full or part time;

(2) one joint interview with the prospective foster parents;

(3) one in-home family group interview with all household members present;

(4) one individual interview with each adult child of the prospective foster parents not living in the home; and

(5) three additional references, including at least one from a non-relative.

(b) For subsection (a)(4) of this section, if the child-placing agency (CPA) cannot reach an adult child, the CPA may skip the interview once the CPA has tried to contact the individual at least three separate times.

§749.905. Home Screening Documentation Requirements.

A child-placing agency must maintain the following documentation in the foster home (home) record:

(1) a dated copy of the home screening that includes:

(A) documentation of interviews and reference checks, including all interview attempts and outcomes;

(B) addendums to the home screening, including the date the addendum was completed, and

(C) an evaluation of the current placements in the home, when an addendum is completed for a major life change; and

(2) changing conditions of the verification for an existing home, including review and approval if the home will provide additional services than it was initially verified to offer.

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DIVISION 2. FOSTER HOME VERIFICATION

26 TAC §§749.921, 749.923, 749.925, 749.927, 749.929, 749.931, 749.933, 749.935, 749.937

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.921. General Requirements.

(a) Each foster parent must be at least 18 years old.

(b) A child-placing agency (CPA) may verify only one spouse as a foster parent if:

(1) the spouse whom the CPA verifies will be the only one responsible for the day-to-day care of a child in care in the foster home (home); and

(2) the CPA determines that the spouses maintain separate residences.

(c) A home may not be verified to provide foster care services by more than one CPA at a time; however, a home may be verified by one agency to provide foster care services and approved by another CPA for adoption only.

§749.923. Verifying a Foster Home.

(a) A child-placing agency (CPA) must take the following steps to verify a foster home (home).

(1) Complete and document the requirements in this division.

(2) Obtain:

(A) a floor plan, photo, or other documentation of the home that shows the purposes of all rooms in the home and identifies the indoor areas for a child in care use; and

(B) a floor plan or photo of the outside areas that shows the buildings, driveways, fences, storage areas, gardens, recreation areas, and bodies of water.

(3) Evaluate all applicable laws and rules of this chapter by:

(A) completing an inspection of the home to ensure the home meets applicable rules relating to Daily Care, Education, Discipline, and Health and Safety Requirements of this chapter;

(B) making recommendations about the home's overall ability to keep a child in care safe, paying specific attention to areas of substantial safety risk to a child in care and how the CPA addressed areas of identified safety risks with the prospective foster parent before approving and verifying the home; and

(C) documenting in the foster home file the details of the inspection of the foster home, any identified safety risks, and explain how those risks were corrected.

(4) Obtain the review and approval of the home screening, and the recommended verification of the home from the child placement management staff.

(5) Issue a verification certificate that must be posted at the home or be made immediately available for review that includes:

(A) the name and address of the foster family;

(B) the home's total capacity and foster care capacity, including ages and sex of each child in care; and

(C) the types of services the home provides.

(b) A new verification certificate must be issued to a home any time there is a change that affects the verification.

§749.925. Temporary Foster Home Verifications.

(a) A child-placing agency (CPA) may issue a temporary foster home (home) verification when a foster family moves from one residence to another.

(b) The temporary verification is valid for a maximum of six months and cannot be extended.

(c) Within 30 days after the foster home moving to the new residence, the CPA must inspect the new residence for compliance with health and safety requirements in this chapter.

(d) Before issuing the non-expiring home verification, the CPA must ensure the home meets all the requirements in this chapter.

(e) The CPA cannot place a new child in the care of the home until the non-expiring verification is issued.

§749.927. Provisional Verifications.

(a) A child-placing agency (CPA) may issue a provisional verification for a foster home (home) when the home transfers from one CPA to another and continues providing care for the children placed there by the previous CPA.

(b) A provisional verification may be used for up to six months from the date the provisional verification was issued and cannot be extended.

(c) The CPA may issue a provisional verification after:

(1) the receiving CPA requests and receives the background information from the home's previous CPA;

(2) if the home is moving to a new residence, the receiving CPA inspects the new location and determines that the home meets the health and safety laws and rules in this chapter;

(3) based on the review of the background information and current screening, the receiving CPA decides that the home does not pose a potential risk to the health or safety of a child in care; and

(4) the receiving child placement management staff reviews and approves the provisional verification by signing and dating the provisional verification certificate. The provisional verification certificate must include any conditions or restrictions from the previous verification.

§749.929. Previously Verified Foster Homes.

(a) For a foster home (home) previously verified by another child-placing agency (CPA), the receiving CPA must conduct and complete a new home screening as required in this subchapter.

(b) If a home is transferring from another CPA, the receiving CPA must request information about the home by submitting a written request to the agency that transferred the foster home.

(c) If the home is transferring from another CPA with a child in care, the receiving CPA may verify the home before completion of the background check.

§749.931. Releasing Information About a Previously Verified Foster Home.

(a) A child-placing agency (CPA) must release background information about a current or previous foster home (home) to:

(1) another CPA conducting a home screening, pre-adoptive home screening, or post-placement adoptive report; or

(2) an independent contractor who is hired or required by the court to conduct a social study under Texas Family Code, Chapter 107, Subchapter D.

(b) Background information includes:

(1) the home screening and any related documentation or addendums;

(2) documentation of supervisory visits and evaluations for the past year;

(3) records of deficiencies and resolutions for the past year, including information regarding pending investigations and unresolved deficiencies;

(4) the most current fire and health inspections or checklists;

(5) the transfer or closing summary for the home;

(6) copies of any current or previous plans for to achieve compliance or other type of development plan implemented by Child Care Regulation or the CPA for the past two years, if applicable;

(7) copies of any current or previous corrective action or adverse action plans for the past two years, if applicable; and

(8) information of any pending investigations and any unresolved deficiencies.

(c) A CPA must release the background information to the requesting CPA or independent contractor by the 10th day after receiving the written request, including informing the requesting agency of any pending investigations and unresolved deficiencies. By the 10th day after completion of any pending investigations and unresolved deficiencies, the CPA must release to the requesting agency the:

(1) outcome of any investigations and any resulting deficiencies cited; and

(2) resolution of any deficiencies.

§749.933. Foster Home Verification Changes.

(a) A child-placing agency (CPA) must submit information to Child Care Regulation within two business days after:

(1) verifying a new foster home (home);

(2) temporarily or provisionally verifying a home, including when the verification is no longer temporary or provisional;

(3) placing a home on or removing a home from inactive status;

(4) changing conditions of the verification for an existing home; and

(5) closing a home, including the reason the CPA closed the home.

(b) If a CPA changes the conditions of a home's verification to allow the home to provide additional services, the child placement management staff must ensure there is no conflict of care with a child in care currently in the home.

(c) If a home intends to add a new, unrelated household member, the CPA must:

(1) ensure the individual has completed the necessary background checks; and

(2) evaluate the impact the individual will have on the foster family and each child in care before the individual moves into the home.

§749.935. Foster Homes that Provide Day Care.

A foster home (home) may provide day care in addition to foster care under the following conditions:

(1) the home meets all relevant laws and rules related to the care the home is providing;

(2) the child-placing agency completes a written assessment, signed by child placement management staff, of the:

(A) needs of each child in care of the foster home and how the needs of the children receiving day care services may impact each child receiving foster care services; and

(B) basis for determining no conflict of care exists in providing multiple types of care; and

(3) Residential Child Care Regulation and Child Day Care Programs approve.

§749.937. Transferring or Closing a Foster Home.

(a) A child-placing agency (CPA) must complete a transfer summary or closing summary when a foster home (home) transfers to another CPA or closes.

(b) A transfer summary and a closing summary must include:

(1) a copy of the verification certificate;

(2) the home's addresses for the past two years and, as needed, directions for rural addresses;

(3) the length of time the foster parents have been verified by the CPA;

(4) for each child in care who was in care for the last two years, the:

(A) number of children fostered;

(B) type of treatment services provided to each child in care; and

(C) reason for the discharge of each child in care;

(5) a description of any limitations on the verification that were in place for the foster home in caring for and working with a child in care;

(6) a description of any risk indicators to a child in care at the time of the transfer or closing;

(7) any plan to achieve compliance or other type of development plan that was in place within the previous 12 months of the date of transfer or closing;

(8) any Texas Health and Human Services Commission Agency Home Closure Recommendation form, corrective action plan, or adverse action plan that was in place at the time of transfer or closing; and

(9) a statement concerning whether the CPA would recommend the home for verification in the future, including whether the CPA would recommend any limitations or restrictions on the verification, and the basis of the CPA's recommendation.

(c) A transfer summary must also:

(1) include pending investigations or unresolved deficiencies;

(2) be completed by the 10th day after a CPA receives a written request to transfer and the transferring CPA must forward it immediately to the requesting CPA.

(d) A closing summary must also:

(1) include the reason the home is closing, including whether the CPA required the home to close;

(2) include a description of any pending investigations and unresolved deficiencies; and

(3) be completed by the 20th day after a home is closed.

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DIVISION 3. CAPACITY AND SUPERVISION

26 TAC §§749.951, 749.953, 749.955, 749.957, 749.959

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.951. Capacity and Child/Caregiver Ratio.

(a) A one-parent or two-parent foster home (home) may care for up to six children, with the following guidelines:

(1) if a home cares for infants, the home may care for up to six children with:

(A) a maximum of two infants; and

(B) no more than four children less than six years old.

(2) If a home cares for a child receiving treatment services for primary medical needs requiring total care and has two caregivers (two foster parents or one foster parent and a live-in caregiver), the home may care for up to:

(A) six children, with up to three children who receive treatment services for primary medical needs requiring total care; or

(B) four children if all children receive treatment services for primary medical needs requiring total care.

(3) If the home cares for a child receiving treatment services for primary medical needs requiring total care and has one foster parent, the home may care for up to:

(A) four children, with a maximum of one child who receives treatment services for primary medical needs requiring total care; or

(B) two children, if all children receive treatment services for primary medical needs requiring total care.

(b) The exceptions in subsection (a) of this section do not apply to:

(1) placements that are necessary to maintain a sibling group; or

(2) homes verified to provide treatment services to a child with primary medical needs before January 1, 2015.

(c) The capacity of a foster home includes children in care, as well as adopted and biological children living in the home, children receiving respite services, and children for whom the home provides daycare. Young adults in care also count towards the capacity.

(d) The child-placing agency must check and document in the home record the reason the home can take care of the number of children allowed in the home, including how the CPA considered the following:

(1) number of caregivers;

(2) services being provided and the needs of the children in the home;

(3) developmental age and any medical needs of the children in the home and in placement; and

(4) physical space and bathroom accommodations in the home.

§749.953. Expanding Capacity of a Foster Home.

A foster home may care for seven or eight children as recommended by a child-placing agency (CPA) and approved by Child Care Regulation (CCR). To approve expanding the foster home's capacity, the CPA must:

(1) complete the CCR Foster Family Home Capacity Exception Form; and

(2) request and obtain a variance from CCR.

§749.955. Supervision.

(a) The child placement management staff must ensure that supervision of a child in care adequately accounts for:

(1) the specific needs of the child in care, including any history of high-risk behaviors that would require additional supervision; and

(2) the environment where the supervision is taking place.

(b) A caregiver is responsible for:

(1) knowing which children in care the caregiver is responsible for;

(2) providing the level of supervision necessary to ensure the health, safety and well-being of each child in care, including auditory and/or visual awareness of the ongoing activity of each child in care as appropriate;

(3) being able to intervene when necessary to ensure the safety of each child in care; and

(4) being aware of any special supervision needs based on the developmental age, maturity, and service plan restrictions of the child in care.

(c) When a child in care participates in an unsupervised childhood activity, the caregiver must know:

(1) where the child in care is scheduled to be and who the child in care will be with; and

(2) how and when the child in care will be returning home.

§749.957. Supervision with Video Cameras.

(a) Video cameras may only be used to supervise, or watch live, a child in care, who is an infant or toddler, unless:

(1) the parents or individual legally allowed to provide permission for the child in care agree to using video cameras; and

(2) the service plan for the child in care notes that using video cameras to help manage risky behaviors or other situations that need extra supervision is acceptable.

(b) If video cameras are allowed:

(1) the video cameras must be placed so that the child in care can have privacy when changing clothes and using the bathroom;

(2) the video cameras may not be used to record the child in care; and

(3) only the foster home's caregivers may have access to view or monitor the video of the child in care.

§749.959. Transitional Living Program Supervision.

Caregivers counted in the child to caregiver ratio and responsible for supervising a child in care in a transitional living program (program) must be:

(1) physically available to each child in care at all times;

(2) capable of responding quickly in an emergency; and

(3) capable of monitoring the ongoing activities of each child in the program.

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DIVISION 4. BABYSITTING, OVERNIGHT CARE, AND RESPITE CARE

26 TAC §§749.973, 749.975, 749.977

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.973. Children in Care as Babysitters.

(a) A child, including a child in care, may serve as a babysitter for another child in the foster home if the child placement management

staff approves the child to babysit and establishes limits with duration and frequency.

(b) A child-placing agency must consider:

(1) the developmental age of the child who will provide the babysitting; and

(2) any known history of high-risk behaviors of the child providing the babysitting and the child who will be babysat.

§749.975. Respite Child-Care Services.

(a) Before putting a child in care in respite care, a child-placing agency (CPA) must inform the parent of the child in care and explain the plan for respite care to the child in care, including how long the respite care will last.

(b) The child placement management staff must approve any respite child-care and ensure that the placement will not cause a conflict of care for any child who is already placed in the foster home (home).

(c) A child in care can stay in respite care for as long as needed, as decided by the CPA.

(d) After a child in care has been in respite care for 60 days, the CPA must check if the respite care is still the best option and make a plan with a timeframe for when the child in care will go back to the home or move to a new placement.

§749.977. Information Sharing with Babysitter, Overnight Care Provider, or Respite Care Providers.

Before a babysitter, overnight care provider, or respite care provider may provide care to a child in care, a child-placing agency (CPA) must share the following information with the babysitter or provider:

(1) specific needs of the child in care, including:

(A) all psychological, psychiatric, and medical treatments currently provided, including medication and medication instructions, if applicable;

(B) any information needed for the daily care, including supervision, discipline, safety plans, and high-risk behaviors of the child in care; and

(C) authorization for medical treatment; and

(2) emergency contact information for the physician, foster parents, and the CPA of the child in care.

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SUBCHAPTER H. HEALTH AND SAFETY
REQUIREMENTS
DIVISION 1. PHYSICAL ENVIRONMENT
SAFETY

**26 TAC §§749.1001, 749.1003, 749.1005, 749.1007,
749.1009, 749.1011, 749.1013, 749.1015, 749.1017, 749.1019**

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1001. Physical Environment of a Foster Home.

(a) The foster home (home) and all structures and equipment on the property's grounds must be kept in a clean, safe, and sanitary condition and be in a reasonable state of repair.

(b) A home must ensure that indoor and outdoor space and equipment do not pose an undue safety risk to children in care.

(c) Caregivers must provide adequate supervision to prevent access to space or equipment that poses a safety risk to a child in care as needed based on the age, maturity, and service plan restrictions of a child in care.

§749.1003. Health Inspections.

(a) A foster home (home) must have either:

(1) a health inspection conducted by the local health authority; or

(2) a health and safety evaluation conducted by the child-placing agency's child placement staff using the Environmental Health Checklist for Foster Homes form.

(b) A home must correct any deficiencies documented during any inspection or evaluation and comply with any conditions or restrictions specified by the inspector or evaluator.

§749.1005. Fire Inspections.

(a) A foster home (home) must have either:

(1) a fire inspection conducted by a state or local fire authority; or

(2) a fire safety evaluation developed and conducted by the child-placing agency's child placement staff.

(b) A home must correct any deficiencies documented during any inspection or evaluation and comply with any conditions or restrictions specified by the inspector or evaluator.

§749.1007. Fire Safety.

(a) A foster home (home) must have a working smoke detector in the following areas:

(1) the kitchen;

(2) hallways or open areas outside of sleeping rooms; and

(3) on each level of a home with multiple levels.

(b) The home must have one non-expired, operational fire extinguisher that is easily accessible in case of emergency.

(c) The home must ensure that exits to the home are not blocked.

§749.1009. Emergency Plans.

A foster home must have a written plan for handling potential disasters and emergencies, including fire and severe weather. This plan can be made using a template provided by the child-placing agency (CPA). The CPA that verified the home must annually review and evaluate the plan with all caregivers and children in care. The review of the plan must be provided in the communication method of the child in care.

§749.1011. Animals.

(a) Any animal on the premises of a foster home must not pose an undue health or safety threat to children in care.

(b) Caregivers must provide adequate supervision and intervene as necessary to protect a child in care from any animal-related safety risk based on the animals involved and the age, maturity, and service plan restrictions of a child in care.

(c) Pets must be vaccinated as required by state law.

§749.1013. Tobacco and E-Cigarette Use.

Household members and visitors are not allowed to smoke tobacco products, cigarettes, e-cigarettes, or vaporizers in front of a child in care or inside the foster home or motor vehicle.

§749.1015. Nutrition and Food Safety.

(a) Caregivers must provide a child in care with food and water that meet the individual needs for growth and diet of the child in care, similar to what other children in the foster home (home) receive.

(b) Caregivers must provide a child in care with drinking water and food that is served in a safe and sanitary manner.

(c) A home must ensure all food items are stored in a manner that protects them from contamination, spoiling, and insects and rodents.

§749.1017. Transportation.

(a) Caregivers must utilize safe and reliable transportation for a child in care.

(b) Special provisions must be made for transporting non-ambulatory and non-mobile children in care. When necessary, this includes locks for wheelchairs and hydraulic lifts.

(c) A caregiver must secure each child in care in an infant safety seat, rear-facing convertible child safety seat, forward-facing child safety seat, child booster seat, safety vest, harness, or a safety belt, as appropriate to the age, height, and weight of the child in care and according to the manufacturer's instructions.

§749.1019. Documentation of Health and Safety Requirements.

A child-placing agency must document the following in the foster home's (home's) record:

(1) the results of each health inspection or health and safety evaluation;

(2) the results of each fire inspection or fire safety evaluation; and

(3) a copy of the home's emergency plan, including any subsequent reviews.

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**DIVISION 2. WEAPONS, FIREARMS,
EXPLOSIVE MATERIALS, AND PROJECTILES**

26 TAC §§749.1031, 749.1033, 749.1035, 749.1037

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1031. Weapons, Firearms, Explosive Materials, and Projectiles in a Foster Home.

(a) Each child-placing agency (CPA) must have and enforce a policy that addresses the presence of weapons, firearms, explosive materials, and projectiles in a foster home. The policy must contain specific requirements to ensure that a child in care does not have unsupervised access to these items, including requiring a foster parent to keep such items in locked storage when they are not in use.

(b) The CPA must determine whether it is appropriate for a specific child in care to use weapons, firearms, explosive materials, or projectiles.

(c) No child in care may use a weapon, firearm, explosive material, or projectile, unless the child in care is directly supervised by an adult knowledgeable about the use of the weapon, firearm, explosive material, or projectile that is to be used by the child in care.

(d) The CPA must determine whether it is appropriate for a specific child in care to use a toy that explodes or shoots.

(e) No child in care may use or be around a toy that explodes or shoots unless:

(1) the CPA determines it is appropriate for the child in care;

(2) the child in care is directly supervised by an adult; and

(3) the toy is age-appropriate for the child in care.

§749.1033. Storage of Weapons, Firearms, Explosive Materials, or Projectiles in a Foster Home.

(a) When determining if weapons, firearms, explosive materials, and projectiles are stored so that a child in care does not have unsupervised access to such items, the child-placing agency (CPA) must consider the age, history, emotional maturity, and background of each child in the care of the foster home (home).

(b) A CPA may not require a home to disclose the specific types of firearms that are stored or otherwise present in the home.

(c) Firearms that are inoperable and solely ornamental are exempt from the storage requirements in this rule.

§749.1035. Determining if Weapons, Firearms, Explosive Materials, or Projectiles are Present in a Foster Home.

(a) When a child-placing agency (CPA) completes a foster home (home) screening, the CPA must ask whether weapons, firearms, explosive materials, or projectiles are present in the home. If these items are present, the CPA must review the CPA's weapons, firearms, explosive materials, and projectiles policy and requirements with the prospective foster parents.

(b) The home record must include documentation on:

(1) whether weapons, firearms, explosive materials, or projectiles are present in the home; and

(2) specific precautions the caregivers will take to ensure children in care do not have unsupervised access.

(c) The annual evaluation of the home's compliance with this chapter must include a discussion of whether the home has weapons, firearms, explosive materials, or projectiles, and if so, how these items are stored.

(d) In complying with this rule, a CPA may not require the home to disclose the specific types of firearms that are stored or otherwise present in the foster home.

(e) In complying with this rule, a CPA may not require the home to notify the CPA if there is any change in the types of firearms that are present in the home.

§749.1037. Transporting a Child in Care in a Vehicle Where Weapons, Firearms, Explosive Materials, or Projectiles are Present.

(a) A caregiver may transport a child in care in a vehicle where firearms (other than handguns), other weapons, explosive materials, or projectiles, are present if:

(1) all firearms are not loaded;

(2) the firearms, other weapons, explosive materials, or projectiles are inaccessible to the child in care; and

(3) possession of the firearm is legal.

(b) A caregiver may transport a child in care in a vehicle where a handgun is present if:

(1) the handgun is in the possession and control of the caregiver; and

(2) the caregiver is not prohibited by law from carrying a handgun.

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

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DIVISION 3. SLEEPING SPACE AND BATHROOM REQUIREMENTS

26 TAC §749.1051, §749.1053

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1051. Indoor Space: Sleeping Spaces and Sleeping Surfaces.

(a) Each child in care must have a designated sleeping space with an individual sleeping surface, such as a bed or mattress, and linens. Up to four children may share a sleeping space with approval from the child placement management staff (CPMS).

(b) Sleeping spaces and surfaces must fit the needs, developmental level, and age of the child in care.

(c) Before approving a child in care to share a sleeping space or sleeping surface, the CPMS must determine and document in the service plan of the child in care there is no known risk of harm to the child in care by sharing a sleeping space or sleeping surface with the other individual after assessing:

(1) the relationship between the child in care and the individual;

(2) the ages and developmental levels of the child in care and the individual, noting that after the 18th birthday of the child in care, the child in care may share a bedroom with another youth who is 16 years old or older, provided the age difference does not exceed two years;

(3) the behaviors of the child in care and the individual;

(4) any history of possible sexual trauma or sexually inappropriate behaviors of the child in care or the individual; and

(5) any other identifiable factors that may affect the appropriateness of the individual and the child in care sharing a sleeping space.

(d) CPMS may not approve an infant to share a sleeping surface.

§749.1053. Indoor Space: Bathrooms.

A foster home must have at least:

(1) one bathroom that allows for privacy;

(2) one toilet; and

(3) one bathroom sink and one tub or shower that have hot and cold running water.

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

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DIVISION 4. POOLS AND WATER ACTIVITIES

26 TAC §§749.1061, 749.1063, 749.1065

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1061. *Water Safety: Pools, Hot Tubs, and Bodies of Water.*

(a) Swimming pools must have a barrier on all sides, at least four feet high. An exterior wall of the home may serve as one side of the barrier.

(b) Gates or other means of access to a pool or hot tub must be secured with a safety device, such as a bolt lock, which is locked when the pool or hot tub is not in use.

(c) Swimming pools and hot tubs must have a throwable flotation device.

(d) Any door that leads from the home to an area with a swimming pool, hot tub, or body of water must have:

(1) a door alarm; or

(2) a lock that is only accessible and operational by an adult unless:

(A) the state or local fire authority determines that the lock violates the fire code; and

(B) the child-placing agency keeps the fire authority's determination in the foster home record.

(e) The bottom of a swimming pool or hot tub must always be visible.

(f) Swimming pool and hot tub chemicals and machinery rooms must be inaccessible to children in care.

§749.1063. *Swimming Supervision.*

(a) Caregivers must inform each child in care about house rules for the use of a swimming pool, hot tub, or other body of water and appropriate safety precautions.

(b) Supervision and monitoring of safety features must be adequate to protect any child in care from unsupervised access to the swimming pool, hot tub, or other body of water.

(c) Caregivers must ensure that a child in care has access to a lifesaving device when using a swimming pool, hot tub, or body of water.

(d) A child in care participating in a swimming activity who is unable to swim must wear a personal flotation device (PFD). A PFD is a vest or suit designed to keep the wearer afloat in water and prevent drowning. The PFD must be:

(1) United States Coast Guard-approved with a rating of Type I, II, or III, or a buoyancy level of 70 or above; and

(2) properly fitted and fastened for the child.

(e) Caregivers must assess the swimming skills of a child in care before allowing the child in care into the swimming pool, hot tub, or any other body of water. The child-placing agency must document how the caregiver checked the swimming skills and keep this information in the record of the child in care.

(f) When watching a child in care in a swimming pool, hot tub, or any other body of water, caregivers must stay close by and pay attention to the child in care at all times. The caregiver must be able to see and hear the child in care and be ready to help in case of an emergency.

(g) Caregivers must be able to clearly see all parts of the swimming pool or hot tub when supervising activity in the area.

§749.1065. *Swimming Ratios.*

(a) There must be one caregiver to supervise each child under the age of two during swimming activities.

(b) If four or more children over the age of two participating in swimming activities, there must be at least two caregivers present supervising the activity area.

(c) There must be one caregiver to supervise each child who is non-ambulatory or who is subject to seizures during swimming activities. Caregivers do not need to meet this requirement if a licensed physician determines special precautions are not needed and documentation of the determination is maintained in the child in care's file.

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SUBCHAPTER I. FOSTER HOME MANAGEMENT AND EVALUATION

26 TAC §§749.1101, 749.1103, 749.1105, 749.1107, 749.1109

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas

Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1101. Foster Home Verification Change Management.

(a) A child-placing agency (CPA) must monitor a foster home (home) for changes that invalidate the home's verification.

(b) If something happens that makes a home's verification invalid, a new or temporary verification must be given after the CPA checks that the home follows the laws and rules in this chapter.

(c) Changes that automatically invalidate a home's verification include:

(1) marriage, divorce, separation, death, birth, or any other change in household composition;

(2) changes in the home's address or location;

(3) changes in the number of children a home may have in care;

(4) changes in the ages or sex of children for whom the home is authorized to provide care; and

(5) changes in the types of services the home will provide.

§749.1103. Foster Home Compliance Evaluation.

(a) A child-placing agency (CPA) must check each year to ensure a foster home (home) is following all the laws and rules that apply to the home.

(b) The CPA must evaluate a home's compliance with relevant laws and rules each time:

(1) there is an allegation of a deficiency in the home;

(2) there is a major life change in the home that invalidates the verification; or

(3) the CPA receives a report of family violence at the home from the Texas Department of Family and Protective Services.

(c) When a deficiency is found during an evaluation, the CPA must:

(1) develop a plan to achieve compliance that includes:

(A) a list of all the actions or changes the home needs to make to correct deficiencies, including:

(i) how much time the home has to correct the deficiencies; and

(ii) what will happen if the deficiencies are not corrected; and

(B) a decision about whether a child in care may stay in the home and if the home may accept a new child into care before the deficiencies are corrected; and

(2) ensure the home corrects any deficiencies by either inspecting the home again or obtaining proof that issues are corrected.

§749.1105. Foster Home Supervisory Visits.

(a) Child placing staff must visit the foster home (home) at least every three months for supervisory visits.

(b) The supervisory visits must happen inside the home.

(c) Within a 12-month period:

(1) two of the visits must be unannounced;

(2) one visit must have all household members present; and

(3) both foster parents, if there are two, must be present for one visit every six months.

(d) At least once every three months the supervisory visit must evaluate any:

(1) changes to household members, frequent visitors, or persons who will provide support as a caregiver during an unexpected event or crisis; and

(2) changes to the home that have an impact on the health, safety, or well-being of a child in care as determined by the child-placing agency.

§749.1107. Inactive Foster Homes.

(a) A child-placing agency (CPA) may place a foster home (home) on inactive status if the CPA makes sure there are no children in care. Inactive status cannot be used instead of closing the home if there are ongoing concerns that could harm the health or safety of a child in care.

(b) If the CPA puts a home on inactive status or takes the home off inactive status, the CPA must inform Child Care Regulation by submitting an Agency Home Report Form.

(c) A home on inactive status does not require monitoring or supervisory visits.

(d) If a home wants to have active status again and care for a child, the CPA must make a supervisory visit to the home to ensure it meets the laws and rules in this chapter before a child can be placed in the home.

(e) Background checks are not required for a home that is on inactive status. If the home returns to active status, the background checks must be active and in an Eligible or Conditional status before a child can be placed in the home.

§749.1109. Ongoing Monitoring Documentation Requirements.

A child-placing agency (CPA) must document and maintain the following information in the foster home's record.

(1) When checking the foster home (home) for compliance or completing a supervisory visit:

(A) the date the evaluation or supervisory visit was completed and the household members present;

(B) a summary of the topics talked about, which rules were checked, and any deficiencies found, signed by each foster parent present;

(C) the CPA's plan to correct any deficiencies found; and

(D) a follow-up plan including proof that all deficiencies have been corrected.

(2) For a home on inactive status:

(A) the agreement between the CPA and foster parents that the home will be placed on inactive status and will not accept placement; and

(B) when a home on inactive status wishes to return to active status, the CPA must check and ensure that the home is following

all laws and rules in this chapter and has done the necessary background checks. The CPA must document this before a child can be placed in the home.

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SUBCHAPTER J. FOSTER CARE SERVICES: MEDICAL AND DENTAL

**26 TAC §§749.1201, 749.1203, 749.1205, 749.1207,
749.1209, 749.1211, 749.1213, 749.1215, 749.1217**

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1201. Admission Criteria.

(a) A child-placing agency (CPA) may admit a child or young adult for placement in a foster home (home) after ensuring:

- (1) the child or young adult meets the CPA's admission policy;
- (2) the CPA and foster home can provide the services the child or young adult requires; and
- (3) the home can meet the child or young adult's specific needs.

(b) The CPA may admit a young adult into the care of a home if the young adult:

- (1) comes immediately from another residential child-care operation;
- (2) will continue to need the same level of care and is unlikely to physically or intellectually progress over time; and
- (3) is in the care of the Texas Department of Family and Protective Services.

(c) A child, at least 14 years old, or young adult may be admitted to a CPA's transitional living program as a non-emergency admission.

§749.1203. Initial Requirements at the Time of Admission or Verification.

(a) For each child in care living in the foster home (home) at the time of verification or who is subsequently placed in the home, a child-placing agency (CPA) must obtain the following information, if available, before verifying the home or admitting the child into care:

- (1) the child's name, and date of birth;
- (2) a brief description of the circumstance that led to the reason the child needs a placement and the reason the last placement ended;
- (3) the child's current health status, chronic or acute health conditions, such as asthma, diabetes, special dietary needs, allergies, and medications the child is taking, including possible side effects;
- (4) identification of the child's immediate treatment and educational needs;
- (5) identification and assessment of any of the child's high-risk behaviors, the results of the suicide risk screening, and supervision needs; and
- (6) known contraindication to the use of restraint.

(b) The CPA must provide prospective caregivers with the child's initial admission information within 24 hours after the date of admission.

§749.1205. Admission Assessment.

(a) A child-placing agency (CPA) must complete the admission assessment within 15 days after the date of admission. The admission assessment for a child in care must include:

- (1) legal status, and the circumstances that led to the referral for foster care;
- (2) all history of abuse, neglect, or exploitation and history of trauma;
- (3) current medical status, including the:
 - (A) results of the most recent medical and dental examinations;
 - (B) all medical diagnoses requiring treatment services; and
 - (C) results of all psychiatric, psychological, or psychosocial assessments;
- (4) mental and behavioral health history, including substance use history;
- (5) developmental and educational history;
- (6) social history, including the home environment, the quality of family relationships, family functioning, and religion;
- (7) criminal history, if applicable; and
- (8) documentation of how the CPA can meet the needs and behaviors of the child in care, and the services the CPA plans to provide to the child in care.

(b) If a child in care receives treatment services for primary medical needs, the admission assessment must also include:

- (1) confirmation that the child in care can live safely in a foster home setting and that the foster parents have the skills to meet the needs of the child in care; and
- (2) all physician orders related to the child in care.

(c) The admission assessment must be given to the caregivers and professional service providers who are working with the child in care within five days after the assessment is finished.

§749.1207. Admission Orientation Requirements.

(a) Within seven days after the date of admission, a child-placing agency (CPA) must provide an orientation to each child in care who is at least five years old or older. The orientation must be easy for the child in care to understand, in the main language and communication method of the child in care, and suitable for the age of the child in care.

(b) Orientation must include information about the CPA's child-care policies.

§749.1209. Placement Agreement.

(a) A placement agreement is a child-placing agency's (CPA's) agreement with the foster child's parent or the foster child that defines the CPA's roles and responsibilities and authorizes the CPA to obtain or provide services for the foster child. A CPA placement agreement must include:

(1) authorization from the parent permitting the CPA to care for the child in care;

(2) the reason for placement and anticipated length of time in care; and

(3) a medical consent form signed by the parent.

(b) For a transitional living program, a child 16 years old or older in care may sign the placement agreement without parental consent if the child in care:

(1) resides separately from the parent, independently manages the financial affairs of the child in care, is unmarried and pregnant, or a parent; and

(2) the CPA attempts to notify the parent of the child in care of the location of the child in care.

§749.1211. Pre-Placement Requirements.

(a) Before placement, child placement staff must:

(1) ensure the placement is suitable for the needs and behaviors of the child in care by using the initial admission information and the home study for the foster home; and

(2) talk to the child in care about why the child in care is being placed and confirm the understanding and response of the child in care.

(b) For non-emergency placements, a child at least six months of age or older in care must visit the foster home at least once before placement.

(c) During the pre-placement visit, child placement staff must observe the interaction between the child in care and household members.

(d) There must be time between the pre-placement visit and placement to allow the child in care and foster parents to each meet privately with child placement staff to discuss and consider placement.

§749.1213. Post-Placement Contacts.

(a) Child placement staff must have monthly face-to-face contact with each child in care.

(b) Monthly visits must meet the following requirements.

(1) At least half of the contacts must occur in the foster home.

(2) The child placement staff must ensure the child in care is safe and the basic needs of the child in care are being met.

(3) The visits must:

(A) be for a length of time to address the needs and behaviors of a child in care who is verbal, or observe the child in care if they are non-verbal;

(B) provide an opportunity to meet privately; and

(C) provide an opportunity for the child in care to discuss feelings about how the placement is working out.

§749.1215. Ongoing Placement of Young Adults.

(a) A young adult may remain in care until the young adult is 23 years old to:

(1) attend high school, a program leading to a high school diploma, or GED classes;

(2) transition to independence, including attending college or vocational or technical training;

(3) complete a child-placing agency's program; or

(4) stay with a minor sibling.

(b) A young adult who turns 18 years old while in the care of a foster home may remain in care indefinitely, if the person:

(1) continues to need the same level of care; and

(2) is unlikely to physically or intellectually progress over time.

§749.1217. Admission and Placement Information Documentation.

A child-placing agency (CPA) must document and maintain the following information in the record of the child in care:

(1) the initial admission information obtained, including the date of admission, why any initial admission information could not be obtained, if applicable, and the date the prospective caregiver was provided the information;

(2) admission orientation provided to the child in care, if the child in care is at least five years old or older, including the date the orientation occurred;

(3) the admission assessment, including the date the information was provided to the caregivers and professional service providers working with the child in care;

(4) the signed and dated placement agreement;

(5) attempts to notify a parent of the location of the child in care, if the child in care is signing the placement agreement without parental consent; and

(6) the pre-placement visit and post-placement meeting details, including topics discussed and the dates each visit and meeting occurred.

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SUBCHAPTER K. SERVICE PLANNING AND DISCHARGE

DIVISION 1. SERVICE PLANNING

26 TAC §§749.1231, 749.1233, 749.1235, 749.1237

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1231. General Service Plan Requirements.

(a) A child-placing agency (CPA) must use and follow the most recent service plan for a child in care.

(b) To meet service plan requirements, the CPA must:

(1) use the most recent service plan for the child in care, developed by the agency that referred the child in care for placement, if the plan meets the criteria established in this division; or

(2) complete the initial service plan and service plan reviews using the criteria established in this division.

(c) The CPA must allow a child in care to help develop the service plan for the child in care.

(d) The CPA must provide the service plan to the child in care, the caregivers for the child in care, and the professionals working with the child in care within five days after the plan is finished.

§749.1233. Initial Service Plan Requirements.

(a) A service planning team must meet to develop an initial service plan for a child in care using the information obtained from the admission assessment.

(b) The initial service plan must identify and address:

(1) medical, dental, dietary, and therapeutic needs, including psychotropic medications;

(2) educational needs, and needs related to intellectual and developmental functioning;

(3) behavioral and supervision needs, including plans to minimize the risk of harm to the child in care or others for a child in care who exhibits high-risk behaviors; and

(4) the trauma of the child in care, including how the child in care copes, and appropriate redirection and discipline methods.

(c) For a child in care receiving any treatment services, the initial service plan must explain why the child in care needs treatment services and what goals the child in care needs to reach to live in a less restrictive setting.

(d) For a child in care receiving treatment services because of an intellectual disability, the initial service plan must identify and address:

(1) plans to engage the child in care in opportunities for visual, auditory, and tactile stimulation; and

(2) an educational or training plan for normalcy aligned to the functioning of the child in care.

(e) The initial service plan must be finished within 60 days after the child is admitted into care. The plan must include the signatures of the people who helped develop the plan.

(f) The service planning team must check and update the service plan at least every 180 days after the date of the last service plan for the child in care. The review must consider the progress of the child in care, identify any new needs for the child in care, and make a plan to meet these new needs for the child in care.

§749.1235. Service Plan Requirements for Children in Care Receiving Treatment Services.

For a child in care receiving treatment services for emotional disorders, autism spectrum disorder, or intellectual disabilities, the child-placing agency must obtain a written, dated, and signed psychosocial assessment, or equivalent assessment or evaluation, completed within:

(1) 14 months after the date of admission, if the child in care is coming from another regulated residential child-care operation; or

(2) six months after the date of admission if the child in care is not coming from another regulated residential child-care operation.

§749.1237. Service Plan Documentation Requirements.

A child-placing agency must maintain the following documentation in the record of a child in care:

(1) the initial service plan or most recent service plan developed by the agency that referred the child for placement; and

(2) the psychosocial assessment or equivalent assessment or evaluation, if applicable.

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DIVISION 2. DISCHARGE AND TRANSFER PLANNING

26 TAC §749.1251, §749.1253

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In

addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1251. Discharge and Transfer Requirements.

(a) The child-placing agency (CPA) must:

(1) have at least one person from the service planning team for a child in care help with planning the discharge or transfer for the child in care;

(2) consult with the service planning team about whether the child in care should be told in advance about the discharge or transfer and follow the team's recommendations; and

(3) If the service planning team decides the child in care should be told in advance about the discharge or transfer, the child in care must be informed at least four days before the date of discharge or transfer.

(b) The CPA may discharge a child in care to:

(1) the parent of the child in care;

(2) anyone with written authorization from the parent; or

(3) a person authorized by a court or by law to assume custody of the child in care.

(c) When discharging or transferring a child in care the CPA must:

(1) ensure one of the caregivers for the child in care or child placement staff goes with the child in care to the new placement unless the parent of the child in care or law enforcement is transporting the child in care;

(2) provide the prescribed medications for the child in care to the person the child in care is discharged or transferred to; and

(3) provide the belongings of the child in care to the child, the parent of the child in care, or the person the child in care is discharged or transferred to.

(d) The CPA must provide a discharge or transfer summary to the receiving placement or caregiver within 15 days after the child in care is discharged or transferred, which includes:

(1) a summary of:

(A) services provided to the child in care;

(B) an assessment of the current behaviors and needs of the child in care, and recommended services to meet those needs;

(C) upcoming appointments; and

(D) identified resources to support the child in care with the transition, including contact information; and

(2) The background information of the child in care, including unresolved incidents or investigations, and previous assessments and evaluations performed.

§749.1253. Discharge and Transfer Documentation Requirements.

A child-placing agency (CPA) must document and maintain the following information in the record of the child in care:

(1) the response of the child in care to the discharge or transfer;

(2) if the child in care was not told about the discharge or transfer, an explanation of why the child in care was not told; and

(3) the written discharge or transfer summary, including the date it was provided to the receiving placement or caregiver.

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

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**SUBCHAPTER L. FOSTER CARE SERVICES:
EMERGENCY BEHAVIOR INTERVENTION**

26 TAC §§749.1301, 749.1303, 749.1305, 749.1307

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1301. Child-Placing Agency Responsibilities Related to Child Rights.

(a) A child-placing agency (CPA) must protect the rights of a child in care and ensure caregivers and adoptive parents do not take away or limit the child's rights while the child is in care.

(b) The CPA is responsible for removing the child in care from a situation where abuse, neglect, or exploitation exists.

(c) The CPA must review the child's rights with the child in care and the parent of the child in care unless the parent's consent is not required. The CPA must also provide the child in care and the parent of the child in care a written copy of the child's rights.

(d) Child rights must be:

(1) written in plain language; and

(2) given in a way that is easy for the individual to understand.

§749.1303. Child Rights.

The rights of a child in care include any other rights given by law or other Child Care Regulation rules. A child-placing agency (CPA) must follow the child's rights, which include the following.

(1) Safety and care.

(A) The right to care and treatment that meets the needs of the child in care in the most family-like setting possible.

(B) The right to be free from abuse, neglect, and exploitation.

(C) The right to fair treatment.

(2) Family contacts. The right to maintain regular contact with the parents, siblings, and other extended family of the child in care, unless restrictions are necessary to protect the health, safety, or well-being of the child in care, as determined by the service plan or a court order.

(3) Living a normal life.

(A) The right to communicate in the way the child in care prefers. The CPA must make every reasonable effort to place the child in the care of foster parents who can communicate with the child.

(B) The right to receive educational services appropriate to the age and developmental level of the child in care.

(C) The right to have the religious needs of the child in care met.

(D) The right to participate in childhood activities, including those with the foster family and other activities outside the home, suitable for the age and development of the child in care.

(E) The right to privacy, which includes sending and receiving unopened mail, making and receiving phone calls, keeping a personal journal, and having visitors, unless it is necessary to limit these activities to keep the health, safety, or well-being of the child in care protected, as determined by the service plan or a court order.

(F) The right to personal care, hygiene, grooming equipment and supplies, and training in how to use them.

(G) The right to have comfortable clothes, including shoes, that fit well and are similar to what other children in the community wear and teenagers should have opportunities to pick out their own clothes.

(H) The right to clothing and shoes that protect the child in care against the weather.

(I) The right to have personal items at the foster home of the child in care and to get additional personal items when needed.

(J) The right to personal space in the sleeping space of the child in care to store clothes and belongings.

(K) The right to be informed of search policies and be free of unreasonable searches and unreasonable removal of personal items.

(L) Depending on the age and maturity of the child in care, the right to seek employment, keep money belonging to the child in care, and have a bank account in the name of the child in care.

(M) The right to consent in writing before taking part in any publicity or fund-raising activity for the home or the CPA, including the use of the photograph of the child in care, and to withdraw the consent.

(N) The right to refuse to make public statements showing gratitude to the home or the CPA.

(O) The right to not be pressured to make a medical decision about a pregnancy, give up a child for adoption, or parent the child, if applicable.

(4) Discipline.

(A) The right to be free from any harsh, cruel, unusual, unnecessary, demeaning, or humiliating treatment or punishment; this means the child in care must not be:

(i) shaken;

(ii) subjected to or threatened with corporal punishment, including spanking or hitting the child in care;

(iii) forced to be outside in excessive heat or cold for excessive periods;

(iv) forced to do unproductive work that serves no purpose except to demean the child in care, such as moving rocks from one pile to another or digging a hole and then filling it in;

(v) denied food, sleep, a bathroom, mail, or family visits as punishment;

(vi) subjected to remarks that belittle or ridicule the child in care or the family of the child in care;

(vii) threatened with the loss of placement or shelter as punishment;

(viii) subjected to demeaning behavior to embarrass, control, harm, intimidate, or isolate the child, "demeaning behavior" may include using physical force, rumors, threats, or inappropriate comments; and

(ix) subjected to emergency behavior intervention, aversive conditioning, or rebirthing, hug, or holding therapy.

(B) The right to discipline that is appropriate to the age, maturity, and developmental level of the child in care.

(C) The right to have restrictions or disciplinary policies explained to the child in care at admittance and when the measures are imposed.

(5) Plans for the child while in care.

(A) The right to have a comprehensive service plan that addresses the needs of the child in care, including transitional and discharge planning.

(B) The right to actively participate in the development of the service plan within the limits of the comprehension of the child in care. The child in care has the right to a copy or summary of the plan. A child 14 years old or older in care has the right to review and sign the service plan.

(6) Medical care and records.

(A) The right to medical, dental, vision, and mental health care and developmental services that adequately meet the needs of the child in care.

(B) The right to request that the care or services be separate from adults (other than young adults in care) who are receiving services.

(C) The right to be free of unnecessary or excessive medication.

(D) The right to confidential care and treatment, including keeping medical records and agency records private and only discussing the records when necessary to provide the child with care.

(7) Complaints.

(A) The right to make anonymous calls, reports, or complaints without interference, coercion, punishment, retaliation, or threats of punishment or retaliation.

(B) The child in care has the right to contact:

(i) the Texas Department of Family and Protective Services Abuse/Neglect Hotline;

(ii) the Texas Health and Human Services Commission Ombudsman for Children and Youth in Foster Care;

(iii) the DFPS Office of Consumer Affairs; and

(iv) Disability Rights Texas.

§749.1305. Conducting Searches for Items that Endanger a Child's Safety.

(a) For a child in care, an employee or caregiver may conduct a physical search of the child, the clothing or possessions of a child in care, or the room of a child in care only when there is reasonable suspicion that:

(1) an unlawful or prohibited item is present that endangers the safety of the child in care;

(2) the child in care made suicidal threats or threatened to self-harm or hurt others; or

(3) the child in care is suspected of or was involved in a theft.

(b) If a search of a child in care involves the removal of clothing (other than outer clothing such as coats, jackets, hats, gloves, shoes, or socks):

(1) only a caregiver that is the same sex as the child in care may conduct the search;

(2) there must be an adult witness who is the same sex as the child in care; and

(3) the caregiver must ensure that other children do not witness the search.

(c) With the exception of the mouth of a child in care, a caregiver or employee may not conduct a body cavity search of a child in care.

§749.1307. Child Rights Documentation Requirements.

A child-placing agency (CPA) must document and maintain the following information in the record of the child in care.

(1) A statement signed within seven days after the CPA admits a child into care that each required individual reviewed and understood the child's rights. A signed copy of the "CPS Rights of Children and Youth in Foster Care" meets this requirement.

(2) Plans for contact between the child in care and a parent and the child in care and the siblings of the child in care, including any restrictions the CPA places on the contacts.

(3) When conducting a search that results in the removal of personal items or clothing worn by the child in care the:

(A) name of the child in care, date of the search, and name of the person conducting the search, including any witnesses;

(B) reason for the search and a description of what was searched, including the articles of clothing removed, if applicable; and

(C) results of the search and resolution of the issue with the child in care.

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SUBCHAPTER M. DAILY CARE, EDUCATION, AND DISCIPLINE

26 TAC §§749.1401, 749.1403, 749.1405, 749.1407, 749.1409, 749.1411, 749.1413, 749.1415, 749.1417, 749.1419, 749.1421, 749.1423

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1401. Infants: Basic Care and Supervision.

(a) Each infant in a foster home must receive individual attention, including play, talking, cuddling, and holding.

(b) A caregiver must provide prompt attention to an infant's physical needs, such as feeding and diapering.

(c) A caregiver must ensure that the environment is safe for each infant, including:

(1) keeping the area free of objects that may choke or harm the infant; and

(2) protecting the infant by ensuring electrical outlets have childproof covers or safety outlets.

(d) Items necessary for diaper changing must be kept out of the reach of infants and other children in care.

(e) A caregiver must never leave an infant unsupervised.

(1) a sleeping infant is considered supervised if the caregiver:

(A) is within eyesight or hearing range of the infant and can intervene as needed; or

(B) uses a video camera or audio monitoring device to monitor the infant and is close enough to the infant to intervene as needed.

(2) An awake infant is considered supervised if the caregiver is within eyesight of the infant and is close enough to the infant to intervene as needed. For short periods of time during regular household activities, the infant may be out of the caregiver's sight, as long as:

(A) the infant is within hearing range of the caregiver;

ards; and

(B) the infant's environment is free of any safety haz-

(C) the caregiver can intervene immediately, as needed.

§749.1403. Infants: Cribs.

(a) A foster home (home) that provides care to a child in care who is an infant must have an individual crib for the infant. All cribs must:

(1) have a firm, flat mattress that snugly fits the sides of the crib, and the mattress must not be supplemented with additional foam material or pads and must be waterproof or washable;

(2) have sheets that fit snugly and do not present an entanglement hazard;

(3) be bare, except for a mattress with a tight-fitting sheet, for an infant who is younger than 12 months old; and

(4) be assembled per the manufacturer's instructions with no loose hardware, damaged parts, or entrapment hazards.

(b) A home may use a full-sized, portable, or mesh-side crib if:

(1) the caregivers follow the manufacturer's instructions; and

(2) the crib has mesh that is securely attached to the top of the rails and floor plate, and the folded sides are securely latched in place when raised.

(c) The home may not use a stackable crib, bean bag, waterbed, or foam pad as sleeping equipment for an infant.

(d) A caregiver must never leave an infant in a crib, portable crib, or mesh-side crib with a side folded down.

(e) An infant receiving treatment services for primary medical needs may have special items that assist with safe sleep at the written recommendation of a health-care professional. The child-placing agency (CPA) must keep the written recommendation in the record of the child in care.

(f) The CPA must notify the parent of each child in care of each home verified by the CPA of any deficiencies relating to subsections (a)(1), (a)(3), (b), or (c) of this section.

§749.1405. Infants: Safe Sleep Requirements.

(a) A caregiver must place an infant who is unable to turn over without assistance in a face-up sleep position unless a health-care professional orders otherwise. A child-placing agency (CPA) must keep any orders from a health-care professional in the record of the child in care.

(b) An infant's head, face, or crib must not be covered at any time by any item, including a blanket, linen, or clothing.

(c) An infant must not co-sleep with an individual at any time in any location.

(d) An infant must not sleep in a restrictive device, such as a car seat, swing, bouncy seat, or highchair. If an infant falls asleep in one of these devices, the caregiver must move the infant to a crib as soon as possible.

(e) An infant who can roll over without assistance must not be swaddled.

(f) The CPA must notify the parent of each child of each foster home verified by the CPA of any deficiencies cited in this section.

§749.1407. Infants: Equipment Safety.

(a) A highchair, swing, stroller, infant carrier, rocker, bouncer seat, or similar item that a foster home (home) uses for an infant must have safety straps fastened when the equipment is in use with the infant. The caregivers must follow the manufacturer's instructions.

(b) A home may not use any of the following types of equipment for infants:

(1) baby walkers;

(2) baby bungee jumpers; and

(3) accordion safety gates.

§749.1409. Infants: Feeding Requirements.

(a) Caregivers must feed an infant based on the recommendations of the infant's health-care professional.

(b) Unless recommendations from the health-care professional are contrary, caregivers must hold the infant while feeding the infant if the infant is:

(1) birth through six months old; or

(2) unable to sit unassisted in a highchair or other seating equipment during feeding.

(c) Caregivers must never prop a bottle by supporting it with anything other than the infant's or caregiver's hands.

(d) A caregiver who cares for more than one infant must:

(1) sterilize shared bottles or training cups between uses by different infants; and

(2) clean highchair trays before each use.

§749.1411. Toddlers: Basic Care Requirements.

(a) Each toddler must receive individual attention, including play, talking, and cuddling.

(b) A caregiver must ensure that the environment is safe for each toddler, including:

(1) keeping the area free of objects that may choke or harm the toddler; and

(2) protecting the toddler from dangerous items or areas, such as ensuring each accessible electrical outlet has a childproof cover or safety outlet.

(c) A caregiver must never leave a toddler unsupervised. A toddler is supervised if the caregiver:

(1) is within eyesight or hearing range of the toddler and can intervene as needed; or

(2) uses a video camera or an audio monitoring device to monitor the toddler and is close enough to the toddler to intervene as needed.

§749.1413. Additional Requirements for Pregnant Children in Care.

For a pregnant child in care, a child-placing agency must:

(1) ensure information, training, and counseling is available about pregnancy, prenatal care, childbirth, and recovery from childbirth; and

(2) inform the child in care, within seven days after the date of admission or on learning about the pregnancy, of the right not to be pressured to make a medical decision about the pregnancy, give up the child for adoption or parent the child.

§749.1415. Additional Requirements for Children in Care Receiving Treatment Services for Primary Medical Needs or Intellectual Disabilities.

(a) A caregiver who cares for a child in care receiving treatment services for primary medical needs or an intellectual disability must follow recommendations from the medical providers for the child in care, including recommendations relating to physical and sensory stimulation.

(b) A caregiver must ensure a child in care receiving treatment services for primary medical needs or an intellectual disability has opportunities for physical and sensory stimulation.

§749.1417. Discipline and Punishment.

(a) Only a caregiver known to and knowledgeable of a child in care may discipline the child.

(b) All disciplinary measures used with a child in care must be consistent with the child's rights related to discipline and punishment in this chapter.

§749.1419. Normalcy and Reasonable and Prudent Parent Requirements.

A foster parent must ensure a child in care has the opportunity to participate in childhood activities, including unsupervised activities, using the reasonable and prudent parent standard. For a child in care, the foster parent must consider the:

(1) age, level of maturity, overall abilities and developmental level, and desires; and

(2) behavioral history and ability to safely participate in a proposed activity considering the surrounding circumstances, hazards, risks, and supervision of the activity.

§749.1421. Educational Services: General.

A child-placing agency (CPA) must arrange appropriate education for each child in care, including:

(1) ensuring each child in care attends an educational facility or program that is accredited or otherwise recognized by state law and is the least restrictive educational setting to meet the needs and abilities of the child in care;

(2) advocating for the child in care to receive educational and related services to which the child in care is entitled under provisions of federal and state law and regulations, including the implementation of an Individual Education Plan (IEP) for students receiving special education services;

(3) ensuring that the education program is appropriate to the intellectual and social functioning of the child in care and encourages normalization through appropriate stimulation and by encouraging self-help skills; and

(4) designating a liaison between the CPA and the school of the child in care.

§749.1423. Educational Services: Caregiver Responsibilities.

Caregivers must:

(1) know how the child in care is doing in school by looking at the report cards and other information about the child in care from the school;

(2) request Admission, Review, and Dismissal (ARD), Individual Education Plan (IEP), and Individual Transitional Planning (ITP) meetings, if concerned with an education program for a child in care or if the child in care does not appear to be making progress;

(3) attend ARD, IEP, ITP meetings, or other school staffings and conferences to represent the educational best interests of a child in care; and

(4) know what is in the IEP or ITP for a child in care and support the school's efforts to implement the IEP or ITP, if applicable.

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SUBCHAPTER N. MEDICAL AND DENTAL REQUIREMENTS

26 TAC §§749.1501, 749.1503, 749.1505

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1501. General Medical, Dental, and Medication Requirements.

(a) A child in care must receive timely routine and emergency medical and dental care.

(b) At admission, a child-placing agency (CPA) must verify whether a child in care has had a medical examination within the past year and a dental examination within the past year, if the child in care is at least six months old. If the CPA determines that a child in care has not had one of these examinations during that time frame, the CPA must schedule any medical or dental examinations the child in care may need.

(c) Only someone who is trained and allowed to provide medicine can do so.

(d) The CPA must ensure caregivers follow orders and recommendations from a physician or other health-care professional.

(e) All medications must be stored securely and properly according to the label's instructions and in a way that makes the medications inaccessible to children in care.

§749.1503. Immunization Requirements.

A child-placing agency must ensure each child in care meets and continues to meet applicable immunization requirements as specified by the Texas Department of State Health Services.

§749.1505. Documentation Requirements for Medical and Dental Care.

(a) A child-placing agency (CPA) must verify that the following is documented either in the record or in the health passport, if applicable, of a child in care:

(1) each medical and dental visit or hospitalization, including a discharge summary;

(2) applicable immunization requirements; and

(3) any known contraindicated prescription, non-prescription medications, and supplements.

(b) The foster home must document and maintain in the record of a child in care:

(1) a daily medication log for each prescription medication administered to a child in care of any age, and non-prescription medication or supplement dispensed to a child in care under five years old; and

(2) documentation of all medication errors, adverse reactions, and side effects of a medication.

(c) The CPA must provide the daily medication log to the foster parents. The log must include:

(1) the name of the child in care and the person who administered the medication or supplement;

(2) the name, strength, and dosage of the medication or supplement administered; and

(3) the date and time the medication or supplement was administered.

(d) The CPA must provide the documentation form for medication errors, adverse reactions, and side effects to the foster parents. The form must include:

(1) the name of the child in care;

(2) the name of the medication;

(3) a description of the error, adverse reaction, or side effect; and

(4) how the caregiver ensured the safety of the child in care.

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SUBCHAPTER O. EMERGENCY BEHAVIOR INTERVENTION REQUIREMENTS
DIVISION 1. ADMINISTERING EMERGENCY BEHAVIOR INTERVENTION

26 TAC §§749.1601, 749.1603, 749.1605, 749.1607

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1601. Types of Emergency Behavior Intervention (EBI).

(a) A child-placing agency (CPA) must use a method of emergency behavior intervention (EBI) recognized by Child Care Regulation.

(b) EBI may only be used in a situation where preventative de-escalation and redirection has not effectively reduced the risk of injury, so immediate intervention is necessary to prevent:

(1) imminent probable death or substantial physical injury to the child in care; or

(2) imminent physical harm to another individual because of the overt actions of a child in care.

(c) A caregiver may only implement EBI using personal restraints, short personal restraints, and emergency medication. A caregiver may not use chemical restraints, mechanical restraints or seclusion.

(d) A personal restraint uses physical force to restrict free movement of all or part of the body of a child in care to control physical activity. Only a caregiver allowed by the CPA's policies and trained in the CPA's EBI curriculum may administer a personal restraint.

(e) A transitional hold is a temporary restraint technique that lasts no longer than one minute as part of the continuation of a longer personal restraint.

(f) Short personal restraints are personal restraints lasting no longer than one minute that are used in urgent situations. Any caregiver may administer a short personal restraint.

(g) Emergency medications to modify the behavior of a child in care. Only a caregiver allowed by the CPA's policies and trained in the CPA's EBI curriculum may administer an emergency medication.

§749.1603. Administering Emergency Behavior Intervention (EBI) Requirements.

(a) Before administering an emergency behavior intervention (EBI), a caregiver must determine if an emergency situation exists.

(b) During an EBI, the caregiver must:

(1) use the minimal amount of reasonable and necessary physical force;

(2) protect the health, safety and well-being of a child in care; and

(3) explain to the child in care what behaviors are necessary to be released from the short personal or personal restraint and consider actions the caregiver can take to help the child in care de-escalate.

§749.1605. Restraint Minimum Safety Requirements.

(a) A caregiver must ensure each personal restraint and short personal restraint meets the following safety standards:

(1) the caregiver must ensure the child in care can still breathe, the airway of the child in care is not blocked, the caregiver can see the face of the child in care clearly, and the child in care can talk or show if the child in care is in distress;

(2) the limbs of the child in care are not twisted or placed behind the back of the child in care; and

(3) prone and supine restraints are only used:

(A) as a transitional hold during a personal restraint lasting no longer than one minute; and

(B) when other less restrictive interventions have proven to be ineffective.

(b) A child in care must be released from a personal restraint:

(1) immediately when an emergency health situation occurs, when emergency medication is administered, if applicable, or as soon as the emergency that initiated the intervention no longer exists; and

(2) no longer than 30 minutes from when the restraint was administered.

(c) A child in care must be released from a short personal restraint immediately after the danger is gone, or when the one-minute limit is reached.

§749.1607. Written Orders for Emergency Medication and Combinations of Emergency Behavior Intervention.

(a) A caregiver cannot provide emergency medicine or combinations of emergency behavior interventions to a child in care without a written order from a licensed physician or licensed psychiatrist.

(b) A child-placing agency (CPA) must ensure that the written orders are given to the parent and all the caregivers of a child in care. The CPA must ensure the caregivers follow these orders and that each order is placed in the record of the child in care.

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DIVISION 2. FOLLOW-UP ACTIONS AND DOCUMENTATION

26 TAC §§749.1621, 749.1623, 749.1625

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas

Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1621. Restraint and Emergency Medication Follow-Up Actions Requirements.

(a) After the implementation of a personal restraint or use of emergency medication, the caregiver must:

(1) watch the child in care for signs of distress and talk to the child in care about what happened, including:

(A) the situation that required the implementation of the personal restraint or use of emergency medication;

(B) the ways the caregiver tried to de-escalate the child in care before implementing the personal restraint or using emergency medication and how the child in care reacted to the de-escalation and the type of emergency behavior intervention used; and

(C) what the child in care can do to regain self-control in the future, and how the caregiver can assist the child in care to de-escalate;

(2) offer the child in care the opportunity to return to regular activities; and

(3) make reasonable efforts to debrief with any child in care who saw what happened.

(b) Each caregiver who took part in the implementation of the personal restraint or use of emergency medication must talk with child placement staff about the incident within 72 hours after the incident.

§749.1623. Restraint and Emergency Medication Documentation Requirements.

(a) The caregiver who administered the personal restraint or emergency medication must document the following information in the record of a child in care:

(1) a description of the reasons for administering the personal restraint or emergency medication, the steps taken to de-escalate the behavior of the child in care, and the reaction of the child in care;

(2) each personal restraint or emergency medication administered, the name and dose of emergency medication used, if applicable, and the length of time the child in care was restrained;

(3) the name of the caregivers who administered the personal restraint or emergency medication and all witnesses to the personal restraint or emergency medication, and the incident that led to the personal restraint or use of emergency medication;

(4) all attempts to explain to the child in care what behaviors were necessary for release from the personal restraint;

(5) the condition of the child in care following the personal restraint or use of emergency medication, including adverse effects or injuries caused by the personal restraint or emergency medication and if the child in care received medical assistance or treatment; and

(6) the post-intervention discussion with the child in care and the actions taken to facilitate the return of the child in care to normal activities.

(b) Child placement staff must document the review of the use of the personal restraint or emergency medication within 72 hours of

the incident, including review of the documentation required in subsection (a) of this section.

§749.1625. Post-Restraint and Emergency Medication Parental Notification Requirements.

(a) No later than 72 hours after a personal restraint or emergency medication is administered, a child-placing agency must provide written notice to the parent of a child in care.

(b) The written notice must be maintained in the record for a child in care, and include:

(1) each personal restraint or emergency medication administered, including the name and dose of emergency medication used, if applicable, and the length of time the child in care was restrained; and

(2) the child's condition following the personal restraint or use of emergency medication, and if the child received medical assistance or treatment.

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

Filed with the Office of the Secretary of State on January 30, 2026.

TRD-202600415

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 438-3269



DIVISION 3. TRIGGERED REVIEWS AND ANNUAL OPERATION EVALUATION

26 TAC §§749.1631, 749.1633, 749.1635

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §542.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Texas Human Resources Code Chapter 42.

The new sections affect Texas Government Code §524.0151 and HRC §42.042.

§749.1631. Triggered Reviews General Requirements.

(a) For a child in care, a triggered review of the placement, service plan, and orders or recommendations for emergency behavior intervention (EBI) for the child in care must occur no later than 30 days after:

(1) a personal restraint is administered on the same child in care:

(A) four times or more within a seven-day period;

(B) 13 times or more in a single 30-day period; or

(C) more often than a written order allows; or

(2) a caregiver administers emergency medication to the same child in care three times in a 30-day period.

(b) The service planning team for the child in care must participate in the triggered review. The child in care must be invited to participate.

(c) If there are four triggered reviews within a 90-day period:

(1) a mental health professional must examine the child in care to make recommendations regarding the use of EBI; and

(2) a child-placing agency must follow the mental health professional's recommendations.

§749.1633. Triggered Reviews Documentation Requirements.

(a) A child-placing agency must document and maintain the following when conducting a triggered review:

(1) a review of the records and orders of the emergency behavior interventions (EBI);

(2) a review of any potential medical or psychiatric reason for not using EBI on the child in care;

(3) identified behaviors and patterns, any significant events leading to the use of EBI, and attempted de-escalation methods; and

(4) alternatives to manage the behavior of the child in care and prevent the use of EBI in the future.

(b) Triggered reviews and any associated recommendations must be documented and maintained in the record of the child in care.

§749.1635. Annual Operation Evaluation.

(a) A child-placing agency (CPA) must complete an annual operation evaluation, which is a written review to ensure any type of emergency behavior intervention (EBI) is used safely, correctly, and effectively. During the evaluation, the CPA must document and review:

(1) the CPA's EBI policies and procedures, including the training policy and curriculum;

(2) the frequency, patterns, and effectiveness of the types of EBI techniques used in the CPA's foster homes;

(3) strategies to reduce the need for specific types of EBI used in the CPA's homes; and

(4) strategies to reduce the need for EBI at the CPA's homes overall.

(b) Every three months, the CPA must:

(1) collect, document, and review aggregate numbers of EBI by type of intervention; and

(2) report the information to Child Care Regulation no later than 15 days after the end of each quarter.

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

Filed with the Office of the Secretary of State on January 30, 2026.

TRD-202600416

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 438-3269

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 9. TITLE INSURANCE

SUBCHAPTER A. BASIC MANUAL OF RULES, RATES, AND FORMS FOR THE WRITING OF TITLE INSURANCE IN THE STATE OF TEXAS

28 TAC §9.1

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §9.1, concerning the title insurance basic manual of rules, rates, and forms.

EXPLANATION. Amending §9.1 is necessary because the commissioner has issued Commissioner Order No. 2025-9697 to change the title insurance basic premium rates. These rates are included in the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* (Basic Manual), which §9.1 adopts by reference. The Basic Manual contains all the substantive rules, rates, and regulations authorized by the Texas Title Insurance Act (Act).

The Act's purpose is to completely regulate the business of title insurance. This complete regulation includes what prices may be charged for title policies and endorsements, and what provisions are contained in those policies. Title insurers must charge the promulgated rates and use the promulgated policies.

The procedures contained in Insurance Code Chapter 2703 dictate how rates, forms, and other aspects of the title insurance business are changed. Insurance Code §2703.151 specifies that the commissioner fix and promulgate the premium rates to be charged by a title insurance company or by a title insurance agent for title insurance policies or for other forms prescribed or approved by the commissioner. For fixing rates, TDI is required to conduct a hearing where members of the public and individuals and groups who work in the industry may present evidence to the commissioner and make public comments.

The commissioner presided over a rate hearing under Insurance Code §2703.202(c) on December 12, 2025, where the Texas Land Title Association, the Office of the Public Insurance Counsel, Texans for Free Enterprise, and TDI staff presented their positions, analyses, and rate calculations. Members of the public were also invited to comment. On December 19, 2025, the commissioner ordered a 6.2% reduction to the title insurance basic premium rates that will be effective on March 1, 2026.

The order--Order No. 2025-9697--included a rate table that will supplant a rate table in the most recent version of the Basic Manual on March 1st. The Basic Manual is adopted by reference by §9.1. The proposed amendment to §9.1 ensures that the public is aware of the new basic premium rates by incorporating the order's rate table into the Basic Manual.

Order No. 2025-9697 changes the title insurance basic premium rates and also describes the commissioner's reasoning and consideration of all materials presented at the hearing, including public comments. It can be viewed on TDI's website at www.tdi.texas.gov/orders/index.html.

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

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

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the section as proposed is in effect, Ms. Elliott expects that administering it will have the public benefit of reducing closing costs for real estate transactions and ensuring that TDI's rules conform to Insurance Code Chapter 2703.

Ms. Elliott expects that the section as proposed will not increase the cost of compliance because this rule only updates the adoption-by-reference language in §9.1. The promulgated rate has already been changed by the commissioner's order and will take effect on March 1, 2026.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the section as proposed will not have an adverse economic effect on small or micro businesses, or on rural communities. This rule proposal updates the adoption-by-reference language in §9.1. The rate reduction will occur because of the commissioner's order.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. Even if there were a cost, no additional rule amendments would be required under Government Code §2001.0045 because the amendments to the Basic Manual, adopted by reference in §9.1, are necessary to implement legislation. Insurance Code §2501.002 states that the purpose of the Texas Title Insurance Act is for TDI to completely regulate the business of title insurance, including setting the rates of all title insurance policies and endorsements sold. Given that legislative purpose, any changes to rates are necessary to implement the Act.

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

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

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

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on March 16, 2026. However, the comment period for the commissioner's order that changed the rate ended on December 17, 2025, and comments about the rate itself and the evidence presented at the hearing are outside of the scope of this proposal. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on March 16, 2026. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

STATUTORY AUTHORITY. TDI proposes the amendment to §9.1 under Insurance Code §§2501.002, 2551.003, 2703.151, 2703.201, 2703.202(g), 2703.208, and 36.001.

Insurance Code §2501.002 provides that the purpose of Title 11 of the Insurance Code is to completely regulate the business of title insurance including the issuance of policies to protect consumers and purchasers of title insurance policies and to provide adequate and reasonable rates of return for title insurance companies and title insurance agents.

Insurance Code §2551.003 authorizes the commissioner to adopt and enforce rules that are necessary to accomplish the purposes of the Texas Title Insurance Act, Insurance Code Title 11.

Insurance Code §2703.151 requires the commissioner to fix and promulgate the premium rates to be charged by a title insurance company or by a title insurance agent for title insurance policies or for other forms prescribed or approved by the commissioner.

Insurance Code §2703.201 requires that the commissioner hold a hearing to fix premium rates.

Insurance Code §2703.202(g) requires that the commissioner issue a final order setting the premium rate following the conclusion of a hearing that is not conducted as a contested case hearing.

Insurance Code §2703.208 provides that an addition or amendment to the Basic Manual may be proposed and adopted by reference by publishing notice of the proposal or adoption by reference in the *Texas Register*.

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

CROSS-REFERENCE TO STATUTE. Section 9.1 implements Title 11 of the Insurance Code.

§9.1. *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas.*

The Texas Department of Insurance adopts by reference the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* (Basic Manual) as amended, effective March 1, 2026 [November 1, 2024]. The Basic Manual is available on the TDI website at www.tdi.texas.gov.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600365

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: March 15, 2026

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



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

CHAPTER 702. GENERAL ADMINISTRATION SUBCHAPTER F. ADVISORY COMMITTEES

40 TAC §702.506

The Department and Family Protective Services (DFPS) proposes new §702.506 in Title 40, Texas Administrative Code (TAC), Part 19, Chapter 702, Subchapter F, ADVISORY COMMITTEES, related to the newly established Child Protective Investigations (CPI) Advisory Committee.

BACKGROUND AND PURPOSE

House Bill (H.B.) 140, 89th Texas Legislature (Regular Session, 2025), abolished the Texas Family and Protective Services Council effective September 1, 2026, and established the Child Protective Investigations Advisory Committee (CPI Advisory Committee). As a state advisory committee, DFPS is required to adopt rules in accordance with Texas Government Code Chapter 2110, including rules that define the committee's purpose and tasks, describe how the committee will report to the agency, and specify the committee's duration (unless a specific duration is prescribed by statute).

SECTION-BY-SECTION SUMMARY

Proposed new §702.506 establishes the CPI Advisory Committee in rule; it describes, inter alia, the CPI Advisory Committee's purpose and tasks, annual reporting requirements, and sets for confidentiality and Open Meetings Act requirements. The rule also provides for the Committee's expiration in 2029 in accordance with statute. The new rule is necessary to comply with state law; Government Code Chapter 2110 requires state agencies that establish advisory committees to adopt rules.

FISCAL NOTE

Lea Ann Biggar, Chief Financial Officer of DFPS, has determined that for each year of the first five years that the section(s) will be in effect, there will be fiscal implications to state or local governments as a result of enforcing and administering the section(s) as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the section(s) will be in effect

- (1) the proposed rule(s) will not create or eliminate a government program;
- (2) implementation of the proposed rule(s) will not affect the number of employee positions;
- (3) implementation of the proposed rule(s) will not require an increase or decrease in future legislative appropriations;
- (4) the proposed rule(s) will not affect fees paid to the agency;
- (5) the amended and appealed rules will not create a new regulation;
- (6) the proposed rule(s) will not expand, limit, or repeal an existing rule
- (7) the proposed rule(s) will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Biggar has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as the rule does not apply to small or micro-businesses, or rural communities.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section(s) as proposed.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is proposed by the Department of Family Protective Services.

PUBLIC BENEFIT

Ms. Biggar, Chief Financial Officer of DFPS, has also determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section will be improved oversight, transparency, and consistency in child protective investigations through the establishment of an advisory committee that reviews policies, training, and closed cases and provides recommendations to DFPS.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

DFPS invites comments on the proposed rule proposals. DFPS requests information related to the cost, benefit, or effect of the

proposed new, amended, and repealed rules, including any applicable data, research, or analysis. To be considered, comments, questions, and information must be submitted no later than 30 days after the date of this issue of the *Texas Register*.

Electronic comments and questions may be submitted to Lauren Villa, Policy Attorney at Lauren.Villa@dfps.texas.gov or RULES@dfps.texas.gov. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services Sanjuanita Maltos, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

STATUTORY AUTHORITY

The new rule is proposed under Texas Human Resources Code §40.031, as enacted by H.B. 140, 89th Legislature (Regular Session, 2025) which requires DFPS to establish the Child Protective Investigations Advisory Committee. Government Code Chapter 2110 requires rules for state agency advisory committees. The rule is also proposed under Texas Human Resources Code §40.021 which provides that the Department of Family and Protective Services Commissioner shall oversee the development of rules relating to matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

CROSS REFERENCE TO STATUTES

The proposed rule implements Texas Human Resources Code §40.031 and Government Code Chapter 2110.

§702.506. Child Protective Investigations Advisory Committee.

(a) Establishment. The Child Protective Investigations Advisory Committee (CPI Advisory Committee) is established in accordance with Human Resources Code Section 40.031.

(b) Purpose. The purpose of the CPI Advisory Committee is to advise and make recommendations to DFPS on improving the accuracy, consistency, and compliance of child protective investigations involving specified individuals responsible for a child's care, custody or welfare, namely a child's parent, guardian, managing or possessory conservator, or foster parent; a member of the child's family or household; or a person with whom the child's parent cohabits.

(c) Tasks. The CPI Advisory Committee, as directed by the Chair, shall advise and make recommendations to DFPS pursuant to Human Resources Code Section 40.031(a) and (b), which may include, but is not limited to:

(1) policies, procedures, training, monitoring, compliance, and oversight related to child protective investigations;

(2) improving accuracy, consistency and legal compliance of investigations, including protection of due process rights;

(3) engaging with legal stakeholders and courts;

(4) promoting data-informed models for investigations;

(5) identifying and monitoring challenges related to the department's interaction and collaboration with any external parties that participate in the investigation processes;

(6) addressing barriers to standardization and accountability measures; and

(7) providing a forum for public input.

(d) Reporting.

(1) The CPI Advisory Committee shall prepare and submit an annual report to the Governor, the Lieutenant Governor, the Speaker

of the House of Representatives, members of the Legislature, and the Commissioner. DFPS shall publish the report on its website.

(2) Any and all CPI Advisory Committee reports and recommendations are advisory in nature and do not obligate DFPS to take action.

(e) Bylaws. The CPI Advisory Committee may adopt bylaws, consistent with statute and rule, to further govern its internal practices. The bylaws may address membership, meetings, attendance requirements, notices, conflicts of interest, and other administrative or procedural matters necessary for the CPI Advisory Committee operation.

(f) Scope of Records. Any information including records provided by DFPS to the CPI Advisory Committee may only involve a closed investigation of persons described by Family Code Section 261.001(5)(A), (B), or (C) and are not pending an administrative review, State Administrative Office Hearing, or Suit Affecting the Parent Child Relationship.

(g) Confidentiality.

(1) Any information provided to the CPI Advisory Committee regarding a child protective investigation, including but not limited to information derived from investigation records, DFPS's determinations resulting from the investigation, and any advisory committee work product, is confidential under Texas Human Resources Code Section 40.031(j) and is not subject to disclosure under Government Code Chapter 552.

(2) CPI Advisory Committee work product includes but is not limited to any notes, summaries, analyses, drafts, emails, communications, deliberations, or recommendations created by or for the CPI Advisory Committee or that are created by a Member in connection with the Member's function as part of the CPI Advisory Committee as described in Human Resources Code Section 40.031(a) and (b).

(3) DFPS shall adopt and implement confidentiality procedures to ensure that confidential information provided to or derived from the CPI Advisory Committee is protected from unauthorized disclosure. Members must comply with these confidential procedures and shall sign a confidentiality agreement to ensure confidentiality of the information provided.

(4) Any information provided or disclosed to the CPI Advisory Committee, even if redacted, remains confidential.

(h) Open Meetings. The CPI Advisory Committee is subject to the Open Meetings Act, Government Code Chapter 551. The CPI Advisory Committee may conduct a closed meeting under Human Resources Code Section 40.031(h) in accordance with the Open Meetings Act to discuss information related to a case under review by the CPI Advisory Committee under Human Resources Code Section 40.031(i).

(i) Subcommittees. The CPI Advisory Committee may not establish or utilize any subcommittees or workgroups.

(j) Expiration. The CPI Advisory Committee is abolished, and this section expires, September 1, 2029.

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

Filed with the Office of the Secretary of State on January 27, 2026.

TRD-202600316

Sanjuanita Maltos
Rules Coordinator
Department of Family and Protective Services
Earliest possible date of adoption: March 15, 2026
For further information, please call: (512) 945-5978

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PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 858. PROCUREMENT AND CONTRACT MANAGEMENT REQUIREMENTS FOR PURCHASE OF GOODS AND SERVICES FOR VOCATIONAL REHABILITATION SERVICES

40 TAC §858.2

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 858, relating to Procurement and Contract Management Requirements for Purchase of Goods and Services for Vocational Rehabilitation Services, §858.2.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 858 rule change is to implement House Bill (HB) 2791, 89th Texas Legislature, Regular Session, 2025, which adds Texas Labor Code, §352.060.

Historically, TWC's Vocational Rehabilitation (VR) program operated under procurement authority derived from the Texas Health and Human Services Commission (HHSC) since the program's transfer to TWC in 2016. However, legislation passed during the 88th Texas Legislature (HB 4611) made nonsubstantive revisions to health and human services laws that had the unintended effect of removing the critical statutory connections that allowed TWC's VR program to use this authority.

Without corrective legislation, TWC's authority to use the non-competitive open enrollment procurement method--a method used for approximately 1,000 active provider contracts--was set to end. This would have jeopardized the timely delivery of essential goods and services for more than 27,000 VR participants annually.

HB 2791 was enacted to resolve this issue by adding Texas Labor Code, §352.060, which provides TWC with direct and explicit statutory authority to procure goods and services for the VR program, including the continued use of open enrollment solicitations and new authority for direct negotiation with qualified vendors. This rule amendment aligns TWC's rules with this new statutory authority.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

§858.2. Noncompetitive Open Enrollment Solicitation

Section 858.2 is amended to align with the new statutory authority provided by HB 2791, which adds Texas Labor Code, §352.060. This section affirms TWC's authority to use a non-competitive open enrollment solicitation for acquiring goods and

services for the VR program. It also outlines the conditions under which TWC may directly negotiate a contract if no responsive applications are received from an open enrollment solicitation, consistent with the provisions in the new statute.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rule will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rule.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rule.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rule.

There are no anticipated economic costs to individuals required to comply with the rule.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rule.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to implement Texas Labor Code, §352.060, as added by HB 2791, to provide TWC with direct statutory authority to continue its existing procurement methods for VR goods and services, including open enrollment solicitations and direct negotiation.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental ac-

tion. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the rule will be in effect, it:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand an existing regulation;

--will not change the number of individuals subject to the rule; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rule will not have an adverse economic impact on small businesses or rural communities, as the proposed rule places no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rule.

Tammy Ames, Director, Vocational Rehabilitation Division, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the proposed rule will be to ensure the continuation of essential procurement methods for the VR program. This will allow for timely service delivery to VR participants with disabilities across the state by preventing the potential loss of providers that supply critical goods and services.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART IV. COORDINATION ACTIVITIES

This rulemaking implements statutory provisions as described in this proposed rule document. The public will have an opportunity to comment on the proposed rule changes as set forth below.

PART V. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rule or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than March 16, 2026.

PART VI. PUBLIC COMMENTS

Comments on the proposed rule may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than March 16, 2026.

PART VII. STATUTORY AUTHORITY

The rule is proposed under:

--Texas Labor Code, §352.060, as added by HB 2791, 89th Texas Legislature, Regular Session, 2025, which provides TWC the specific authority to adopt rules for the acquisition of VR goods and services, including rules allowing TWC to purchase VR services through open-enrollment solicitations and direct negotiation;

--Texas Labor Code, §352.103, which provides TWC with the authority to adopt rules for the provision of VR services; and

--Texas Labor Code, §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule implements provisions of Title 4, Texas Labor Code, Chapter 352.

§858.2. Noncompetitive Open Enrollment Solicitation.

(a) General. The Agency may acquire goods or services through a noncompetitive open enrollment solicitation and enter into enrollment contracts with qualified contractors.

(1) An open enrollment solicitation must be conducted in an open and fair manner that reasonably provides interested, qualified contractors with an equal opportunity to obtain a contract or do business with the Agency.

(2) The Agency may consider all relevant factors, as set forth under Texas Labor Code, §352.060(c), [~~past performance~~] when determining whether to award a contract to an applicant.

(b) Direct Negotiation for Vocational Rehabilitation Services. In the event the Agency receives no responsive applications to an open enrollment solicitation for vocational rehabilitation goods or services in a specific area of the state, the Agency's Procurement and Contract Services (PCS) division may directly negotiate a contract under the following conditions:

(1) The Agency must first make a written determination that an award through the open market solicitation is not available;

(2) PCS may negotiate with and award a contract to any qualified vendor that meets the requirements of the original solicitation; and

(3) The resulting contract must be at a price consistent with the current market value of the services and have a term not to exceed five years.

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

Filed with the Office of the Secretary of State on January 28, 2026.

TRD-202600343

Les Trobman

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: March 15, 2026

For further information, please call: (737) 301-9662



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 2. ENVIRONMENTAL REVIEW OF TRANSPORTATION PROJECTS

The Texas Department of Transportation (department) proposes amendments to §§2.201 - 2.206 and the repeal of §2.207, concerning Memorandum of Understanding with the Texas Parks and Wildlife Department (TPWD).

EXPLANATION OF PROPOSED AMENDMENTS AND REPEAL

Transportation Code, §201.607, requires the department to adopt a memorandum of understanding (MOU) with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historic or archeological resources. Transportation Code, §201.607, also requires the department to adopt the MOU and all revisions to it by rule and to periodically evaluate and revise the MOU. The department has evaluated its MOU with the Texas Parks and Wildlife Department (TPWD) adopted in 2021, and finds it necessary to make various changes to Chapter 2, Subchapter G, of the department's rules.

Amendments to §2.201, Purpose, update the references to the preceding MOU.

Amendments to §2.202, Definitions, delete the definition of "qualified biologist" because it is unnecessary and delete the definition of "riparian habitat" because it is not used in the revised rules. They also add a definition of "species of greatest conservation need (SGCN)." They also clarify that the TPWD Transportation Staff is assigned to work on TxDOT transportation projects specifically, and not transportation projects generally.

Amendments to §2.203, Applicability, revise the triggers for when the department must provide TPWD with an opportunity to review a reevaluation of a project to be more precise. They also specify that for a reevaluation the department need only discuss the project with TPWD instead of formally re-coordinating the project in writing.

Amendments to §2.204, Coordination and Communication, specify that written communication between the department and TPWD, in addition to electronic communication, will be used to the maximum extent practical. This is in recognition of TPWD's practice of providing comments in a letter format and not exclusively in an email format.

Amendments to §2.205, Commitments, relate to the inter-agency contract by which TxDOT provides funding for one TPWD transportation staff to review TxDOT projects. The amendments specify that TxDOT and TPWD may renew that interagency contract at the same time that the overall MOU in this Subchapter G is renewed, rather than biennially. They also clarify that the TPWD employee funded by TxDOT through the interagency contract is "transportation staff," which is a defined term in §2.202. They also remove a reference to an "associated workplan" in the context of mutually agreeable conservation actions as that term is not actually used by TxDOT and TPWD.

Amendments to §2.206, Interagency Team, add a provision requiring the TxDOT/TPWD interagency team to collaborate on identifying opportunities to enhance wildlife habitat connectivity

across Texas to improve terrestrial and aquatic species movements.

Section 2.207, Texas Natural Diversity Database (TXNDD), is repealed because in 2026 the data in the TXNDD will be publicly available and, therefore, the MOU provisions detailing how TxDOT accesses data from the TXNDD will no longer be needed.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Doug Booher, Director, Environmental Division has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Doug Booher has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be continued exchange of information between the department and TPWD regarding transportation projects and their potential impact on natural resources, and better informed decision-making by the department regarding the potential impacts of transportation projects. Additionally, improvements made by the proposed MOU compared to the existing one regarding coordination of reevaluations with TPWD should result in more efficient delivery of some transportation projects.

COSTS ON REGULATED PERSONS

Doug Booher has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Doug Booher has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rules would be in effect:

- (1) they would not create or eliminate a government program;
- (2) their implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) their implementation would not require an increase or decrease in future legislative appropriations to the agency;

(4) they would not require an increase or decrease in fees paid to the agency;

(5) they would not create a new regulation;

(6) they would not expand or limit an existing regulation, but would repeal existing §2.207 regarding the TXNDD because in 2026 the data in the TXNDD will be publicly available and, therefore, the MOU provisions detailing how TxDOT accesses data from the TXNDD will no longer be needed;

(7) they would not increase or decrease the number of individuals subject to its applicability; and

(8) they would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Doug Booher has determined that a written takings impact assessment is not required under Government Code, §2007.043.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The proposed rules are subject to the Texas Coastal Management Program (CMP) and must be consistent with all applicable CMP policies. The department has concluded that the proposed rules are consistent with all applicable CMP policies.

The CMP policies applicable to transportation projects are set forth at 31 TAC §26.31. This rulemaking does not dictate the siting of transportation projects or contain any other requirements that would contradict any of the CMP policies listed in that rule. Rather, it establishes a mechanism by which the department and TPWD can efficiently and appropriately exchange information regarding transportation projects and their potential impacts on natural resources, as required by statute at Transportation Code, §201.607, that is acceptable to both department and TPWD staff. None of the CMP policies listed at §26.31 pertain to the mechanism by which the department and TPWD exchange information. Additionally, the intent of the MOU is to foster communication, collaboration, and cooperation between TPWD and the department on the review of transportation projects and protection of State natural resources, which is generally in alignment with the overall purpose of the CMP policies listed at 31 TAC §26.31. For these reasons, this rulemaking is consistent with the CMP policies listed at 31 TAC §26.31.

A copy of this rulemaking will be submitted to the General Land Office for its comments on the consistency of the proposed rulemaking with the CMP. The department requests that the public also give comment on whether the proposed rulemaking is consistent with the CMP.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §§2.201 - 2.206 and repeal of §§2.207. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "TPWD MOU rulemaking." The deadline for receipt of the information or comments is 5:00 p.m. on March 16, 2026. In

accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

SUBCHAPTER G. MEMORANDUM OF UNDERSTANDING WITH THE TEXAS PARKS AND WILDLIFE DEPARTMENT

43 TAC §§2.201 - 2.206

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, §201.607, requiring the department to have an MOU with TPWD and to adopt it by rulemaking.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.604, 201.607, and 201.752.

§2.201. Purpose.

(a) Transportation Code §201.607 requires the Texas Department of Transportation (TxDOT) to adopt a memorandum of understanding (MOU) with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historical or archeological resources, and requires TxDOT and each of the agencies to adopt the memoranda and all revisions by rule. This subchapter contains the MOU between TxDOT and the Texas Parks and Wildlife Department (TPWD) that implements that section.

(b) This subchapter furthers TxDOT's environmental policy, as found in §2.2 of this chapter (relating to Environmental Policy), to integrate environmental considerations into department activities to achieve compliance with applicable laws, regulations and standards. TxDOT will focus on delivering safe, efficient transportation projects and making sound decisions based on a balanced consideration of transportation needs and of social, economic, and environmental impacts of proposed transportation improvements.

(c) According to Parks and Wildlife Code §12.0011, TPWD is the state agency with primary responsibility for protecting the state's fish and wildlife resources; providing recommendations that will protect fish and wildlife resources to local, state, and federal agencies that approve, permit, license, or construct developmental projects; providing information on fish and wildlife resources to any local, state, and federal agencies or private organizations that make decisions affecting those resources.

(d) Except as specified in subsection (f) of this section, this MOU supersedes the MOU adopted by TxDOT and TPWD in 2021 [on September 1, 2013 and associated programmatic agreements]. Nothing in this subchapter supersedes, modifies, or nullifies any other agreement entered into by TxDOT and TPWD.

(e) TxDOT and TPWD shall examine and revise this MOU not later than the fifth anniversary of its effective date, as required by Transportation Code, §201.607. Notwithstanding the above, this MOU remains in effect until revised or terminated by written agreement of TxDOT and TPWD.

(f) The effective date of this MOU is the date on which this Subchapter G takes effect. Projects for which coordination with TPWD has been initiated prior to the effective date of this MOU will com-

plete coordination under the procedures of the 2021 [September 2013] MOU. Projects for which coordination with TPWD has not been initiated prior to the effective date of this MOU will be governed by this MOU. A project that requires reevaluation, and subsequently requires coordination as specified in §2.203 of this subchapter (relating to Applicability), will be governed by this MOU.

(g) The intent of the MOU is to foster communication, collaboration, and cooperation between TPWD and TxDOT on the review of transportation projects and protection of State natural resources.

§2.202. Definitions.

The following words and terms, when used in this subchapter, or in documents prepared by TxDOT or TPWD pursuant to this subchapter, have the following meanings.

(1) Best or Beneficial Management Practices (BMPs)--Measures provided by TPWD that will result in avoidance and minimization of potential impacts to natural resources.

(2) Categorical Exclusion (CE)--A category of actions that have been found to have no significant effect on the environment, individually or cumulatively, and are excluded from the requirement to prepare an Environmental Assessment or Environmental Impact Statement as defined in §2.81 of this chapter (relating to Categorical Exclusions).

(3) Environmental Assessment (EA)--Environmental documentation required for a transportation project that TxDOT has not classified as a categorical exclusion and that does not clearly require the preparation of an EIS, or if TxDOT believes that an EA would assist in determining the need for an EIS, as defined in §2.83 of this chapter (relating to Environmental Assessments).

(4) Environmental decision--The official record created after coordination, analysis, and reviews are completed concluding that an action and its environmental impacts have been adequately identified and assessed. A Finding of No Significant Impact (FONSI) is the environmental decision document for an EA and a Record of Decision (ROD) is the environmental decision document for an EIS.

(5) Environmental Impact Statement (EIS)--Environmental documentation required for a transportation project if there are likely to be significant environmental impacts, as defined in §2.84 of this chapter (relating to Environmental Impact Statements).

(6) Interagency Team (IAT)--As defined in §2.206 of this subchapter (relating to Interagency Team), TPWD and TxDOT staff identified to communicate on behalf of TPWD and TxDOT to carry out the MOU.

~~[(7) Qualified biologist--A qualified biologist must have, at a minimum, a successful completion of a full 4-year course of study in an accredited college or university leading to a bachelor's or higher degree with a major in biological sciences, natural resource management, wildlife science or management, ecology, zoology, botany, conservation biology, or a closely related field and have experience relevant to the species, habitat, or ecosystems that are being studied or described.]~~

(7) [(8)] Reevaluation--The review and determination of the validity of the environmental decision under certain circumstances involving changes or delays subsequent to the environmental decision as defined in §2.85 of this chapter (relating to Reevaluations).

(8) Species of greatest conservation need (SGCN)--Species with low or declining populations in need of conservation action, including species at risk due to threats to their life history needs or habitats, species considered rare due to few, small, or declining populations, abundance, or distribution, and species with declining trends in their habitats and populations.

~~(9) Riparian habitat--The area of interface between land and a waterway (e.g., river or stream). River or creek-dependent habitats which rely on periodic flooding or flushing, subirrigated substrates, and other influences of the ephemeral or perennial rivers or creeks to which they are adjacent, including floodplains, wet woodlands, gallery riverine forests, oxbows, swamps, and vegetated islands.~~

~~(9) [(40)] Texas Natural Diversity Database (TXNDD)--A TPWD-owned and maintained database of natural resource records, including SGCN [species of greatest conservation need (SGCN)] and other tracked species, important remnant native vegetation, and other features of Texas natural history.~~

~~(10) [(41)] TPWD--Texas Parks and Wildlife Department.~~

~~(11) [(42)] TPWD Transportation Staff--The qualified biologist at TPWD that is assigned to work solely on TxDOT transportation projects and related matters.~~

~~(12) [(43)] TxDOT--Texas Department of Transportation.~~

§2.203. *Applicability.*

(a) TxDOT will coordinate with TPWD on federal and state transportation projects that require an EA or EIS.

(b) TxDOT may coordinate other projects that do not require an EA or EIS with TPWD at TxDOT's discretion.

(c) If TxDOT prepares a reevaluation for a transportation project that was previously coordinated with TPWD under any previous [the 2013] MOU, TxDOT will discuss the project changes with TPWD Transportation Staff [coordinate the reevaluation with TPWD] when any of the following apply:

(1) New impacts not included in previous coordination or increase in impacts from previous coordination to federal-listed or [terrestrial and aquatic] state-listed species, SGCN, [or their habitat as determined by a qualified biologist] or recorded rare plant communities [with a record] in the TXNDD [or any state rank or rank range that includes a 1, 2, or 3].

(2) New or increased impacts to [riparian habitat or] water resources that trigger a pre-construction notification or other permitting action with the U.S. Army Corps of Engineers.

(3) Change to commitments made during previous coordination, including BMPs.

~~[(4) Reevaluations of CE level projects with new or increased impacts may be re-coordinated at TxDOT's discretion.]~~

(d) This subchapter does not apply to individual maintenance projects for which a programmatic environmental review is conducted under §2.133 of this chapter (relating to Maintenance Projects and Programs).

§2.204. *Coordination and Communication.*

(a) For projects requiring an EA or EIS, TxDOT will contact TPWD when TxDOT has completed its analysis of potential impacts to fish, wildlife, and other natural resources. To facilitate collaborative review, TxDOT will provide TPWD access to TxDOT's Environmental Compliance Oversight System (ECOS).

(b) TxDOT will post the set of BMPs, as recommended by TPWD, on the Environmental Compliance Toolkit webpage [the set of BMPs as recommended by TPWD]. This set of BMPs is non-project specific. The application of specific BMPs to individual projects will be determined by TxDOT at its discretion.

(c) TxDOT will indicate in the draft EA or draft EIS the TPWD-recommended BMPs that will be applied to the project.

TxDOT may also include information shared by TPWD during collaborative review.

(d) To ensure TxDOT will benefit from any recommendations or information provided by TPWD early in the environmental review process, TxDOT will follow the procedure indicated below.

(1) At or around the same time that a draft EA or draft EIS is made available for public review, but no less than 45 days before the issuance of an environmental decision, TxDOT will email the notice of availability of the document required by §2.108 of this chapter (relating to Notice of Availability) to TPWD at the following email address: WHAB_TxDOT@tpwd.texas.gov or the email account designated by TPWD.

(2) The email communication described in subsection (1) will serve as the "request for comments" in Parks and Wildlife Code §12.0011(b-1).

(3) To facilitate review of a draft EA or EIS, TxDOT will provide access to TxDOT's ECOS.

(e) If TPWD has any information or recommendations to conserve fish and wildlife species and other natural resources it wishes to provide to TxDOT in response to a request for comments, TPWD will provide them in writing to TxDOT within 45 days of the date on which TxDOT submitted the request for comments by email.

(f) If TPWD provides any recommendations or information regarding fish and wildlife to TxDOT after the 45-day deadline specified in subsection (e) of this section, then TxDOT will consider such recommendations or information to the extent practicable.

(g) TxDOT will respond as outlined in Parks and Wildlife Code §12.0011(c).

(h) Written and electronic [Electronic] communication will be used to the maximum extent practical.

§2.205. *Commitments.*

(a) TxDOT will provide funding, through an interagency contract, for one TPWD Transportation Staff [employee] to review transportation projects under this agreement. TxDOT will actively and consistently engage this employee in project development, conservation actions, and other natural resource coordination needs as determined appropriate by TxDOT. The interagency contract to fund the review of transportation projects will be renewed with this MOU [biennially] at TxDOT's discretion.

(b) Through that same interagency contract or other authority as appropriate, TxDOT and TPWD will identify and collaborate on mutually agreeable conservation actions. Conservation actions to be undertaken will be described in detail in an interagency contract document [or associated workplan] agreed upon by the IAT.

§2.206. *Interagency Team.*

(a) Each agency shall mutually appoint members to IAT which will meet at least on a bi-annual basis.

(b) An Interagency Team shall discuss and make recommendations for opportunities for the agencies to partner on conservation actions including but not limited to research, offsets, specification development, and restoration opportunities. The IAT will collaborate on identifying opportunities to enhance wildlife habitat connectivity across Texas to improve terrestrial and aquatic species movements.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600376

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-8630



43 TAC §2.207

STATUTORY AUTHORITY

The repeal is proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, §201.607, requiring the department to have an MOU with TPWD and to adopt it by rulemaking.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.604, 201.607, and 201.752.

§2.207. *Texas Natural Diversity Database (TXNDD).*

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

Filed with the Office of the Secretary of State on January 29, 2026.

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Texas Department of Transportation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-8630



CHAPTER 9. CONTRACT AND GRANT MANAGEMENT

SUBCHAPTER B. CONTRACTS FOR HIGHWAY PROJECTS

43 TAC §§9.12 - 9.15, 9.17

The Texas Department of Transportation (department) proposes the amendments to §§9.12 - 9.15 and 9.17, relating to Contracts for Highway Projects.

EXPLANATION OF PROPOSED AMENDMENTS

The purpose of this rulemaking is to clarify the rules of the Texas Transportation Commission (commission) concerning qualification of bidders, submittal and acceptance of bids, and award of contracts for highway projects administered by the department.

Amendments to §9.12, Qualification of Bidders, clarify that the "date of the financial statement" for the beginning of the 12-month period of prequalification refers to the "balance sheet date" to eliminate confusion. The amendments also clarify that only independent certified public accountancy firms may

provide attest services, in accordance with Texas Occupations Code, §901.451. For bidders qualifying under the Confidential Questionnaire, the rules currently grant a three-month grace period to allow bidders to prepare and submit updated financial information for the coming year's qualification. A longer grace period may be needed when a submittal is dependent on the completion of a parent company's financial information. The amendments extend the grace period to four months for all qualification levels, including qualification under the Confidential Questionnaire.

Amendments to §9.13, Notice of Letting and Issuance of Proposal Forms, standardize references to "the electronic bidding system" for clarity and consistency.

Amendments to §9.14, Submittal of Bid, clarify that, consistent with paper bid bonds, electronic bid bonds must be issued by authorized sureties, include the surety's seal, and be dated on or before the date of bid opening. The amendments also standardize references to "the electronic bidding system" for clarity and consistency.

Amendments to §9.15, Acceptance of Bids, allow a bid to be considered nonresponsive if the department discovers a discrepancy prior to contract award. Before recommending award of a contract, the department verifies information certified by the bidder. Currently, the department may consider a bid nonresponsive if the bidder fails to acknowledge a certification; however, there is no recourse short of rejecting all bids if the department discovers a discrepancy with a certification prior to award of the contract. The amendments allow the department to consider a bid to be nonresponsive in such a situation.

Amendments to §9.17, Award of Contract, authorize the department to delay its notification of contract award pending the resolution of railroad access agreements, third-party financial clearances, or other conditions that are not in the best interest of the state to address the situations in which there are requirements that restrict the department from proceeding immediately with contract execution.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Duane Milligan, P.E., Director, Construction Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Duane Milligan, P.E., has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be efficiency in award of contracts for highway projects and improving the clarity and readability of the rules.

COSTS ON REGULATED PERSONS

Mr. Duane Milligan, P.E., has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small business, micro-business, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Duane Milligan, P.E., has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

- (1) it would not create or eliminate a government program;
- (2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;
- (3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;
- (4) it would not require an increase or decrease in fees paid to the agency;
- (5) it would not create a new regulation;
- (6) it would not expand, limit, or repeal an existing regulation;
- (7) it would not increase or decrease the number of individuals subject to its applicability; and
- (8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Duane Milligan, P.E., has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §§9.12-9.15 and §9.17, to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Contracts for Highway Projects." The deadline for receipt of comments is 5:00 p.m. on March 16, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission

(commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §223.004, which authorizes the commission to adopt rules to prescribe conditions under which a bid may be rejected by the department and Transportation Code, §223.014, which requires the commission to adopt rules relating to a bid guaranty.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 223, Subchapter A.

§9.12. *Qualification of Bidders.*

(a) Eligibility. To be eligible to bid on a highway improvement contract, other than a building contract, or on a materials contract, potential bidders must satisfy the applicable requirements listed in this section.

(1) If the department has accepted from a person a properly completed Confidential Questionnaire, as described in subsection (c) of this section, and audited financial information, as described in subsection (b)(1) of this section, the person is eligible to bid on any project for which the person meets any necessary special technical qualification requirements, has sufficient available bidding capacity, as determined under subsection (e) of this section, and has submitted a properly completed Certification of Eligibility Status form if it is a federal-aid project.

(2) A person that has submitted only a Bidder's Questionnaire, as described in subsection (d) of this section, may bid only on a specified project for which the department has waived the requirements of paragraph (1) of this subsection. Such a project is referred to as a waived project and generally has one of the following characteristics:

- (A) the engineer's estimate for the project is less than \$1 million;
- (B) the project is a maintenance project;
- (C) the project is an emergency project;
- (D) the project contains specialty items not normal to the department's roadway projects program; or
- (E) the project is for the purchase of goods that may be purchased under a materials contract.

(3) A bidder that submits only a Materials Supplier's Questionnaire is eligible to bid only on a materials contract, including a materials contract awarded under §9.19 of this subchapter (relating to Emergency Contract Procedures).

(b) Financial Information. This section refers to three types of financial information.

(1) Audited financial information is information resulting from an examination of the accounting system, records, and financial statements by an independent certified public accountancy firm [accountant] in accordance with generally accepted auditing standards. Based on the examination, the auditor expresses an opinion concerning the fairness of the financial information in conformity with generally accepted accounting principles. A bidder that submits audited financial information, as required for a Confidential Questionnaire in accordance with subsection (c) of this section, is eligible to bid on all projects for which the bidder has available bidding capacity, as determined under subsection (e) of this section.

(2) Reviewed financial information may be used in a Bidder's Questionnaire under subsection (d) of this section. The scope of reviewed financial information is substantially less than audited

financial information, and the information is the result primarily of inquiries of company personnel and analytical procedures applied to financial data by an independent certified public accountancy firm [accountant]. Only negative assurance is expressed by the independent certified public accountancy firm [accountant], which means that the firm [independent accountant] is not aware of any material modifications that should be made in order for the financial information to conform to generally accepted accounting principles. A bidder that submits reviewed financial information is subject to the limitations described in subsections (d) and (e) of this section for a waived project.

(3) Compiled financial information also may be used in a Bidder's Questionnaire under subsection (d) of this section. Compiled financial information only presents information that is the representation of management. No opinion or other assurance is expressed by the independent certified public accountancy firm [accountant]. A bidder that submits compiled financial information is subject to the limitations described in subsections (d) and (e) of this section for a waived project.

(c) Confidential Questionnaire. A potential bidder must satisfy the requirements of this subsection to be eligible to bid on a highway improvement contract, except as provided by subsection (d) of this section.

(1) A potential bidder must:

(A) submit to the department's Construction Division in Austin 10 days prior to the last day of bid opening a Confidential Questionnaire that includes information, as required by the department, concerning the bidder's equipment and experience as well as financial condition;

(B) have a certified public accountancy [accountant] firm that is licensed to practice public accountancy prepare the audited and any other financial information required by the department;

(C) satisfactorily comply with any technical qualification requirements determined by the department to be necessary for a specific project; and

(D) properly complete the Certification of Eligibility Status form contained in the Confidential Questionnaire for the purpose of bidding on federal-aid projects.

(2) Information adverse to the potential bidder contained in the Certification of Eligibility Status form will be reviewed by the department and the Federal Highway Administration, and may result in the bidder being declared ineligible to submit bids.

(3) Satisfactory audited financial information will grant a 12-month period of qualification from the balance sheet date of the financial statement.

(4) A four-month [~~three month~~] grace period of qualification, for the purpose of preparing and submitting current audited information, will be granted prior to the expiration date of the financial statement.

(5) The department may require current audited information at any time if circumstances develop which are factors that could alter the potential bidder's financial condition, ownership structure, affiliation status, or ability to operate as an on-going concern.

(d) Bidder's Questionnaire; Materials Supplier's Questionnaire. To be eligible to bid on a contract under this subsection or on a contract to be awarded under §9.19 of this subchapter (relating to Emergency Contract Procedures), a bidder must:

(1) submit to the department's headquarters office in Austin 10 days prior to the date the bid opens, a Bidder's Questionnaire that includes information, as required by the department, concerning a bid-

der's equipment and experience or for a materials contract, a bidder may submit a Materials Supplier's Questionnaire instead of a Bidder's Questionnaire;

(2) submit unaudited and other data as required in the instructions to the questionnaire submitted under paragraph (1) of this subsection;

(3) satisfactorily comply with any technical qualification requirements determined by the department to be necessary on a specific project; and

(4) for a federal-aid project, properly complete the Certification of Eligibility Status form contained in the questionnaire submitted under paragraph (1) of this subsection. Information adverse to the potential bidder contained in the certification will be reviewed by the department and by the Federal Highway Administration, and may result in the bidder being declared ineligible to submit bids on a federal-aid project.

(5) A four-month grace period of qualification will be added to a contractor that qualified under the Bidder's Questionnaire or Materials Supplier's Questionnaire and will be granted prior to the expiration date of the qualification.

(e) Bidding capacity; available bidding capacity. The department will make its examination and determination based on the information submitted under subsection (c) or (d) of this section, as appropriate, and advise the bidder of its bidding capacity.

(1) For a bidder submitting a Confidential Questionnaire and audited financial information, the amount of the bidding capacity will be determined by multiplying the net working capital by a factor determined by the department based on the expected dollar volume of projects to be awarded and the number of bidders prequalified by the department. If this calculation results in a positive amount that is not greater than \$2 million, the bidder will receive a bidding capacity of \$2 million if the bidder has positive net working capital and the bidder provides documentation of at least two years' experience and four completed projects in the field in which the bidder wishes to bid. Bidding capacity determined under this paragraph applies for any project and is not limited to waived projects.

(2) For a bidder submitting a Bidder's Questionnaire with no prior experience in construction or maintenance, or a negative working capital position (i.e., financial statements indicate that current liabilities exceed current assets), will receive a bidding capacity of \$1 million for waived projects only.

(3) For a bidder submitting a Bidder's Questionnaire and compiled financial information if the principals of the bidder have at least one year experience in construction or maintenance and have satisfactorily completed at least two projects in these fields, the bidding capacity is \$1.5 million for waived projects only.

(4) For a bidder submitting a Bidder's Questionnaire and compiled financial information and the principals of which have at least two years' experience in construction or maintenance and have satisfactorily completed at least four projects in these fields, the bidding capacity is \$2 million for waived projects only. Those bidders possessing more than two years' experience will be granted an additional \$500,000 in bidding capacity for each additional year of experience in construction or maintenance, with a maximum bidding capacity of \$6 million for waived projects only.

(5) For a bidder submitting a Bidder's Questionnaire and reviewed financial information and the principals of which have at least three years of experience in construction or maintenance and have satisfactorily completed at least six projects in these fields, the amount of

the bidding capacity will be determined by multiplying the net working capital by a factor determined by the department based upon the expected dollar volume of projects to be awarded and the number of bidders prequalified by the department. In the event that this calculation does not result in an amount greater than \$2 million, the bidder will receive a bidding capacity of \$2 million. Bidding capacity determined under this paragraph is limited to waived projects only.

(6) A bidder's available bidding capacity is determined by the department by subtracting from the bidder's bidding capacity the amount of the estimated cost of the bidder's uncompleted work on department contracts. Bidding capacity does not apply to a materials contract or building contract and an uncompleted materials or building contract does not affect the bidding capacity or available bidding capacity of a bidder.

(f) Effect of contract performance. A person's bidding capacity or eligibility to bid on a highway improvement contract may be affected by a decision of the deputy executive director under §9.24 of this chapter (relating to Performance Review Committee and Actions).

(g) Affiliated bidders; independence exception. Bidders that the department determines in accordance with §9.27 of this subchapter (relating to Affiliated Entities) are affiliated are not eligible to submit bids for the same project. A bidder that is determined to be affiliated but that can establish independence from the other affiliated bidders may request, in accordance with this subsection, an exception to its ineligibility. Such a request may be made only once during any 12-month period.

(1) To request the exception to the department's finding of affiliation, a bidder must submit to the executive director a written request explaining the basis for the exception accompanied by supporting evidence, including an affidavit affirming that the bidder is independent from and not coordinating with the affiliates or any other bidder. The written request must be received not later than the 30th day before the date of the bid opening for which the exception is requested.

(2) The department will review the request and supporting evidence provided to determine whether the requester is independent from the other affiliated bidder. In determining independence, the department will consider, in addition to other affiliation criteria:

- (A) transactions between the potential bidders; and
- (B) the extent to which the potential bidders share:
 - (i) equipment;
 - (ii) personnel;
 - (iii) office space; and
 - (iv) finances.

(3) If the department finds that the bidders are independent, the director of the division reviewing the request will recommend to the executive director that the requesting bidder be granted an exception.

(4) The executive director will review the request, supporting evidence, and department's recommendation and will make the final determination on the request. The executive director will send to the bidder the final written determination. An exception granted to the bidder remains in effect for future bid openings unless the exception is revoked under paragraph (5) of this subsection.

(5) The granting of an exception under this subsection does not remove the classification of the bidders as affiliated. The department reserves the right to conduct follow-up reviews and revoke the exception if the follow-up reviews indicate that the bidders are no longer independent. A bidder's failure to act independently of its affiliates or

other bidder during the period it was granted an exception under this subsection may result in the imposition of sanctions.

(6) If bidders classified as affiliates submit bids on the same project, the department reserves the right to reject all bids on that project and relet the contract.

(7) Affiliated bidders that are granted an exception under this subsection and that have been sanctioned in accordance with Chapter 10 of this title must meet the exception criteria in that chapter to be eligible to bid.

(h) Building contracts. To be eligible to bid on a building contract, a potential bidder must comply only with any requirements contained in the governing specifications applicable to the project.

§9.13. Notice of Letting and Issuance of Proposal Forms.

(a) Notice to Contractors. A person may apply to have his or her name placed on a list to receive the Notice to Contractors electronically.

(b) Application for notice. The following entities will receive the Notice to Contractors:

(1) qualified bidders approved under §9.12 of this subchapter (relating to Qualification of Bidders);

(2) disadvantaged business enterprises and historically underutilized businesses; and

(3) organizations performing work under supportive service contracts awarded by the commission.

(c) Notice of Bids. The department will advertise contracts on the Electronic State Business Daily maintained and operated by the Comptroller of Public Accounts.

(d) Proposal form.

(1) Proposal form content. A proposal form may include:

(A) the location and description of the proposed work;

(B) an approximate estimate of the various quantities and kinds of work to be performed or materials to be furnished;

(C) a schedule of items for which unit prices are requested;

(D) the time within which the work is to be completed; and

(E) the special provisions and special specifications.

(2) Form of request. A request for a proposal form on any contract under this subchapter should be made using the department's electronic bidding system. On the written or emailed request of a contractor, the department may enter a form request into the system on behalf of the contractor if the requester is identified as the person authorized to sign for the contractor.

(e) Issuance of proposal form.

(1) This paragraph applies for contracts under this subchapter other than building contracts.

(A) Issuance. Except as provided in subparagraph (B) or (C) of this paragraph or paragraph (3) of this subsection, the department will, upon receipt of a request, issue a proposal form for a contract only to a bidder who qualifies under §9.12(c) or (d) of this subchapter, as appropriate, and for a highway improvement project, only if the estimated cost of the project is within that bidder's available bidding capacity, as determined under §9.12(e) of this subchapter.

(B) Non-issuance. Except as provided in subparagraph (D) of this paragraph, the department will not issue a proposal form requested by a bidder for a contract if at the time of the request the bidder:

- (i) is suspended or debarred by order of the commission or by the department;
- (ii) has not fulfilled the requirements for qualification under §9.12 of this subchapter;
- (iii) does not have the available bidding capacity;
- (iv) is ineligible to bid on any proposed contract under Item 7, Article 15, Responsibility for Damage Claims of the department's *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges*;
- (v) is prohibited from participating in the contract because of a decision of the Deputy Executive Director under §9.24 of this chapter (relating to Performance Review Committee and Actions); or
- (vi) has not attended a mandatory pre-bid conference.

(C) Non-issuance for rebid. The department will not issue a proposal form requested by a bidder for the rebid of a contract if:

- (i) at the time of the request the bidder is prohibited from rebidding the proposal due to a bid error on the original proposal form;
- (ii) the bidder failed to enter into a contract on the original award;
- (iii) at the time of the request the bidder is in default on the original contract or was terminated on the original contract unless the department terminated the contract in the best interest of the state; or
- (iv) the bidder or an affiliate of the bidder was originally determined to be the apparent low bidder on a project but failed to submit a DBE commitment as required by §9.227 of this chapter (relating to Information from Bidders) or failed to meet the requirements of §9.17(j) of this subchapter relating to participation in the Department of Homeland Security (DHS) E-Verify system.

(D) Exceptions. The department may issue a proposal form under a temporary approval to a bidder who would be ineligible under subparagraph (B)(ii) of this paragraph if the bidder has substantially complied with the requirements of §9.12 of this subchapter.

(2) This paragraph applies only for building contracts.

(A) Issuance. Except as provided in subparagraph (B) of this paragraph or paragraph (3) of this subsection, the department will issue, upon request, a proposal form to a bidder that is eligible under §9.12(h) of this subchapter.

(B) Non-issuance. The department will not issue a proposal form requested by a bidder for a building contract if, at the time of the request, the bidder:

- (i) is disqualified by an agency of the federal government as a participant in programs and activities involving federal assistance and benefits and the contract is a federal-aid project;
- (ii) is suspended or debarred by order of the commission or by the department; or

(iii) is prohibited from bidding that project because of default of the first awarded contract.

(3) All contracts. The department will not issue a proposal form for a contract under this subchapter to a bidder if the bidder or a subsidiary or affiliate of the bidder has received compensation from the department to participate in the preparation of the plans or specifications on which the bid or contract is based.

§9.14. *Submittal of Bid.*

(a) Acceptable methods. Bids for a contract under this subchapter may be submitted either manually or electronically.

(b) Manually submitted bids. For the purpose of manually submitting a bid, an acceptable proposal form is the form that is printed and given to the bidder by the department or a form printed by the bidder from the electronic bidding system [EBS].

(1) Delivery of Bid. The bidder shall place each completed proposal form in a sealed envelope marked to show its contents. When submitted by mail, this envelope shall be placed in another envelope which shall be sealed and addressed as indicated in the notice. Bids must be received on or before the hour and date set for the receipt and opening of bids and must be in the hands of the department letting official by that time.

(2) Bid content. The bidder shall submit the bid in compliance with the following requirements.

(A) Except as provided in subparagraph (B) of this paragraph and paragraph (3) of this subsection, the blank spaces for each item as required in the proposal form shall be filled in by writing in words in ink.

(B) The bidder shall submit a unit price for each item for which a bid is requested (including a zero if appropriate), except in the case of a regular bid item that has an alternate bid item. In such case, prices must be submitted for the base bid or with the set of items of one or more of the alternates.

(C) The bid shall be executed with ink in the complete and correct name of the bidder making the bid and be signed by the person or persons authorized to bind the bidder.

(D) Except in the case of a regular bid item that has an alternate bid item, unit prices shall be stated in dollars and/or cents for each bid item listed in the proposal form.

(3) Computer printouts.

(A) For manually submitted bids, a bidder may, in lieu of writing in words in ink on the bid item sheet, submit an original computer printout sheet bearing the authorized signature for the bidder. The unit prices shown on acceptable printouts will be the official unit prices used to tabulate the official total bid amount and used in the contract if awarded by the commission.

(B) Computer printouts are not acceptable on building contracts.

(c) Electronically submitted bids. In lieu of submitting a printed proposal form, the bidder may submit the bid electronically using the electronic bidding system [EBS] in accordance with this subsection.

(1) Bids must be received by the electronic vault on or before the time and date set for the receipt and opening of bids.

(2) For the submission or withdrawal of electronic bids, the bidder is responsible for obtaining its use of a computer system and access to the Internet.

(3) The department is not responsible for a bidder being unable to submit or withdraw a bid due to the unavailability of the Internet.

(4) The bid shall be in the correct name of the bidder making the bid.

(d) Bid guaranty. Except as provided in paragraph (4) of this subsection, a bidder must submit a bid guaranty with the bid for a contract that, on the date of the release of its advertisement, has an engineer's estimate of more than \$25,000. The amount of the guaranty is equal to two percent of the estimate, rounded to the nearest \$1,000, not to exceed \$100,000.

(1) Except as provided in paragraph (2) or (4) of this subsection, the bid guaranty must be made payable to the order of the commission or department and in the form of a cashier's check, money order, or teller's check drawn by or on a state or national bank, savings and loan association, or a state or federally chartered credit union (collectively referred to as a "bank"). The check must be payable at or through the institution issuing the instrument, or must be drawn by a bank on a bank, or by a bank and payable at or through a bank. The form of the instrument must be identified on the instrument's face.

(2) A bidder may submit a bid bond, in lieu of providing the guaranty required in paragraph (1) of this subsection. The bid bond shall be on the form specified by the department. A bid bond will only be accepted from a surety company authorized to execute a bond under and in accordance with state law. The bond must be dated on or before the date of the bid opening, bear the impressed seal of the surety company and the name of the bidder, and be signed by the bidder or bidders, in the case of a joint venture, and an authorized representative of the surety company. As an alternative for joint venture bidders, each of the bidders may submit a separate bid bond, completed as outlined in this paragraph. Powers of attorney must be attached to the bid bond. The bid bond amount required by the department must be within the surety company's authorized bonding limit.

(3) The department will not accept as a bid guaranty:

- (A) personal checks or certified checks;
- (B) other types of money orders; or
- (C) checks or money orders more than 90 days old.

(4) For bids submitted electronically under subsection (c) of this section, the bid guaranty must be an electronic bid bond [~~must be~~] made in the name or department issued vendor number of the bidder or if more than one, each bidder. An electronic bid bond will be accepted only from a surety company authorized to execute a bond under and in accordance with state law. The bond must be dated on or before the date of bid opening and bear the seal of the surety company. For joint venture bidders, the bond must be made in the names or department issued vendor numbers of all joint venture bidder participants. The bond authorization code must be entered into the authorization code field contained in the electronic bidding system [EBS]. Only bond authorization codes from the companies listed in the most recent version of the electronic bidding system [EBS] are acceptable. Printed checks or bid bond forms are not acceptable as guaranties for electronic bids.

§9.15. Acceptance of Bids.

(a) Public opening. Bids will be opened in accordance with Transportation Code, §223.004 and §223.005.

(1) Bids for contracts other than building contracts, with an estimate of less than \$1 million, may be filed with the district engineer at the headquarters for the district and opened and read at a public

meeting conducted by the district engineer, or his or her designee, on behalf of the commission.

(2) Bids for a building contract with an estimate of less than \$1 million may be filed with the director of the Support Services Division at the headquarters of the division and opened and read at a public meeting conducted by the director of that division, or the director's designee, on behalf of the commission.

(b) Bids not considered.

(1) The department will not consider a bid if:

- (A) the bid is submitted by an unqualified bidder;
- (B) the bid is in a form other than the official bid form issued to the bidder;
- (C) the certification and affirmation are not signed or the department identifies a discrepancy related to a certification in a subsequent review prior to award;
- (D) the bid was not in the hands of the letting official at the time and location specified in the advertisement;
- (E) the bidder modifies the bid in a manner that alters the conditions or requirements for work as stated in the proposal form;
- (F) the bid guaranty, when required, does not comply with §9.14(d) of this subchapter relating to the Submittal of Bid;
- (G) the proposal form was signed by a person who was not authorized to bind the bidder or bidders;
- (H) the bid does not include a fully completed HUB plan in accordance with §9.356 of this chapter when required;
- (I) a typed proposal form does not contain the information in the format shown on the "Example of Bid Prices Submitted by a Computer Printout's in the proposal form;
- (J) the bidder was not authorized to be issued a bid form under §9.13(e) of this subchapter relating to Notice of Letting and Issuance of Proposal Forms;
- (K) the bid did not otherwise conform with the requirements of §9.14 of this subchapter;
- (L) the bidder fails to properly acknowledge receipt of all addenda;
- (M) the bid submitted has the incorrect number of bid items;
- (N) the bidder does not meet the applicable technical qualification requirements;
- (O) the bidder fails to submit a DBE commitment within the period described by §9.17(i) of this subchapter relating to Award of Contract;
- (P) the bidder fails to meet the requirements of §9.17(j) of this subchapter relating to participation in the Department of Homeland Security (DHS) E-Verify system;
- (Q) the bidder bids more than the maximum or less than the minimum number of allowable working days shown on the plans when working days is a bid item.

(2) If bids are submitted on the same project separately by a joint venture and one or more members of that joint venture, the department will not accept any of the bids submitted by the joint venture and those members for that project.

(3) If bids are submitted on the same project by affiliated bidders as determined under §9.27 of this subchapter (relating to Affiliated Entities) and the executive director has not granted an affiliation exception under §9.12(g) of this subchapter relating to the Qualification of Bidders, the department will not accept any of the bids submitted by the affiliated bidders for that project.

(c) Revision of bid.

(1) For a manually submitted bid, a bidder may change a bid price before it is submitted to the department by changing the price in the printed bid form and initialing the revision in ink;

(2) For a manually submitted bid, a bidder may change a bid price after it is submitted to the department by requesting return of the bid in writing prior to the expiration of the time for receipt of bids, as stated in the advertisement. The request must be made by a person authorized to bind the bidder. The department will not accept a request by telephone but will accept a properly signed facsimile request. The revised bid must be resubmitted prior to the time specified for the close of the receipt of bids.

(3) For an electronically submitted bid, a bidder may change a unit bid price in the electronic bidding system [EBS] and resubmit electronically to the electronic vault until the time specified for the close of the receipt of bids. Each bid submitted will be retained in the electronic vault. The electronic bid with the latest date and time stamp by the vault will be used for bid tabulation purposes.

(d) Withdrawal of bid.

(1) A bidder may withdraw a manually submitted bid by submitting a request in writing to the letting official before the time and date of the bid opening. The request must be made by a person authorized to bind the bidder. The department will not accept telephone requests but will accept a properly signed facsimile request. Except as provided in §9.16(c) of this subchapter relating to Tabulation of Bids and §9.17(d) of this subchapter, a bidder may not withdraw a bid subsequent to the time for the receipt of bids.

(2) A bidder may withdraw an electronically submitted bid by submitting an electronic or written request to withdraw the bid. An electronic withdrawal request must be submitted using the electronic bidding system [EBS]. The request, whether electronic or written, must be submitted by a person who is authorized by the bidder to submit the request and received by the department before the time and date of the bid opening.

(e) Unbalanced bids. The department will examine the unit bid prices of the apparent low bid for reasonable conformance with the department's estimated prices. The department will evaluate an apparent low bid with extreme variations from the department's estimate or where obvious unbalancing of unit prices has occurred. For the purposes of the evaluation the department will presume the same retainage percentage for all bidders. The department may consider an apparent low bid nonresponsive if the evaluation of the unit bid prices reveals that the apparent low bid is mathematically and materially unbalanced.

§9.17. *Award of Contract.*

(a) The commission may reject any and all bids opened, read, and tabulated under §9.15 and §9.16 of this subchapter (relating to Acceptance of Bids and Tabulation of Bids, respectively). It will reject all bids if:

(1) there is reason to believe collusion may have existed among the bidders;

(2) the lowest bid is higher than the department's estimate and the commission determines that re-advertising the project for bids may result in a significantly lower low bid;

(3) the lowest bid is higher than the department's estimate and the commission determines that the work should be done by department forces; or

(4) the lowest bid is determined to contain a bid error that meets the notification requirements contained in §9.16(e)(1) of this subchapter and satisfies the criteria contained in §9.16(e)(2) of this subchapter.

(b) Except as provided in subsection (c), (d), (e), or (f) of this section, if the commission does not reject all bids, it will award the contract to the lowest bidder.

(c) In accordance with Government Code, Chapter 2252, Subchapter A, the commission will not award a contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of:

(1) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which:

(A) the nonresident's principal place of business is located; or

(B) the nonresident is a resident manufacturer; or

(2) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing related to the contract will be performed.

(d) For a maintenance contract for a building or a segment of the state highway system involving a bid amount of less than \$300,000, if the lowest bidder withdraws its bid after bid opening, the executive director may recommend to the commission that the contract be awarded to the second lowest bidder.

(1) For purposes of this subsection, the term "withdrawal" includes written withdrawal of a bid after bid opening, failure to provide the required insurance or bonds, or failure to execute the contract.

(2) The executive director may recommend award of the contract to the second lowest bidder if he or she, in writing, determines that the second lowest bidder is willing to perform the work at the unit bid prices of the lowest bidder; and

(A) the unit bid prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices;

(B) there is a specific need to expedite completion of the project to protect the health or safety of the traveling public; or

(C) delaying award of the contract would jeopardize the structural integrity of the highway system.

(3) The commission may accept the withdrawal of the lowest bid after bid opening if it concurs with the executive director's determinations.

(4) If the commission awards a contract to the second lowest bidder and the department successfully enters into a contract with the second lowest bidder, the department will return the lowest bidder's bid guaranty upon execution of that contract.

(e) If the lowest bidder is not a preferred bidder and the contract will not use federal funds, the department, in accordance with Transportation Code, Chapter 223, Subchapter B, will award the contract to the lowest-bidding preferred bidder if that bidder's bid does not exceed the amount equal to 105 percent of the lowest bid. For purposes

of this subsection, "preferred bidder" means a bidder whose principal place of business is in this state or a state that borders this state and that does not give a preference similar to Transportation Code, §223.050.

(f) When additional information is required to make a final decision, the commission may defer the award or rejection of the contract until the next regularly scheduled commission meeting.

(g) Contracts with an engineer's estimate of less than \$1 million may be awarded or rejected by the executive director under the same conditions and limitations as provided in subsections (a) - (c) of this section.

(h) The commission may rescind the award of any contract prior to contract execution upon a determination that it is in the best interest of the state. The executive director may rescind the award of a contract awarded under subsection (g) of this section prior to contract execution upon a determination that it is in the best interest of the state. If a contract is rescinded under this subsection, the bid guaranty will be returned to the bidder, but no compensation will be paid to the bidder as a result of the rescission.

(i) For a contract with a DBE goal, all bidders must submit the DBE information required by §9.227 of this chapter (relating to Information from Bidders) within five calendar days after the date that the bids are opened.

(j) Prior to contract award, all low bidders must be participating or provide documentation of participation in the Department of Homeland Security's (DHS) E-Verify system within five calendar days after the date that the bids are opened.

(k) Upon the award or rejection of a contract by the commission, the department will provide the low bidder written notification of the award or rejection. When applicable, the department will delay notification of the award of a contract pending resolution of:

- (1) an access agreement between the department and a railroad,
- (2) an agreement between the department and a third party participating with funding or concurrence, or
- (3) other conditions that are not in the best interest of the state.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600375

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-8630



CHAPTER 28. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

SUBCHAPTER B. HIGHWAY CROSSINGS BY OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

43 TAC §28.11, §28.12

The Texas Department of Transportation (department) proposes amendments to §28.11, Surety Bond, and §28.12, Preparation of Contract.

EXPLANATION OF PROPOSED AMENDMENTS

During the 89th Legislative Session, the legislature passed Senate Bill 995, which removed the requirement that the surety bond for a contract authorizing an oversize or overweight vehicle to cross a road or highway be approved by the Comptroller of Public Accounts and the Attorney General's Office.

Amendments to §28.11, Surety Bond, remove the requirement that the state treasurer and the attorney general approve the surety bond and provide that the bonds must be approved by the department to align the rule with the statute. Additional changes are made to clarify the requirements of the section; those changes do not change the substance of the section.

Amendments to §28.12, Preparation of Contract, modify subsection (e) by removing the requirement that the surety bond be approved by the attorney general and the comptroller of public accounts to align the rule with the statute and eliminating language that is redundant of that in §28.11.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. James Stevenson, P.E., has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. James Stevenson has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will result in an expeditious approval of Highway Crossing Agreements. This benefits legislative requests as well, several existing highway crossing agreements were a result of passed legislation.

COSTS ON REGULATED PERSONS

Mr. James Stevenson has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. James Stevenson has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

- (1) it would not create or eliminate a government program;
- (2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;
- (3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;
- (4) it would not require an increase or decrease in fees paid to the agency;
- (5) it would not create a new regulation;
- (6) it would not expand, limit, or repeal an existing regulation;
- (7) it would not increase or decrease the number of individuals subject to its applicability; and
- (8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. James Stevenson has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §28.11 and §28.12(e). The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "*Surety Bonds for Overweight/Oversize Vehicles*." The deadline for receipt of the information or comments is 5:00 p.m. on March 16, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §623.051, which requires the commission to adopt rules relating to the forms and procedures to be used for contracts for crossing roads.

The authority for the proposed amendments is provided by S.B. No. 995, 89th Regular Session, 2025. The primary author and the primary sponsor of that bill are Sen. Robert Nichols and Rep. Dennis Paul, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapter C.

§28.11. *Surety Bond*.

Before the requester may exercise any right under a contract under this subchapter, the [The] requester shall[; prior to exercising any rights thereunder,] execute with a corporate surety authorized to do business in this state an adequate surety bond in the [such] amount [as may be] determined by the commission to compensate for the cost of maintenance and repairs as provided in §28.12 of this subchapter (relating to Preparation of Contract). The bond must be [herein,] approved by the department and [state treasurer and the attorney general, with a corporate surety authorized to do business in this state,] conditioned on the requester fulfilling the obligations of the contract.

§28.12. *Preparation of Contract*.

(a) The department will contract with the requester to indemnify the state for the cost of maintenance or repair to that portion of the highway crossed by vehicles which cannot comply with one or more restrictions of Transportation Code, Chapter 621.

(b) The department will, at the expense of the requester, periodically maintain and repair the vehicle crossing in accordance with established departmental regulations, specifications, and engineering standards and practices.

(c) If the proposed vehicle crossing requires initial upgrading or reconstruction to safely and adequately accommodate the vehicles which will be using the highway crossing, the requester will bear the entire cost of such work. Construction plans, specifications, traffic control plans, and any other related work will be provided by the requester at no cost to the state. At the sole option of the department, it may elect to do this work or provide for this work by separate contract, with the requester bearing the entire cost.

(d) The requester will be responsible for furnishing, installing, maintaining, and removing when no longer required all traffic control devices which are required at the crossing to insure the safety of the traveling public. At the sole option of the department, it may elect to do this work or provide for this work by separate contract, with the requester bearing the entire cost. All traffic-control devices and flaggers, if required, shall be in accordance with the Texas Manual on Uniform Traffic Control Devices.

(e) The requester shall indemnify the department for the cost of maintenance and repair to the vehicle crossing. The requester shall, at the entire expense of the requester, provide and keep in force a surety bond that satisfies the requirements of §28.11 of this subchapter (relating to Surety Bond) [in an amount determined by the state to cover the cost of such maintenance and repair]. [The bond will require approval by the attorney general and comptroller of public accounts.]

(f) The requester shall keep the roadway free of debris and objectionable dust, lights, or noise.

(g) The requester shall provide the department with the department's certificate of insurance covering the latest insurance requirements for contractors doing state highway construction work.

(h) The responsibilities of the requester as set forth in the contract shall not be transferred, assigned, or conveyed to a third party without approval of the department.

(i) If, in the sole judgment of the department, it is determined at a future date that traffic conditions have so changed that the existence or use of the vehicle crossing is impeding maintenance, damaging the highway facility, impairing safety, or that the vehicle crossing is not being properly operated, or that it constitutes a nuisance, or if for any other reason it is in the department's judgment that such a facility is not in the public interest, the vehicle crossing shall be modified if corrective measures acceptable to both the department and the requester can be applied to eliminate the objectionable features of the facility or terminated and the use of the area as a vehicle crossing discontinued.

(j) Upon termination of the contract the department shall make an inspection of the crossing site. If additional repairs, modifications, or rehabilitation is required to return the highway to its original condition, the requester shall bear the entire expense of such work.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600374

Becky Blewett

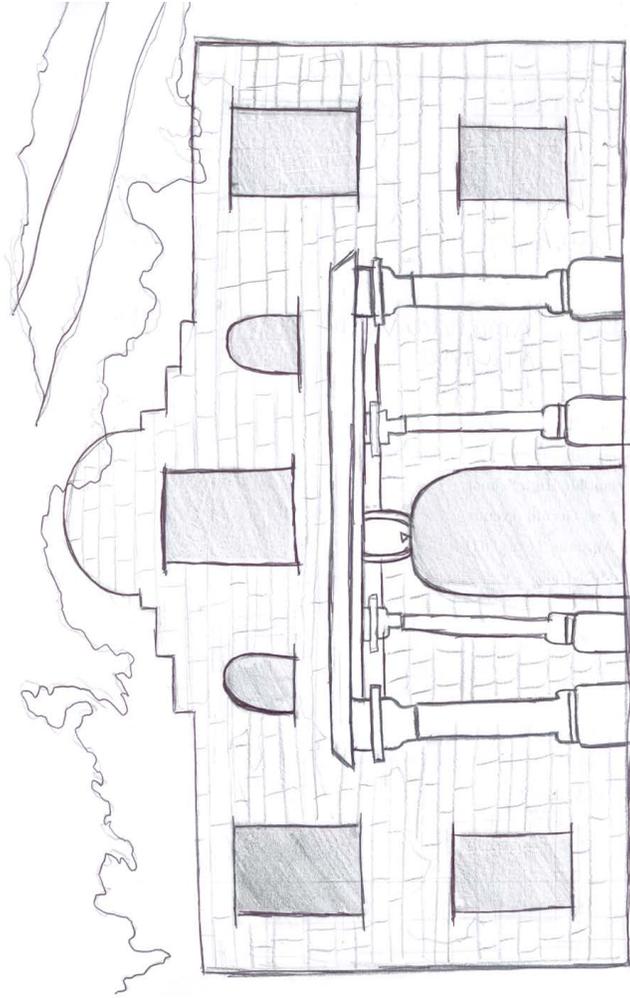
Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: March 15, 2026

For further information, please call: (512) 463-8630





WITHDRAWN RULES

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

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 301. LOCAL AUTHORITY RESPONSIBILITIES

SUBCHAPTER G. COMMUNITY MENTAL HEALTH SERVICES STANDARDS

DIVISION 1. GENERAL PROVISIONS

26 TAC §§301.301, §301.303

Proposed amended §§301.301 and §301.303, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4207), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600301



DIVISION 2. ORGANIZATIONAL STANDARDS

26 TAC §§301.321, 301.323, 301.327, 301.329, 301.331, 301.333, 301.335

Proposed amended §§301.321, 301.323, 301.327, 301.329, 301.331, 301.333 and 301.335, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4207), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600302



26 TAC §301.325

The proposed repeal of §301.325, published in the January 27, 2025, issue of the *Texas Register* (50 TexReg 4207), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600303



DIVISION 3. STANDARDS OF CARE

26 TAC §§301.351, 301.353, 301.355, 301.357, 301.359, 301.361, 301.363

Proposed amended §§301.351, 301.353, 301.355, 301.357, 301.359, 301.361 and 301.363, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4207), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600304



TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 115. CONTROL OF AIR POLLUTION FROM VOLATILE ORGANIC COMPOUNDS

SUBCHAPTER B. GENERAL VOLATILE ORGANIC COMPOUND SOURCES

DIVISION 1. STORAGE OF VOLATILE ORGANIC COMPOUNDS

30 TAC §§115.111, 115.112, 115.119

Proposed amended §§115.111, 115.112, and 115.119, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600305



DIVISION 2. VENT GAS CONTROL

30 TAC §§115.122, §115.129

Proposed amended §§115.122 and §115.129, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600306



SUBCHAPTER C. VOLATILE ORGANIC

COMPOUND TRANSFER OPERATIONS

DIVISION 6. GASOLINE DISPENSING

FACILITY

30 TAC §§115.260, 115.262, 115.264 - 115.266, 115.269

Proposed new §§115.260, 115.262, 115.264 - 115.266, and 115.269, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600307



SUBCHAPTER E. SOLVENT-USING

PROCESSES

DIVISION 1. DEGREASING PROCESSES

30 TAC §§115.411, 115.412, 115.415, 115.416, 115.419

Proposed amended §§115.411, 115.412, 115.415, 115.416, and 115.419, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600308



DIVISION 2. SURFACE COATING PROCESSES

30 TAC §§115.420, 115.421, 115.425, 115.427, 115.429

Proposed amended §§115.420, 115.421, 115.425, 115.427, and 115.429, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600309



DIVISION 4. OFFSET LITHOGRAPHIC PRINTING

30 TAC §§115.440, 115.441, 115.449

Proposed amended §§115.440, 115.441, and 115.449, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600310



DIVISION 5. CONTROL REQUIREMENTS FOR SURFACE COATING PROCESSES

30 TAC §§115.450, 115.451, 115.453, 115.455, 115.458, 115.459

Proposed amended §§115.450, 115.451, 115.453, 115.455, 115.458, and 115.459, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

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TRD-202600311



DIVISION 6. INDUSTRIAL CLEANING SOLVENTS

30 TAC §§115.460, 115.461, 115.463, 115.465, 115.468, 115.469

Proposed amended §§115.460, 115.461, 115.463, 115.465, 115.468, and 115.469, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4251), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600312



CHAPTER 117. CONTROL OF AIR POLLUTION FROM NITROGEN COMPOUNDS

SUBCHAPTER A. DEFINITIONS

30 TAC §117.10

Proposed amended §117.10, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4314), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600313



SUBCHAPTER B. COMBUSTION CONTROL AT MAJOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL SOURCES IN OZONE NONATTAINMENT AREAS

DIVISION 2. BEXAR COUNTY OZONE NONATTAINMENT AREA MAJOR SOURCES

30 TAC §§117.200, 117.203, 117.205, 117.230, 117.235, 117.240, 117.245

Proposed amended §§117.200, 117.203, 117.205, 117.230, 117.235, 117.240, and 117.245, published in the July 25, 2025,

issue of the *Texas Register* (50 TexReg 4314), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600314



SUBCHAPTER H. ADMINISTRATIVE PROVISIONS

DIVISION 1. COMPLIANCE SCHEDULES

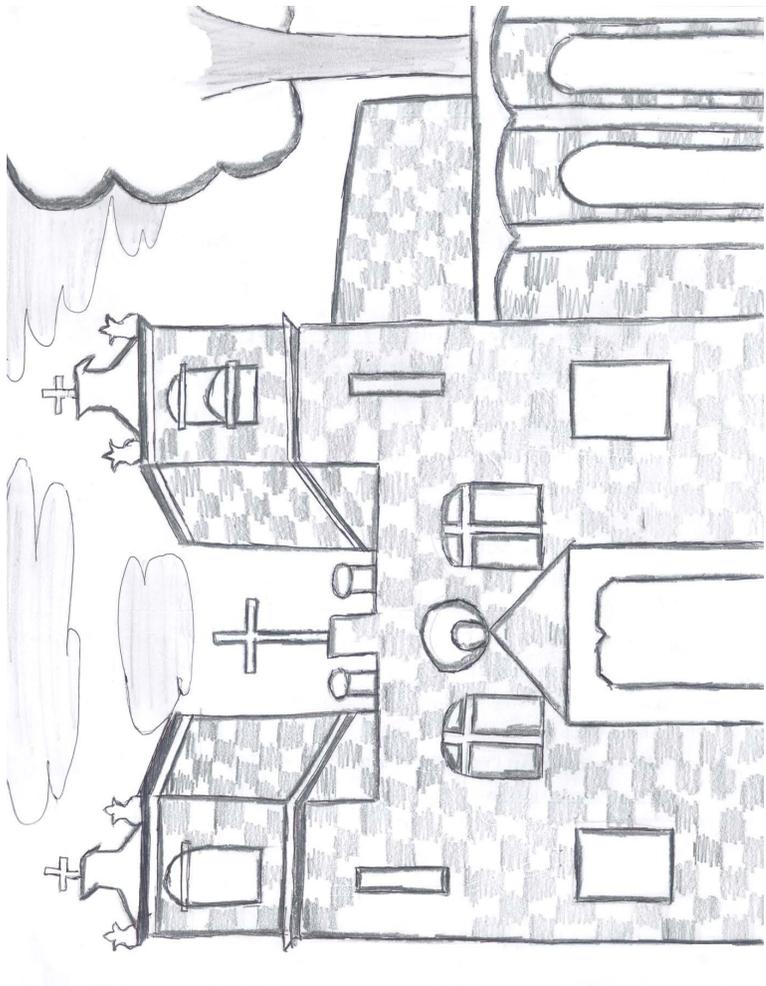
30 TAC §117.9010

Proposed amended §117.9010, published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4314), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on January 27, 2026.

TRD-202600315





ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 12. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

CHAPTER 251. 9-1-1 SERVICE--STANDARDS

1 TAC §251.2

The Commission on State Emergency Communications (CSEC) adopts, in Title 1, Part 12, Chapter 251 of the Texas Administrative Code, amendments to rule §251.2 concerning Changes to 9-1-1 Service Arrangements. The rule is adopted without changes to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7783) and will not be republished.

BACKGROUND INFORMATION AND JUSTIFICATION

The primary purpose of the amendment is to address the use of Next Generation 9-1-1 systems and technologies to temporarily route 911 calls to a different emergency service provider or public safety answering point (PSAP) based on the caller's location using geographic coordinates and other information obtained by geographic information system (GIS) technology.

PUBLIC COMMENT

The 30-day comment period ended on January 5, 2026. During this period, CSEC received no comments on the proposed amendments.

STATEMENT OF AUTHORITY

The amended section is proposed pursuant to Health and Safety Code §§771.051, which establishes CSEC as the state's authority on emergency communications and, among other directives, charges CSEC with administering the implementation of statewide 9-1-1 service; 771.055, which, among other things, requires each regional planning commission to develop a regional plan for the establishment and operation of 9-1-1 service throughout the region that the regional planning commission serves, including a description of how 9-1-1 service is to be administered; and 771.056, which requires submission of a regional plan to the commission for approval or disapproval; and Title 1 Texas Administrative Code, Part 12, Chapter 251, 9-1-1 Service--Standards.

No other statute, article, or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600380

Kenny Moreland

General Counsel

Commission on State Emergency Communications

Effective date: February 18, 2026

Proposal publication date: December 5, 2025

For further information, please call: (512) 922-9089



CHAPTER 252. ADMINISTRATION

1 TAC §§252.2, 252.3, 252.5 - 252.9

The Commission on State Emergency Communications (CSEC) adopts, in Title 1, Part 12, Chapter 252 of the Texas Administrative Code, amendments to rules 252.2 concerning Purchase of Goods and Services: Historically Underutilized Businesses, 252.3 concerning State Employee Sick and Family Leave Pools, 252.5 concerning Employee Training, 252.6 concerning Wireless Service Fee Proportional Distribution, 252.7 concerning Definitions, 252.8 concerning Emergency Communications Advisory Committee, and 252.9 concerning Liability Protection of NG9-1-1 Service Providers.

These amendments are adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7784). The amended rules will not be republished.

BACKGROUND INFORMATION AND JUSTIFICATION

The primary purposes of the amendments are to update the rules to reduce inefficiency, be more consistent with relevant statutes, update the agency's procedures, reflect current terminology in the industry, and improve clarity.

PUBLIC COMMENT

The 30-day comment period ended on January 5, 2026. During this period, CSEC received comments from one interested party, the Texas 9-1-1 Alliance, on certain proposed amendments to Rule 252.8. The Alliance opposes the proposed amendments to Subsections (c) and (e) of Rule 252.8 that would make CSEC's Executive Director a voting member of the Emergency Communications Advisory Committee (Committee) with a term that does not expire.

Comment: The current rule faithfully implements the relevant statute establishing the Committee's membership.

Response: The current rule sets the Committee's membership at two voting representatives each from a regional planning commission (RPC); an Emergency Communications District (ECD), as that term is defined by Health and Safety Code § 771.001(3)(A); and an ECD, as that term is defined by Health and Safety Code § 771.001(3)(B). It also makes the Executive

Director an ex-officio, non-voting member. The relevant statute is Health and Safety Code Section 771.0511(d), which states the membership of the Committee "must include *at least*: (1) one representative from a [RPC]; (2) one representative from an [ECD], as that term is defined by Section 771.001(3)(A); and (3) one representative from an [ECD], as that term is defined by Section 771.001(3)(B)." (Emphasis added.) This comment ignores that the Legislature included the words "at least" before enumerating the three minimum members. CSEC is given clear authority to appoint additional members, which the Commission has previously done by appointing an additional member to represent each the three categories of entities that were only given one representative under statute. Criteria for appointing members of the Committee is addressed in Health and Safety Code § 771.0511(e), as discussed below. Therefore, adding CSEC's Executive Director as a voting member is consistent with the relevant statute that establishes the Committee's minimum membership.

Comment: CSEC did not consult with RPCs and ECDs as required by statute before appointing CSEC's Executive Director as a voting member.

Response: Health and Safety Code § 771.0511(e) states, in part, "In appointing members of an advisory committee, the commission shall consult with regional planning commissions and emergency communication districts throughout the state." CSEC believes the appropriate reading of this requirement is for the Commission to consult the respective entities when appointing a position to represent that entity's interest. It would be illogical to consult an ECD on an appointment of a member to represent the interests of an RPC. In any event, the proposed amendment of Rule 252.8 that would appoint CSEC's Executive Director as a voting member was provided on the agency's website prior to an open meeting, discussed at an open meeting prior to publication in the *Texas Register*, and presented for formal comment for 30 days by its eventual publication. The Alliance availed itself of the opportunity to submit comments. Adding CSEC's Executive Director with these opportunities to provide input satisfies the statutory requirement to consult RPCs and ECDs, if in fact it does apply to this circumstance.

Comment: This change will erode the Committee's independence and ability to provide unbiased recommendations to the Commission.

Response: The Alliance makes several references to the Committee's independence, despite the fact that no part of the enabling statute suggests the Committee should be an independent body. Notwithstanding, the proposed change would simply give CSEC's Executive Director a single vote in a 7-member body. At most, this vote would represent a tie-breaker, rather than allow a possible tie if the vote of the current composition was split. To the extent the Committee benefits the Commission in providing independent perspective, a single vote would not dictate the Committee's actions such that any independence would be eroded. The argument that the Committee's current composition somehow provides an independent, unbiased input, however, ignores the reality that each member represents its own membership. Each member's representation informs and influences the member's actions on the Committee. CSEC's Executive Director would be no different. Adding CSEC's Executive Director as a voting member to represent the state's authority on emergency communications does not impede the Committee's narrow purpose of assisting the Commission to coordinate the development, implementation, and management of an inter-

connected, state-level emergency services Internet Protocol network, also known as an ESInet.

Comment: Giving CSEC's Executive Director a permanent seat on the Committee as a voting member will almost inevitably make CSEC's Executive Director the dominant, controlling voice of the Committee.

Response: Emphasizing the lack of term limit for CSEC's Executive Director voting position on the Committee is misleading. The RPCs and ECDs all have permanent representation on the Committee as well. Because their members represent multiple entities that make up each group, it is logical for the term of the individual representing each group to be term-limited so that a different entity within the group may be represented by a succeeding representative. CSEC's Executive Director only represents CSEC. Hence, there is no need for a term limit for the position on the Committee. Notwithstanding, one vote in a seven-member body cannot be a "dominant, controlling voice" simply by virtue of the math. A four-member majority would be needed on an issue that the Committee is not in unanimous agreement on. A single vote cannot control. Nor does the duration of a member's position on the Committee have a bearing on the strength of its vote or its informal influence. Adding CSEC's Executive Director as a voting member, regardless of term limit, will not make that position a dominant or controlling voice.

Comment: CSEC's Executive Director serving as a voting member is contrary to the Committee's purpose and intended function as an outside, independent voice.

Response: The Alliance incorrectly cites to Subsection 252.8(j) in describing the Committee's purpose, but that provision merely affirms that the Committee is an "advisory committee" for the application of open meetings laws under Government Code Ch. 551. The actual purpose of the Committee is clearly stated in Health and Safety Code § 771.0511(b)-(c): to assist CSEC with coordinating the development, implementation, and management of an interconnected, state-level emergency services Internet Protocol network. Subsection 252.8(a) reiterates this directive under a clear heading: Purpose. This purpose says nothing of outside independence. On the contrary, the purpose laid out in statute speaks of working with CSEC. An argument that the Committee must be "an outside, independent voice" to fulfill its purpose is not based on the text of the statute or the current rule. Nor must an advisory body exclude from its membership the body being advised. The very committee the Alliance later points out as statutorily requiring an agency's Executive Director to be a voting member, the Texas Electricity Supply Chain Security and Mapping Committee, is established Texas Utilities Code Sec. 38.202 as an advisory committee that is not be subject to Government Code Ch. 551. Adding CSEC's Executive Director as a voting member is consistent with the Committee's purpose and function as stated in statute.

Comment: The legislature's omission of CSEC's Executive Director in Health and Safety Code Sec. 771.0511(d) creates a strong presumption that the Committee should operate with only members who do not represent CSEC because the Legislature knows how to speak clearly to effectuate that end.

Response: This comment points to part of the text while ignoring the whole. Certainly the Legislature knew it could list CSEC's Executive Director among the minimum members. Likewise, the Legislature knew that using the words "must include at least" left the Commission open to appoint additional members. A more revealing omission is the Legislature's decision not to

require that additional members be representatives for specific groups as it did for the prescribed minimum membership. On the contrary, the Legislature only prescribed the minimum qualifications for additional members in Health and Safety Code Sec. 771.0511(e), stating that CSEC shall "ensure that each member of the advisory committee has appropriate training, experience, and knowledge in 9-1-1 systems and network management to assist in the implementation and operation of a complex network." Adding CSEC's Executive Director, who meets the requisite criteria in Health and Safety Code Sec. 771.0511(e), as a voting member is consistent with the statutory language when read in full.

Comment: If CSEC implements changes to Subsections (c) and (e) of Rule 252.8 as proposed, then the Alliance proposes also adding the Alliance's then-existing chairman or designee as an additional voting member to balance the addition of CSEC's Executive Director.

Response: CSEC identified the benefit of the amendment to Subsections (c) and (e) of Rule 252.8 as proposed as allowing the Executive Director to play a more active role as a participant and to have a part in decision-making. The alternative proposal does not accomplish this same benefit. Further, if balancing influences were a desire, the alternative proposal would create more imbalance by giving a third representative for ECDs as that term is defined by Health and Safety Code § 771.001(3)(B), while the other two enumerated groups- RPCs and ECDs as that term is defined by Health and Safety Code § 771.001(3)(A)- remain with only two representatives each. There is no need to add an additional voting member to balance CSEC's Executive Director as proposed in the alternative.

STATEMENT OF AUTHORITY

The amended sections are authorized pursuant to Health and Safety Code §§771.051, which establishes CSEC as the state's authority on emergency communications and, among other directives, charges CSEC with administering the implementation of statewide 9-1-1 service; 771.0511, which authorizes CSEC to appoint the Emergency Communications Advisory Committee; 771.053, which limits liability for certain 9-1-1 service providers; and 771.0711(c), which directs CSEC to distribute to each emergency communication district that does not participate in the state system a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the district bears to the population of the state; and Government Code §§ 656.048, which requires a state agency to adopt rules relating to: (1) the eligibility of the agency's administrators and employees for training and education supported by the agency; and (2) the obligations assumed by the administrators and employees on receiving the training and education; 661.002, which requires a state agency to adopt rules and prescribe procedures relating to the operation of the agency sick leave pool; and 2161.003, which require a state agency to adopt the comptroller's rules under § 2161.002 as the agency's own rules.

CROSS-REFERENCE TO STATUTE

The adopted amendment to Rule 252.9 affects Health and Safety Code § 771.053(a). No other statute, article, or code is affected by the adoptions.

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

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 29, 2026.

TRD-202600381

Kenny Moreland

General Counsel

Commission on State Emergency Communications

Effective date: February 18, 2026

Proposal publication date: December 5, 2025

For further information, please call: (512) 922-9089



1 TAC §252.4

The Commission on State Emergency Communications (CSEC) adopts, in Title 1, Part 12, Chapter 252 of the Texas Administrative Code, the repeal of rule §252.4 concerning charges for open records requests. The repeal is adopted without changes to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7791). The rule will not be republished.

BACKGROUND INFORMATION AND JUSTIFICATION

This repeal will remove a rule that is unnecessary because the requirements for imposing charges for open records requests are governed by the rules adopted by the Texas Office of the Attorney General in Title 1, Part 3, Chapter 70 of the Texas Administrative Code pursuant to the directive in Texas Government Code §552.262.

Statute directs the attorney general to adopt rules for use by each governmental body and states such rules shall be used by each governmental body in determining charges for providing copies of public information and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. There is no requirement for a state agency to adopt these rules.

PUBLIC COMMENT

The 30-day comment period ended on January 5, 2026. During this period, CSEC received no comments on the proposed repeal.

STATEMENT OF AUTHORITY

The proposed repeal is authorized pursuant to Health and Safety Code §771.051, which establishes CSEC as the state's authority on emergency communications and, among other directives, charges CSEC with administering the implementation of statewide 9-1-1 service; Government Code §552.262, which requires the attorney general to adopt rules for use by each governmental body, as well as requires each governmental body to use such rules, in determining charges for providing copies of public information under Government Code Chapter 552, subchapter F and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection as authorized by Government Code Sections 552.271(c) and (d); and Texas Administrative Code Title 1, Part 3, Chapter 70, which the attorney general adopted to provide rules for costs of copies of public information.

CROSS-REFERENCE TO STATUTE

No other statute, article, or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on January 29, 2026.

TRD-202600382

Kenny Moreland
General Counsel

Commission on State Emergency Communications

Effective date: February 18, 2026

Proposal publication date: December 5, 2025

For further information, please call: (512) 922-9089



CHAPTER 253. PRACTICE AND PROCEDURE

1 TAC §§253.1, 253.3 - 253.5

The Commission on State Emergency Communications (CSEC) adopts, in Title 1, Part 12, Chapter 253 of the Texas Administrative Code, amendments to §253.1 concerning Petitions for Rulemaking before the Commission, §253.3 concerning Protest Procedures, §253.4 concerning Negotiated Rulemaking and Alternative Dispute Resolution, and §253.5 concerning Enhanced Contract and Performance Monitoring.

These amendments are adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7792). The amended rules will not be republished.

BACKGROUND INFORMATION AND JUSTIFICATION

The primary purposes of the amendments are to update, simplify, and clarify the agency's procedures regarding petitions for rulemaking, protest procedures, negotiated rulemaking, and enhanced contract and performance monitoring.

PUBLIC COMMENT

The 30-day comment period ended on January 5, 2026. During this period, CSEC received no comments on the proposed amendments.

STATEMENT OF AUTHORITY

The amendments are adopted pursuant to Health and Safety Code §§771.040, which requires CSEC to develop and implement a policy to encourage the use of: (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of CSEC rules; and (2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code; 771.051, which establishes CSEC as the state's authority on emergency communications and, among other directives, charges CSEC with administering the implementation of statewide 9-1-1 service; and Texas Government Code §§2001.021, which requires a state agency by rule to prescribe the form for a petition for adoption of rules and the procedure for its submission, consideration, and disposition; 2009.051, which permits a state agency that adopts an alternative dispute resolution procedure to do so by rule; 2155.076, which requires each state agency by rule to develop and adopt protest procedures for resolving vendor protests relating to purchasing issues; and

2261.202, which requires a state agency to establish and adopt by rule a policy that clearly defines the contract monitoring roles and responsibilities, if any, of internal audit staff and other inspection, investigative, or audit staff.

No other statute, article, or code is affected by the adoptions.

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 29, 2026.

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General Counsel

Commission on State Emergency Communications

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For further information, please call: (512) 922-9089



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

The commissioner of insurance adopts new 28 TAC §5.4013 and amendments to §§5.4011, 5.4012, 5.4601, 5.4603, 5.4622, and 5.4642, concerning the adoption of the 2024 *International Residential Code* (IRC) and 2024 *International Building Code* (IBC), to update the building standards for structures that the Texas Windstorm Insurance Association (TWIA) insures. The new section and amendments are adopted with changes to the proposed text published in the November 21, 2025 issue of the *Texas Register* (50 TexReg 7505). The sections will be republished.

REASONED JUSTIFICATION. New §5.4013 and amendments to §§5.4011, 5.4012, 5.4601, 5.4603, 5.4622, and 5.4642 are necessary to adopt the 2024 IRC and IBC and make conforming changes to adopted forms. These amendments are also necessary to correct applicable dates for the 2006 and 2018 IRC and IBC because an emergency rule adopted under 28 TAC §35.3 in response to the coronavirus delayed the effective date. Insurance Code §2210.251(b) requires the commissioner to adopt the 2003 IRC and allows for the adoption of subsequent editions of, and supplements to, the IRC published by the International Code Council (ICC). Insurance Code §2210.252 allows the commissioner to supplement by rule the plan of operation building specifications with the structural provisions of the IRC, as well as to adopt by rule a subsequent edition of, or supplement to, the IRC.

The text of §§5.4012, 5.4013, 5.4601, and 5.4603 as proposed have been changed to reference April 1, 2026, instead of March 1, 2026, as the date on and after which the 2024 IRC and IBC apply. This change is made to allow affected parties sufficient time to implement the new codes. Nonsubstantive changes have

also been made to §5.4011 as proposed to italicize "International Residential Code" and "International Building Code."

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on December 23, 2025.

Commenters: TDI received comments from one commenter. No commenters spoke at a public hearing on the proposal held on December 16, 2025. Commenters in support of the proposal were the Insurance Council of Texas (ICT).

Comment. A commenter supports the proposal, noting the adoption of the 2024 IRC and IBC would modernize TWIA eligibility standards, reinforce loss-mitigation principles, and advance shared objectives related to public safety, risk management, and long-term cost stability for Texas policyholders.

Agency Response. TDI agrees and thanks the commenter for its support.

DIVISION 1. PLAN OF OPERATION

28 TAC §§5.4011 - 5.4013

STATUTORY AUTHORITY.

The commissioner adopts the amendments to §5.4011 and §5.4012 and new §5.4013 under Insurance Code §§2210.008, 2210.251(b), 2210.252, and 36.001.

Insurance Code §2210.008 authorizes the commissioner to adopt reasonable and necessary rules to implement Insurance Code Chapter 2210.

Insurance Code §2210.251(b) requires the commissioner to adopt the 2003 IRC and allows for the adoption of subsequent editions and supplements to the IRC published by the ICC.

Insurance Code §2210.252 allows the commissioner to supplement by rule the plan of operation building specifications with the structural provisions of the IRC, as well as to adopt by rule a subsequent edition of the IRC.

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.

§5.4011. Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After January 1, 2008, and before September 1, 2020.

(a) To be eligible for catastrophe property insurance, structures located in the designated catastrophe areas specified in §5.4008 of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003) and which are constructed, repaired, or to which additions are made on and after January 1, 2008, and before September 1, 2020, must comply with the 2006 editions of the *International Residential Code* and the *International Building Code*, as each is revised by the 2006 Texas Revisions and all of which are adopted by reference to be effective January 1, 2008. The codes are published by and available from the International Code Council at iccsafe.org or by calling toll-free 1-888-422-7233, and the 2006 Texas Revisions to both codes are available from the Windstorm Inspections Program of the Inspections Office at TDI and on the TDI website at www.tdi.texas.gov. The following wind speed requirements must apply.

(1) Areas seaward of the intracoastal canal. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas which are seaward of the intracoastal canal and constructed, repaired, or to which additions are made on and after January 1, 2008, and before September 1, 2020, must be designed and constructed to resist a 3-second gust of 130 miles per hour.

(2) Areas inland of the intracoastal canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line and certain areas in Harris County. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas specified in §5.4008(b)(2)(A) and (B) of this title and constructed, repaired, or to which additions are made on and after January 1, 2008, and before September 1, 2020, must be designed and constructed to resist a 3-second gust of 120 miles per hour.

(3) Areas inland and west of the specified boundary line. To be eligible for catastrophe property insurance, structures located in designated catastrophe areas specified in §5.4008(c) of this title and constructed, repaired, or to which additions are made on and after January 1, 2008, and before September 1, 2020, must be designed and constructed to resist a 3-second gust of 110 miles per hour.

(b) Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure may be made without conformance to the requirements of subsection (a) of this section. For a historic structure to be exempted, at least one of the following conditions must be met.

(1) The structure is listed or is eligible for listing on the National Register of Historic Places.

(2) The structure is a Recorded Texas Historic Landmark (RTHL).

(3) The structure has been specifically designated by official action of a legally constituted municipal or county authority as having special historical or architectural significance, is at least 50 years old, and is subject to the municipal or county requirements relative to construction, alteration, or repair of the structure, in order to maintain its historical designation.

§5.4012. Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After September 1, 2020, and Before April 1, 2026.

(a) To be eligible for catastrophe property insurance, structures located in the designated catastrophe areas specified in paragraphs (1), (2), and (3) of this subsection that are constructed, repaired, or to which additions are made on and after September 1, 2020, and before April 1, 2026, must comply with the 2018 editions of the *International Residential Code* and the *International Building Code*, which are adopted by reference and applicable beginning September 1, 2020. The codes are published by and available from the International Code Council at iccsafe.org or by calling toll-free 1-888-422-7233. The designated catastrophe areas are those areas:

(1) seaward of the intracoastal canal;

(2) inland of the intracoastal canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line and certain areas in Harris County as described in §5.4008(b)(2)(A) and (B) of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003); and

(3) inland and west of the specified boundary line as described in §5.4008(c) of this title.

(b) Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure may be made without conformance to the requirements of subsection (a) of this section. For a historic structure to be exempted, at least one of the following conditions must apply to the structure.

(1) The structure is listed or is eligible for listing on the National Register of Historic Places.

(2) The structure is a Recorded Texas Historic Landmark by the Texas Historical Commission.

(3) The structure has been designated by official action of a legally constituted municipal or county authority as having special historical or architectural significance, is at least 50 years old, and is subject to the municipal or county requirements relative to construction, alteration, or repair of the structure to maintain its historical designation.

§5.4013. *Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After April 1, 2026.*

(a) To be eligible for catastrophe property insurance, structures located in the designated catastrophe areas specified in paragraphs (1), (2), and (3) of this subsection that are constructed, repaired, or to which additions are made on and after April 1, 2026, must comply with the 2024 editions of the *International Residential Code* and the *International Building Code*, which are adopted by reference and applicable beginning April 1, 2026. The codes are published by and available from the International Code Council at iccsafe.org or by calling toll-free 1-888-422-7233. The designated catastrophe areas are those areas:

(1) seaward of the intracoastal canal;

(2) inland of the intracoastal canal and within approximately 25 miles of the Texas coastline and east of the specified boundary line and certain areas in Harris County as described in §5.4008(b)(2)(A) and (B) (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003) of this title; and

(3) inland and west of the specified boundary line as described in §5.4008(c) of this title.

(b) Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a historic structure may be made without conformance to the requirements of subsection (a) of this section. For a historic structure to be exempted, at least one of the following conditions must apply to the structure.

(1) The structure is listed or is eligible for listing on the National Register of Historic Places.

(2) The structure is an RTHL by the Texas Historical Commission.

(3) The structure has been designated by official action of a legally constituted municipal or county authority as having special historical or architectural significance, is at least 50 years old, and is subject to the municipal or county requirements relative to construction, alteration, or repair of the structure to maintain its historical designation.

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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Jessica Barta

General Counsel

Texas Department of Insurance

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



DIVISION 7. INSPECTIONS FOR WINDSTORM AND HAIL INSURANCE

28 TAC §§5.4601, 5.4603, 5.4622, 5.4642

STATUTORY AUTHORITY. The commissioner adopts amendments to §§5.4601, 5.4603, 5.4622, and 5.4642 under Insurance Code §§2210.008, 2210.251(b), 2210.252, and 36.001.

Insurance Code §2210.008 authorizes the commissioner to adopt reasonable and necessary rules to implement Insurance Code Chapter 2210.

Insurance Code §2210.251(b) requires the commissioner to adopt the 2003 IRC and allows for the adoption of subsequent editions and supplements to the IRC published by the ICC.

Insurance Code §2210.252 allows the commissioner to supplement by rule the plan of operation building specifications with the structural provisions of the IRC, as well as to adopt by rule a subsequent edition of the IRC.

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.

§5.4601. Definitions.

The following definitions apply to this subchapter:

(1) Applicant--A person who submits a new or renewal application for appointment as an appointed qualified inspector.

(2) Appointed qualified inspector--An engineer licensed by the Texas Board of Professional Engineers and appointed by TDI as a qualified inspector under Insurance Code §2210.254(a)(2), concerning Qualified Inspectors.

(3) Appointed qualified inspector number--A number TDI assigns to each appointed qualified inspector.

(4) Constructed or construction--The act of building or erecting a structure or repairing (including reroofing), altering, remodeling, or enlarging an existing structure.

(5) Completed improvement--

(A) An improvement in which the original transfer of title from the builder to the initial owner of the improvement has occurred; or

(B) if a transfer under subparagraph (A) of this paragraph is not contemplated, an improvement that is substantially completed.

(6) Improvement--The construction of or repair (including reroofing), alteration, remodeling, or enlargement of a structure to which the plan of operation applies.

(7) Ongoing improvement--

(A) An improvement in which the original transfer of title from the builder to the initial owner of the improvement has not occurred; or

(B) if a transfer under subparagraph (A) of this paragraph is not contemplated, an improvement that is not substantially completed.

(8) Substantially completed--An improvement for which the final framing stage, including attachment of component and cladding items and installation of windborne debris protection, has been completed. If the improvement's windborne debris protection consists of wood structural panels, all the panels must be present at the improvement's location but need not be installed.

(9) TDI inspector--A qualified inspector authorized under Insurance Code §2210.254(a)(1) and employed by TDI.

(10) TDI--The Texas Department of Insurance.

(11) Texas Board of Professional Engineers and Land Surveyors, Texas Board of Professional Engineers, or TBPE--House Bill 1523, 86th Legislature, 2019, abolished the Texas Board of Professional Land Surveying and transferred its functions to the renamed Texas Board of Professional Engineers and Land Surveyors, effective September 1, 2019. All references to the Texas Board of Professional Engineers or the TBPE in this division are references to the Texas Board of Professional Engineers and Land Surveyors.

(12) Association--The Texas Windstorm Insurance Association.

(13) Windstorm building code standards--The requirements for building construction in §§5.4007 - 5.4013 of this title (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made Prior to September 1, 1998; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After September 1, 1998, and before February 1, 2003; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After February 1, 2003 and before January 1, 2005; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2005, and before January 1, 2008; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008, and before September 1, 2020; Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After September 1, 2020, and Before April 1, 2026; and Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired, or to Which Additions Are Made On and After April 1, 2026; respectively).

§5.4603. *Windstorm Inspection Forms.*

(a) TDI adopts the following forms by reference and will make them available on its website.

(1) Application for Certificate of Compliance, Form WPI-1, effective April 2021, for ongoing improvements. Information requested by Form WPI-1 can be found in §5.4621(1) of this title, relating to Certification of Ongoing Improvements Inspected by Appointed Qualified Inspectors.

(2) Inspection Verification, Form WPI-2-BC-6, effective April 2021, for use in windstorm inspection for structures constructed,

repaired, or to which additions are made on and after January 1, 2008, and before September 1, 2020. Information requested by Form WPI-2-BC-6 can be found in §5.4621(4) of this title.

(3) Inspection Verification, Form WPI-2-BC-7, effective January 2026, for use in windstorm inspection for structures constructed, repaired, or to which additions are made on and after September 1, 2020, and before April 1, 2026. Information requested by Form WPI-2-BC-7 can be found in §5.4621(4) of this title.

(4) Inspection Verification, Form WPI-2-BC-8, effective January 2026, for use in windstorm inspection for structures constructed, repaired, or to which additions are made on and after April 1, 2026. Information requested by Form WPI-2-BC-8 can be found in §5.4621(4) of this title.

(5) Application for Certificate of Compliance for Completed Improvement, Form WPI-2E, effective January 2026. Information requested by Form WPI-2E can be found in §5.4604(a) and (b) of this title, relating to Certification Form for Completed Improvement.

(6) Application for Appointment as a Qualified Inspector, Form AQI-1, effective January 2024. Information requested by Form AQI-1 can be found in §5.4609(b) of this title, relating to Application for Qualified Inspector Appointment.

(7) Application Renewal for Appointment as a Qualified Inspector, Form AQI-R, effective June 2025. Information requested by Form AQI-R can be found in §5.4610(b)(1) of this title, relating to Renewal of Qualified Inspector Appointment.

(b) TDI inspection and certification forms. When appropriate, TDI will issue the following forms:

(1) Field Form, Form WPI-7;

(2) Certificate of Compliance for Ongoing Improvement, Form WPI-8; and

(3) Certificate of Compliance for Completed Improvement (Engineered), Form WPI-8E.

(c) The information required by the forms listed in subsection (a)(1) - (5) of this section must be submitted to TDI electronically using the Windstorm system, which is available on the TDI website. TDI will accept a completed Form WPI-1 or WPI-2 emailed to windstorm@tdi.texas.gov only when the Windstorm system is non-functional, unless the individual submitting is not a licensed professional engineer.

(d) In this subchapter, the first four alphanumeric characters in the designation of a form listed in this section, such as "WPI-2," refer to all forms with that prefix unless otherwise specified by all the characters in the designation.

§5.4622. *Inspection Verification.*

In submitting an Inspection Verification, Form WPI-2, an appointed qualified inspector verifies that:

(1) the ongoing improvement:

(A) complies with the wind load requirements of the applicable building code; or

(B) conforms to a design of the ongoing improvement that complies with the wind load requirements of the applicable building code under the plan of operation and that has a seal affixed by a professional engineer licensed by the Texas Board of Professional Engineers and Land Surveyors; or

(C) does not comply with the wind load requirements of the applicable building code; and

(2) if the ongoing improvement meets the requirements of paragraph (1)(A) or (B) of this section, the appointed qualified inspector is able to provide TDI with information and evidence substantiating compliance.

§5.4642. *Disciplinary Action.*

(a) Revocation or denial of appointment. After notice and opportunity for hearing, the commissioner may revoke an appointed qualified inspector's appointment or deny an appointed qualified inspector's application for appointment if:

(1) the applicant or appointed qualified inspector violates or fails to comply with the Insurance Code or any rule in this chapter;

(2) the applicant has made a material misrepresentation in the appointment application;

(3) the applicant has attempted to obtain an appointment by fraud or misrepresentation; or

(4) the applicant or appointed qualified inspector has made a material misrepresentation in any form, report, or other information required to be submitted to TDI, including an Application for Certificate of Compliance for Ongoing Improvement, Form WPI-1; a construction inspection report; an Inspection Verification, Form WPI-2; or a Certification Form for Completed Improvement, Form WPI-2E.

(b) Cease and desist order. The commissioner, ex parte, may enter an emergency cease and desist order under Insurance Code Chapter 83, concerning Emergency Cease and Desist Orders, against an appointed qualified inspector, or a person acting as an appointed qualified inspector, if:

(1) the commissioner believes that:

(A) the appointed qualified inspector has:

(i) failed to demonstrate, through submitting or failing to submit to TDI, substantiating information as described in §5.4626 of this title (relating to Substantiating Information), that an ongoing improvement or a portion of an ongoing improvement subject to inspection meets the requirements of Insurance Code Chapter 2210, concerning Texas Windstorm Insurance Association, and TDI rules; or

(ii) refused to comply with requirements imposed under this chapter or TDI rules; or

(B) a person acting as an appointed qualified inspector is acting without appointment under Insurance Code §2210.254, concerning Qualified Inspectors, or §2210.2551, concerning Enforcement Authority; Rules; and

(2) the commissioner determines that the conduct described by paragraph (1) of this subsection is fraudulent, hazardous, or creates an immediate danger to the public.

(c) Alternative sanctions. Under Insurance Code §2210.2551(b) and §2210.256(b), concerning Disciplinary Proceedings Regarding Appointed Inspectors and Certain Other Persons, the commissioner, instead of revocation or denial, may impose one or more of the following sanctions if the commissioner determines from the facts that the alternative sanction would be fair, reasonable, or equitable:

(1) suspension of the appointment for a specific period, not to exceed one year; or

(2) issuance of an order directing the appointed qualified inspector to cease and desist from the specified activity or failure to act determined to be in violation of Insurance Code Chapter 2210, Subchapter F, concerning Property Inspections for Windstorm and Hail In-

surance, or rules of the commissioner adopted under Insurance Code Chapter 2210, Subchapter F.

(d) Failure to comply with order. Under Insurance Code §2210.2551(b) and §2210.256(d), if the commissioner finds, after notice and a hearing, that an appointed qualified inspector has failed to comply with an order issued under subsections (a), (b), or (c) of this section, the commissioner will, unless the commissioner's order is lawfully stayed, revoke the appointed qualified inspector's appointment.

(e) Informal disposition. The commissioner may informally dispose of any matter under this section or under §5.4612 of this title (relating to Appointment as Qualified Inspector) by consent order or default.

(f) Automatic cancellation. If the Texas Board of Professional Engineers and Land Surveyors revokes or suspends an engineer's license, the engineer's appointment as an appointed qualified inspector is automatically canceled.

(g) Reasonable penalty. If TDI finds that a person acting as an appointed qualified inspector under Insurance Code §2210.254 has failed to provide complete and accurate information regarding an inspection for a certificate of compliance under Insurance Code §2210.2515, concerning Issuance of Certificates of Compliance, then TDI may impose a reasonable penalty on the inspector, including prohibiting the inspector from applying for certificates of compliance under Insurance Code §2210.2515.

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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General Counsel

Texas Department of Insurance

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



CHAPTER 21. TRADE PRACTICES

The commissioner of insurance adopts amendments to 28 TAC §§21.4902, 21.5002, 21.5003, 21.5010, and 21.5040, concerning out-of-network provider disclosures and the claim dispute resolution process, and §21.5070 and §21.5071, concerning data submission and payment requirements for emergency medical services. The amendments are adopted without changes to the proposed text published in the October 3, 2025, issue of the *Texas Register* (50 TexReg 6461). The sections will not be republished.

REASONED JUSTIFICATION. Amendments to §§21.4902, 21.5002, 21.5003, and 21.5040 are necessary to implement Senate Bill 1409, 89th Legislature, 2025, which authorizes post-secondary educational institutions to offer health benefit plans under Insurance Code Chapter 1683. SB 1409 also amends Insurance Code Chapter 1275 to make higher education health benefit plans subject to state balance billing protections and independent dispute resolution processes. Insurance Code Chapter 1275 establishes balance billing protections for plans

that are otherwise not subject to state regulation. The protections in Insurance Code Chapter 1275 closely align with the requirements for out-of-network billing that were originally established by Senate Bill 1264, 86th Legislature, 2019, for health maintenance organizations and preferred provider benefit plans, and health benefit plans administered by the Employees Retirement System of Texas and Teacher Retirement System of Texas.

The amendments to §§21.4902, 21.5002, and 21.5003 add health benefit plans offered under Insurance Code Chapter 1683 to the definition and scope sections to clarify that these plans are subject to the rules found in 28 TAC Chapter 21, Subchapters OO and PP. Insurance Code §1275.004 makes Insurance Code Chapter 1467 applicable to health benefit plans identified in Insurance Code Chapter 1275.

In addition, amendments to §21.5040 require health benefit plans offered by postsecondary educational institutions to include additional information in the explanation of benefits (EOB) provided to physicians and providers. Specifically, the EOB must include an instruction that is substantially similar to the following language: "The request for mediation or arbitration must identify the plan type as 'Higher Ed Plan.'" This addition is consistent with the treatment of other plan types under Insurance Code §1275.002 and should assist in identifying and processing eligible mediation and arbitration requests through the Texas IDR process.

Amendments to §21.5010 are necessary to implement Senate Bill 2544, 89th Legislature, 2025, which creates a statutory deadline for an out-of-network provider or health benefit plan issuer or administrator to request mandatory mediation under Insurance Code Chapter 1467, Subchapter B. The amendment to §21.5010 adds new subsection (d) to clarify that mediation under Subchapter PP, Division 2, must be requested by the out-of-network provider or health benefit plan issuer or administrator not later than 180 days after the date the initial payment is received. The amended language in new subsection (d) is consistent with the treatment of arbitration claims under §21.5020(d), except that the mediation deadline is 180 days.

Amendments to §21.5070 and §21.5071 are necessary to implement Senate Bill 916, 89th Legislature, 2025, which authorizes political subdivisions to annually adjust rates submitted to TDI under Insurance Code §38.006, subject to certain statutory limits. A political subdivision may not adjust a rate submitted to TDI under Insurance Code §38.006 by more than the lesser of (1) the Medicare Ambulance Inflation Factor or (2) 10% of the provider's previous calendar year rates.

Political subdivisions first submitted rates under Insurance Code §38.006 for calendar year 2024 to implement Senate Bill 2476, 88th Legislature, 2023, which expired on September 1, 2025. While SB 2476 included a method for plan payment rates to increase when plans renewed, it did not give political subdivisions an opportunity to submit rates for calendar year 2025. Since SB 916 is effective for emergency medical services provided on or after September 1, 2025, TDI announced a new reporting opportunity in Commissioner's Bulletin #B-0011-25 to allow political subdivisions to submit adjusted rates between August 1 and September 1, 2025. If a political subdivision did not submit a rate adjustment during this reporting window, the previously reported rates continue to apply to claims made between September 1, 2025, and December 31, 2025. On September 15, 2025, TDI published new rate data submitted by the September 1, 2025, deadline.

For calendar year 2026, the data submission deadline will be 30 days after the date this adoption order becomes effective. TDI will issue a message through the GovDelivery system that will announce when political subdivisions and their designees may begin submitting 2026 rate data. Sign up to receive messages through the GovDelivery system here: public.govdelivery.com/accounts/TXINSUR/subscriber/new?topic_id=TXINSUR_3.

For subsequent years, the data submission deadline will be December 1 of the year prior to the calendar year for the data being reported. For example, a political subdivision that elects to submit a rate adjustment must submit data applicable for calendar year 2027 by December 1, 2026. TDI will publish data within 10 business days of the data submission deadline, according to §21.5070(e). Issuers must apply the published rate for the calendar year during which the service or transport was provided or, if rate data was not adjusted for that year, the most recent available rate.

TDI intends to continue to publish previously submitted data in the four emergency services billing rates datasets on the Texas Open Data Portal at data.texas.gov. Information in these datasets include code rates, National Provider Identifier Standard numbers, ZIP codes, and contact lists. For more information about rate data submission, including frequently asked questions and links to other resources, visit www.tdi.texas.gov/health/esbindex.html.

Consistent with SB 916, a political subdivision may annually adjust a rate by not more than the lesser of the Medicare Ambulance Inflation Factor or 10% of the provider's previous calendar rates. For 2025, the Medicare Ambulance Inflation Factor is 2.4%, so an adjusted rate that was submitted by a political subdivision for 2025 could not be more than 2.4% higher than the rate submitted for 2024 for the same service. TDI audited data submitted between August 1 and September 1, 2025, for compliance and referred noncompliant rates to the Texas Department of State Health Services for further action as authorized under Health and Safety Code §773.061(a-1). TDI will continue to review compliance and take necessary actions under SB 916.

Descriptions of the sections' amendments follow.

Section 21.4902. This section provides definitions for use in Subchapter OO. The amendments to §21.4902 expand the definition of an "administrator" to include an administrator of a health benefit plan offered by a postsecondary educational institution under new Insurance Code Chapter 1683, as added by SB 1409. The amendments also expand the definition of "health benefit plan" to include a plan offered by a postsecondary educational institution under Insurance Code Chapter 1683.

Section 21.5002. This section describes the scope of Subchapter PP. The amendments to §21.5002 expand the applicability of Subchapter PP to a qualified mediation or qualified arbitration claim filed under health benefit plan coverage administered by an administrator of a health benefit plan under new Insurance Code Chapter 1683. The amendments add a citation to Insurance Code Chapter 1683 in subsections (a) and (c) of §21.5002 to reflect this expanded applicability.

Section 21.5003. This section provides definitions for use in Subchapter PP. The amendments to §21.5003 expand the definition of an "administrator" to include an administrator of a health benefit plan offered by a postsecondary educational institution under new Insurance Code Chapter 1683. The amendments also expand the definition of "health benefit plan" to include a

plan offered by a postsecondary educational institution under Insurance Code Chapter 1683.

Section 21.5010. The amendment to §21.5010 adds new subsection (d) to narrow the availability of mediation for eligible claim disputes that occur on or after June 20, 2025, consistent with SB 2544. Specifically, new subsection (d) requires the out-of-network provider or health benefit plan issuer or administrator to request mediation under the section not later than 180 days after the date the initial payment is received. The amendment also clarifies that the initial payment made to the out-of-network provider could be zero dollars if the allowable amount was applied to an enrollee's deductible, which is consistent with how arbitration claims are treated in 28 TAC §21.5020(d).

Section 21.5040. This section provides the content required in an EOB provided to an enrollee, physician, or provider. The amendment to §21.5040 adds new subsection (b)(3) to address the specific requirements for EOBs provided by a health benefit plan offered by a postsecondary educational institution under Insurance Code Chapter 1683. New subsection (b)(3) requires the health benefit plan to include in the EOB to the physician or provider an instruction to identify the plan type as "Higher Ed Plan" when requesting mediation or arbitration.

Section 21.5070. This section provides the requirements for political subdivisions or their designees to submit emergency medical service rates to TDI for publication under Insurance Code §38.006. The amendments to §21.5070 specify the deadlines for submission of a rate based on the calendar year the rates apply to. For calendar year 2026, the deadline for a political subdivision to submit new or adjusted rates is 30 days after the date §21.5070 becomes effective. The deadline for political subdivisions to submit new or adjusted rates to be used in the following calendar year is December 1 of the current year.

New subsection (g) limits the amount that a political subdivision or its designee may adjust a rate submitted under Insurance Code §38.006 compared with its rate for the previous calendar year. Consistent with SB 916, new subsection (g) states a political subdivision may annually adjust a rate by not more than the lesser of the Medicare Ambulance Inflation Factor or 10% of the provider's previous calendar year rates. For 2026 rates, the Medicare Ambulance Inflation Factor is 2%.

Section 21.5071. This section outlines the requirements that certain health benefit plan issuers or administrators must meet when making payments to emergency medical services providers. The amendments clarify that the health benefit plan issuer or administrator must pay the lesser of the billed charge or the EMS rate published by TDI in the EMS provider rate database for the calendar year that the service or transport was provided. The adopted section specifies that if a new or adjusted rate was not submitted and published in the EMS provider rate database for the calendar year in which the service or transport was provided, the health benefit plan issuer or administrator must use the most recently submitted rate published in the EMS provider rate database established by TDI.

The adoption order also deletes former subsections (c) - (e), concerning payments by issuers and administrators, and Figure: 28 TAC §21.5071(e), which provided examples illustrating how a health benefit plan should apply published rates to a plan year under subsection (d). Subsections (c) - (e) and Figure: 28 TAC §21.5071(e) are no longer necessary because SB 916 removes the requirement that health benefit plans recalculate previously

submitted rates and authorizes political subdivisions to submit adjusted rates annually.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on November 3, 2025, and at a public rule hearing held on October 21, 2025.

Commenters: TDI received comments from four commenters. One commenter spoke at the public hearing. The three others submitted written comments. Commenters in support of the proposal were Texas Association of Health Plans and Texas EMS Alliance. Commenters in support of the proposal with changes were Texas College of Emergency Physicians and Texas Medical Association.

General Comments

Comment. One commenter thanks TDI for the proposed rules and recommends adoption.

Agency Response. TDI appreciates the commenter's support.

Comment. One commenter encourages TDI to proactively audit the rate data submitted to ensure compliance with the statutory limits on annual rate increases.

Agency Response. TDI agrees and has added a column containing a validation rate to the "Emergency Services Billing Rates - Code Rates" Open Data Portal dataset for each billing code for which a political subdivision submitted rates for the years of 2024 and 2025. The validation rate is calculated by multiplying the 2024 rate by 1.024, consistent with the Medicare Ambulance Inflation Factor of 2.4% for 2025. A rate for 2025 is marked as "Noncompliant" if it exceeds the validation rate. A rate for 2025 is marked as "N/A" in the "Compliance" column if no 2025 rate was submitted.

Comment. One commenter suggests that TDI establish a method to monitor which group numbers qualify for the Texas IDR process and notify providers of qualifying group numbers.

Agency Response. TDI already encourages health plans subject to Insurance Code Chapter 1467 to voluntarily submit group numbers that are not eligible for the Texas IDR process. This information is used in the Texas IDR portal to validate requests submitted in real time, which gives providers immediate feedback on requests that are ineligible and lessens the amount of time health plans use to manually identify ineligible requests. TDI also notes that Senate Bill 1236, 89th Legislature, 2025, requires health plans to use group numbers on identification cards for pharmacy benefits that differ based on whether the plan is subject to Insurance Code provisions. As health plans develop new processes to comply with SB 1236, TDI encourages the plans to consider how these processes may be leveraged to improve efficiency in validating IDR requests. TDI welcomes additional information provided by health plans regarding methods TDI could consider to validate IDR requests and make the Texas IDR portal more efficient. TDI declines to publish group number information, as it is provided on a voluntary basis and already used to validate IDR requests.

Comment. One commenter asks that TDI add a new section that requires TDI to establish and maintain a website that displays a list of health benefit plans subject to the Texas IDR process under Insurance Code Chapter 1275, including information about the plan year and the plans' registered agents. Another commenter suggests creating a website with similar information as a supplement to the information included on EOB notifications.

Agency Response. TDI agrees that this information may be of use to the public but declines to make a change to the rule text, as the requested action is outside the scope of the rule as proposed. TDI has existing webpages that explain which plans are eligible for the Texas IDR process and how to identify eligible plans based on ID cards. TDI also has a webpage that lists ERISA plans that have opted in to the Texas IDR process under Insurance Code Chapter 1275. Once self-funded student health plans begin registering with TDI, as is required under Insurance Code §1683.005, TDI will consider listing the plans on a webpage similar to the opt-in ERISA plans webpage.

Comments on §21.5040

Comment. Two commenters note that most claims are submitted and returned electronically in the form of an electronic remittance advice (ERA) file. However, certain payors may opt to provide the EOB in a hardcopy format or in a non-machine-readable PDF format, which creates administrative burdens to determine if the claim is eligible for the state or federal IDR process. One commenter recommends that plan identification or IDR eligibility information be included in ERA files, in lieu of or in addition to hardcopy EOBs. Another commenter recommends adding rule text to §21.5040 that would require health plans subject to Insurance Code Chapter 1275 to return EOBs in a searchable, standardized remark code.

Agency Response. TDI declines to make a change at this time, as the requested action is outside the scope of this rulemaking. As noted in TDI's 2023 rule adoption, TDI has monitored this issue but has not received complaints about payors providing this information using methods that are not standardized and searchable. TDI will continue monitoring the issue and encourages providers and facilities subject to Insurance Code Chapter 1467 to file complaints if payors are not meeting expectations for electronic claims processing.

SUBCHAPTER OO. DISCLOSURES BY OUT-OF-NETWORK PROVIDERS

28 TAC §21.4902

STATUTORY AUTHORITY. The commissioner adopts amendments to §21.4902 under Insurance Code §§1275.004, 1467.003, and 36.001.

Insurance Code §1275.004 states that Insurance Code Chapter 1467 applies to a health benefit plan to which Insurance Code Chapter 1275 applies, and the administrator of a health benefit plan to which Insurance Code Chapter 1275 applies is an administrator for purposes of Insurance Code Chapter 1467.

Insurance Code §1467.003 directs the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

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.

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 30, 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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SUBCHAPTER PP. OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION DIVISION 1. GENERAL PROVISIONS

28 TAC §21.5002, §21.5003

STATUTORY AUTHORITY. The commissioner adopts amendments to §21.5002 and §21.5003 under Insurance Code §§1275.004, 1467.003, and 36.001.

Insurance Code §1275.004 provides that Insurance Code Chapter 1467 applies to a health benefit plan to which Insurance Code Chapter 1275 applies, and the administrator of a health benefit plan to which Insurance Code Chapter 1275 applies is an administrator for purposes of Insurance Code Chapter 1467.

Insurance Code §1467.003 directs the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

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.

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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DIVISION 2. MEDIATION PROCESS

28 TAC §21.5010

STATUTORY AUTHORITY. The commissioner adopts amendments to §21.5010 under Insurance Code §§1467.003, 1467.0505, and 36.001.

Insurance Code §1467.003 directs the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

Insurance Code §1467.0505 authorizes the commissioner to adopt rules, forms, and procedures necessary for the implementation and administration of the mediation program.

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.

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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DIVISION 5. EXPLANATION OF BENEFITS

28 TAC §21.5040

STATUTORY AUTHORITY. The commissioner adopts amendments to §21.5040 under Insurance Code §§1275.004, 1467.003, and 36.001.

Insurance Code §1275.004 provides that Insurance Code Chapter 1467 applies to a health benefit plan to which Insurance Code Chapter 1275 applies, and the administrator of a health benefit plan to which Insurance Code Chapter 1275 applies is an administrator for purposes of Insurance Code Chapter 1467.

Insurance Code §1467.003 directs the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

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.

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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DIVISION 8. EMERGENCY MEDICAL SERVICE RATE SUBMISSION AND PAYMENT REQUIREMENTS

28 TAC §21.5070, §21.5071

STATUTORY AUTHORITY. The commissioner adopts amendments to §21.5070 and §21.5071 under Insurance Code §§38.006, 1301.007, and 36.001.

Insurance Code §38.006 authorizes the commissioner to prescribe the form and manner by which political subdivisions may submit rates for ground ambulance services.

Insurance Code §1301.007 directs the commissioner to adopt rules as necessary to implement Insurance Code Chapter 1301 and ensure reasonable accessibility and availability of preferred provider services to residents of Texas.

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.

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 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 17. TAX RELIEF FOR PROPERTY USED FOR ENVIRONMENTAL PROTECTION

30 TAC §§17.2, 17.10, 17.12, 17.14, 17.17, 17.18, 17.20, 17.25

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to 30 Texas Administrative Code (TAC) §§17.2, 17.10, 17.12, 17.14, 17.17, 17.20, and 17.25 and adopts new §17.18.

Amended §§17.2, 17.10, 17.12, 17.14, 17.17, 17.20, and 17.25 and new §17.18 are adopted without changes to the proposed text as published in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5871) and, therefore, will not be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The commission's rules in 30 TAC Chapter 17 implement the exemption from taxation established in Texas Tax Code (TTC), §11.31 for certain property that is used wholly or partially as a facility, device, or method for the control of air, water, or land pollution. Under the requirements of 30 TAC Chapter 17, an owner of property may submit an application to the executive director to determine if the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. The rulemaking amends the provisions in 30 TAC

Chapter 17 to update the requirements of the Tax Relief for Pollution Control Property Program based on the recommendations and advice of the Tax Relief for Pollution Control Property Advisory Committee (committee), established under TTC, §11.31(n), make clarifying changes to items on the Tier I Table, and provide other updates as discussed in the Section by Section Discussion. This rulemaking also fulfills the requirement of TTC, §11.31(l) that the commission, by rule, update the list adopted under TTC, §11.31(k), the Expedited Review List (ERL), at least once every three years and fulfills the requirement of 30 TAC §17.14(b) that the commission review and update the Tier I Table every three years.

On December 1, 2022, the committee submitted its recommendations to TCEQ as part of the triennial review of the Tier I Table located in §17.14(a) and the ERL included as part of §17.17(b). The committee evaluated Tier II and Tier III applications submitted from April 1, 2018, through April 30, 2021, that received positive use determinations (PUD) to determine whether the pollution control property, if any, had been demonstrated consistently to be wholly used as pollution control property in the same manner on each application for any given property. The committee determined that one type of pollution control property currently submitted as Tier II property should be considered Tier I property in the Tier I Table, which will no longer require a Tier II application. Additional adopted changes include clarifying changes to items on the Tier I Table.

Applications for use determinations may be submitted under Tiers I, II, and III. A Tier I application may be submitted for property used as listed on the Tier I Table that is used for pollution control in accordance with the description listed in the Tier I Table for that property type. Because the property listed on the Tier I Table has been pre-determined to be pollution control property by rule, a Tier I application is expected to be less complicated to prepare and review and has a smaller application fee. A Tier II application may be submitted for property that is not listed on the Tier I Table, but is used wholly for the control of air, water, and/or land pollution. A Tier III application may be submitted for property that is used partially for pollution control. For Tier III applications, a cost analysis procedure (CAP) is used to determine the proportion of the property used for pollution control purposes.

The rulemaking removes requirements that the commission review and update the Tier I Table every three years. This review is not required by statute and removal of the requirements does not preclude the commission from reviewing the table or the committee from providing advice regarding the Tier I Table at any time. The requirement to review the ERL is not changed because it is required in TTC, §11.31(l).

This rulemaking allows for appeal-related documents and executive director notifications to be sent and received electronically to make the process more efficient.

The commission also adopts the corresponding provisions in Chapter 18, Voter-Approval Tax Relief for Pollution Control Requirements, to mirror the adopted changes in Chapter 17.

Section by Section Discussion

In addition to the adopted amendments to address recommendations from the advisory committee and to update and clarify program requirements, the commission adopts non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in

the Texas Legislative Council Drafting Manual, September 2020. The specific substantive changes are discussed in greater detail in this Section by Section Discussion in the corresponding portions related to the affected rule sections. Non-substantive changes are not intended to alter the rule requirements in any way and may not be specifically discussed in this preamble.

§17.2 Definitions

The commission adopts updated references included in certain definitions in §17.2 to reflect revisions to other sections of the chapter. The adopted relocation of the ERL from §17.17(b) to a new section, §17.18, makes the reference to §17.17(b)(1) obsolete; therefore, the reference to 17.17(b)(1) of this title relating to Partial Determinations is replaced with a reference to §17.18 of this title (relating to Expedited Review List) in the definition of "capital cost old." Similarly, the adopted removal of subsection (b) in §17.14 makes references to §17.14(b) obsolete, and those references are revised from §17.14(b) to §17.14 in the definitions for "Tier I," "Tier II," and "Tier III."

§17.10. Application for Use Determination

The commission adopts amendments to §17.10(a)(1) to provide that the executive director specifies the form of applications submitted to the program instead of requiring applicants to submit two printed copies of the application. This allows the executive director to require electronic submittal of applications, which is more efficient for the program to administer than processing paper applications. Adopted amendments to §17.10(c) remove references to the postmarking of applications and replace them with references to submittal of applications.

The commission adopts revised language in §17.10(d)(1) to specify that applications pertaining only to property listed on the ERL need not provide the environmental benefits of the property. This change is consistent with TTC, §11.31(m), and requirements in Chapter 17.

The commission adopts amendments to §17.10(d)(5) to change the reference to §17.17(c) to §17.17(b). This change corresponds with the adopted relocation of the ERL.

§17.12. Application Review Schedule

The commission adopts revisions to §17.12 to allow administrative completeness "notifications" to be sent in a form other than a letter, such as via electronic mail. Electronic correspondence for communications with applicants is more efficient. The commission also adopts an amendment to §17.12(3) to revise the reference to the ERL to reflect the renumbering of the ERL to new §17.18.

§17.14. Tier I Pollution Control Property

The commission adopts amendments to §17.14 to remove subsection (b) and update the Tier I Table. Adopted amendments to the table include adding an item based on a recommendation from the committee and revising items for clarity and to expand applicability.

The property listed in the table of §17.14 is designated as Tier I because the property has been predetermined to be pollution control property when used as described in the table. The commission adopts the addition of item number M-25 to the Tier I Table at 100% use for pollution control purposes as recommended by the advisory committee, but with some deviations from the committee's recommendation. The commission agrees with the committee's recommendation to add Amine Treating Systems (components necessary to transfer impurities removed from nat-

ural gas to a final control device), when used as described in the committee's recommendation, to the Tier I Table because they are used wholly for pollution control purposes.

The committee recommended adding amine treating systems as an item number beginning with letter "A," to designate it as air pollution control equipment. However, the rule adoption designates this as miscellaneous pollution equipment, using the letter "M" because this property could be used to control pollution from the air, water, or land. Similarly, the commission adopts the listing of Amine Treating Systems with the media Air/Land/Water. The commission adopts the addition of the item using the property name, description, and use determination percentage recommended by the committee and notes that "foul" amine is considered equivalent to "rich" amine or amine that has gathered pollutants for item M-25. This property type is described in the adopted rule language and is not further discussed in the Section by Section Discussion of this preamble.

The committee recommended that amine treating systems be added to the Tier I Table based on a review and analysis of Tier II applications submitted from April 1, 2018, through April 30, 2021. The property type consistently received a PUD of 100% each time an applicant requested a use determination for such property, demonstrating the property was consistently used wholly for pollution control. Although the adopted item number is added to the Tier I Table as 100% for pollution control purposes, an applicant is still required, under §17.14 and §17.17, to submit a Tier III application if such property produces a marketable product or a Tier II or Tier III application if it is not used as described in the Tier I Table.

The commission adopts the removal of the requirement from item A-115 that external floating roofs be used to comply with a requirement in 30 TAC §115.112. This rule applies only to certain geographical areas in Texas, but external floating roofs may be installed throughout the state to comply with a pollution control requirement other than those in §115.112. Additionally, other rules may be appropriate for applicants to cite when identifying the sections of the law(s), rule(s), or regulation(s) being met or exceeded by the use, installation, construction, or acquisition of the external floating roofs. Removing this requirement for item A-115 allows applicants outside of the areas specified in §115.112 to be able to apply for a use determination using a Tier I application.

The commission adopts an amendment to revise the description for item T-32 for Dielectric Coatings to clarify that the item includes factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. This change clarifies that newer and alternative technologies such as fusion-bonded epoxies that protect against corrosion of tanks or pipes could also qualify for Tier I applications.

The commission adopts the removal of subsection (b) that requires the commission to update and review the Tier I Table at least once every three years. The scheduled review required in this section is not required by statute and places an unnecessary burden on the commission to engage in a review and rulemaking on a rigid schedule. Further, the standard of review requiring "compelling evidence" in paragraphs (1) and (2) to add or remove items on the Tier I Table is not required by statute and does not need to be imposed on the commission. Any future rulemaking to revise the Tier I Table would be subject to the rulemaking authority conferred to the commission in the Texas Water Code (TWC), the Texas Government Code (TGC), and the TTC. Removal of the requirements and limitations does not preclude the

commission from reviewing the table or the committee from providing advice on its contents at any time. The adopted removal of subsection (b) results in a §17.14 that no longer requires subsection formatting. Corresponding changes to reflect reference to the renumbering of §17.14 are also made.

§17.17 Partial Determinations

The adopted rulemaking moves §17.17(b) concerning and including the ERL to adopted new §17.18. The rule provisions for applications for partial use determinations and applications for property on the ERL are different and should be addressed in separate sections. No changes are adopted to the ERL in the figure in existing 30 TAC §17.17(b). Subsections (c) and (d) and figures in 30 TAC §17.17(c)(1) and §17.17(c)(2) are renumbered accordingly. References to §17.14(a) are also removed from the rule language.

§17.18 Expedited Review List

The adopted rulemaking adds new §17.18 and move existing §17.17(b), including the ERL, into the new section. The adopted move helps clarify that the applicability of the ERL is independent of the application requirements for partial use determinations, which are provided in existing §17.17. No changes are adopted for the ERL in the existing figure in 30 TAC §17.17(b), adopted new figure 30 TAC §17.18. However, the rule language in adopted new §17.18 is revised from existing §17.17(b) to indicate that an application that relies on an item from the ERL must still adhere to the requirements in Chapter 17 associated with application tier and fee.

§17.20 Application Fees

The adopted amendments update rules related to the payment of application fees. The adopted rule revisions in §17.20(b) clarify that if it is determined, during review of an application, that the fee originally remitted with an application was not appropriate for the application, the correct fee must be submitted before application review continues. Additionally, adopted revisions to §17.20(c) specify how payment may be remitted and that the payment must be made payable to the Texas Commission on Environmental Quality. This change reflects rule language used by other program areas for processing payments to the agency. Finally, the commission adopts an amendment to §17.20(d) to specify that either the application fee or a receipt for payment of the application fee must accompany the application.

§17.25 Appeals Process

The commission adopts amendments to §17.25 to provide for electronic submission of appeals and related correspondence by e-mail. Allowing such communications by e-mail provides more efficient administration of the program. This rule adoption allows for appeal-related documents to be sent and received electronically. Previously, the rules specified appeals must be submitted via United States mail, facsimile or hand delivery, but did not specifically include e-mail. Conforming changes, including requiring the appeal to include the e-mail address of the person who files the appeal, to accommodate these changes, are also adopted in §17.25(b), (c), (f), and (g).

Final Regulatory Impact Determination

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of TGC, §2001.0225, and determined the rules do not meet the definition of a "Major environmental rule." Under TGC, §2001.0225, a "Major environmental rule" means a rule, the specific intent of which is to protect

the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Furthermore, the adopted rulemaking does not meet any of the four applicability requirements listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule that: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopts a rule solely under the general powers of the agency instead of under a specific state law. The rulemaking amends the Tax Relief for Pollution Control Property rules. The commission rules in Chapter 17 implement a voluntary property tax exemption for owners of certain property used to control pollution as set out in TTC, §11.31. Because the adopted rules are not specifically intended to protect the environment or reduce risks to human health from environmental exposure but to implement a tax relief program, this rulemaking is not a major environmental rule and does not meet any of the four applicability requirements. These rules do not result in any new environmental requirements and should not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received.

Takings Impact Assessment

The commission evaluated this rulemaking and performed a preliminary assessment of whether TGC, Chapter 2007 is applicable. The commission's preliminary assessment indicates TGC, Chapter 2007 does not apply to these adopted rules. Enforcement of these adopted rules will be neither a statutory nor constitutional taking of private real property. Specifically, the adopted rules do not affect a landowner's rights in private real property, because this rulemaking action does not burden, restrict, or limit the owner's rights to property or reduce its value by 25% or more beyond which would otherwise exist in the absence of the adopted regulations.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received.

Effect on Sites Subject to the Federal Operating Permits Program

Participation in the Tax Relief for Pollution Control Property Program is voluntary, but sites subject to the Federal Operating Permits Program could choose to file an application for a use determination. After the rulemaking adoption, owners or operators of affected sites subject to the federal operating permit program may choose to apply consistent with Chapter 17.

Public Comment

The commission offered a public hearing on September 29, 2025. The comment period opened on September 5, 2025, and closed on October 6, 2025. The commission received comments from the Tax Relief for Pollution Control Property Advisory Committee (committee). The comments were supportive of the proposed revisions and did not suggest changes to the proposal.

Response to Comment

Comment

The committee commented they support the proposed revisions.

Response

The commission appreciates the committee's support.

No changes were made to this rulemaking in response to this comment.

Statutory Authority

The new rule and amendments are adopted under Texas Water Code (TWC), §5.102, which authorizes the commission to perform any acts authorized by the TWC or other laws that are necessary and convenient to the exercise of its jurisdiction and powers; and TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC. The rules are also adopted under Texas Tax Code (TTC), §11.31, which authorizes the commission to adopt rules to implement the tax exemption for pollution control property.

The adopted rules implement TTC, §11.31.

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

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For further information, please call: (512) 239-0682



CHAPTER 18. VOTER-APPROVAL TAX RATE RELIEF FOR POLLUTION CONTROL REQUIREMENTS

30 TAC §§18.2, 18.10, 18.15, 18.25, 18.26, 18.30, 18.35

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendment to the title of 30 Texas Administrative Code (TAC) Chapter 18 and amendments to §§18.2, 18.10, 18.15, 18.25, 18.26, 18.30, and 18.35.

Amended §§18.2, 18.10, 18.15, 18.25, 18.26, 18.30, and 18.35 are adopted without changes to the proposed text as published in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5871) and, therefore, will not be republished. Chapter 18 title is

adopted without changes to the proposed text but will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

The commission's rules in 30 TAC Chapter 18 implement a tax rate adjustment program established in Texas Tax Code (TTC), §26.045 to increase a political subdivision's tax rate equal to an amount that will allow the political subdivision to spend maintenance and operation funds to pay for certain property that is used wholly or partially as a facility, device, or method for the control of air, water or land pollution necessary to meet a permit issued by the commission. Under the requirements of 30 TAC Chapter 18, a political subdivision may submit an application to the executive director to determine if property is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the determination is approved by the executive director, the political subdivision then presents the executive director's determination to the tax assessor for adjustment of the tax rate for the political subdivision.

The rulemaking amends the provisions in 30 TAC Chapter 18 to correct the title of the chapter from Voter-Approval Tax Relief for Pollution Control Requirements to Voter-Approval Tax Rate Relief for Pollution Control Requirements. Senate Bill (SB) 2, Section 44, 86th Texas Legislature, 2019, required the revision of the title's chapter. This change was adopted as part of a previous rulemaking, Rule Project Number 2020-031-018-AI, but the full title change was not made correctly.

The rulemaking also amends the provisions in Chapter 18 to mirror the changes adopted in Chapter 17 as part of this rulemaking project (Rule Project No. 2023-123-017-AI). The commission's adopted amendments are based on the recommendations and advice of the Tax Relief for Pollution Control Property Advisory Committee (committee) and also include clarifying changes to items on the Tier I Table, and provide other updates as discussed in the Section by Section Discussion. This rulemaking also fulfills the requirement of TTC, §26.045(g) that the commission, by rule, update the list adopted under TTC, §26.045(f), the Expedited Review List (ERL), at least once every three years and fulfills the requirement of 30 TAC §18.25(b) that the commission review and update the Tier I Table every three years.

On December 1, 2022, the committee submitted its recommendations to TCEQ as part of the triennial review of the Tier I Table located in §17.14(a) and ERL located in §17.17(b). This rulemaking mirrors the committee's recommendation made for Chapter 17 regarding the Tier I Table and ERL in Chapter 18, except when deviation from these recommendations is needed to ensure the rule appropriately and consistently describes pollution control property eligible for a positive use determination (PUD) under Chapter 18.

Because Chapter 18 is not in the committee's purview, it did not consider the ERL in TTC, §26.045(f), codified in §18.26, or the Tier I Table in §18.25(a). The ERL and Tier I Table in Chapter 18 are identical to the ERL in §17.17(b) and the Tier I Table in §17.14(a), respectively. The committee did not recommend any changes for the ERL in §17.17(b). However, the committee recommended the addition of one type of pollution control property to the Tier I Table. In the associated rule project for Chapter 17, several changes are adopted to the Tier I Table; therefore, the commission adopts corresponding changes to the Tier I Table in §18.25(a). The adopted changes allow applicants applying under the Chapter 18 rules the same opportunities to receive a

PUD for property submitted on a Tier I application as applicants applying under the Chapter 17 rules.

The rulemaking removes requirements in §18.25(b) that the commission review and update the Tier I Table every three years. This review is not required by statute and removal of the requirements does not preclude the commission from reviewing the table at any time. The requirement to review the ERL is not changed because it is required in TTC, §26.045(g).

Section by Section Discussion

The commission adopts amendment of the title of Chapter 18 from "Voter-Approval Tax Relief for Pollution Control Requirements" to "Voter-Approval Tax Rate Relief for Pollution Control Requirements" to implement SB 2, Section 44 and revise the chapter's title.

In addition to the adopted amendments to incorporate corresponding adopted changes to Chapter 17, the commission adopts non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. The specific substantive changes are discussed in greater detail in this Section by Section Discussion in the corresponding portions related to the affected rule sections. Non-substantive changes are not intended to alter the rule requirements in any way and may not be specifically discussed in this preamble.

§18.2 Definitions

The commission adopts revisions to the definition of Tier II in §18.2(5) to remove language that associates a Tier II application with property listed on the ERL. This change clarifies that the applicability of the ERL is independent of the Tier II application requirements for partial use determinations. The definition for Tier II is also revised to add language that clarifies Tier II applications are required when the property is not included on the Tier I Table or when the property does not correspond exactly to an item on the Tier I Table. As an example, property that is used differently than the manner established in the Tier I Table description for that item must apply as a Tier II application.

Under the existing rules, §18.25(a) requires applicants to submit a Tier II application if the property is used for pollution control purposes at a percentage different than what is listed on the table or, at the request of the executive director, if the equipment is not being used in a standard manner. These criteria in §18.25(a) were not proposed for revision. Any of the property adopted for inclusion in the Tier I Table will need to continue to adhere to these requirements.

§18.10 Application for Use Determination

The commission adopts amendments to §18.10 to provide that the executive director specifies the form of applications submitted to the program. This allows the executive director to require electronic submittal of applications, which is more efficient for the program to administer than processing paper applications.

The commission adopts revision to §18.10(c)(5) to specify that the applicability of the ERL is independent of the Tier II application requirements for partial use determinations as specified in §18.30, relating to Partial Determinations.

§18.15 Application Review Schedule

The commission adopts amendments to §18.15 to allow the executive director to send notifications in a form other than a letter, such as via electronic mail, and to remove references to applications being mailed or sent back with notices of deficiency. Electronic correspondence for communications with applicants is more efficient. The commission also adopts amendments to §18.15 to specify that the executive director will take no action on an application, rather than sending an application back, if an applicant does not submit an adequate response within the 30 days.

§18.25 Tier I Eligible Equipment

The commission adopts amendments to §18.25 to remove subsection (b) and update the Tier I Table. In addition to adopted updates to the Tier I Table in §18.25 to mirror the updates adopted for the Chapter 17 Tier I Table in §17.14, the commission adopts revisions to the Tier I Table in §18.25 to remove the reference to the Cost Analysis Procedure, which is not found in Chapter 18, and to add a requirement that documentation showing the calculation of the partial determination be included for Tier II applications. The adopted revisions also correct the citation in the introductory paragraph to the Tier I Table to refer to the appropriate section in the TTC.

The commission adopts the addition of item number M-25 to the Tier I Table in §18.25(a), at 100% pollution control property as recommended by the advisory committee for the Tier I Table of Chapter 17, but with some deviations from the committee's recommendation. The commission agrees with the committee's recommendation to add Amine Treating Systems (components necessary to transfer impurities removed from natural gas to a final control device), when used as described in the committee's recommendation, to the Tier I Table because they are used wholly for pollution control purposes. The commission adopts the addition of item M-25 to be consistent with the adopted revisions for Chapter 17.

The committee recommended adding amine treating systems as an item number beginning with letter "A," to designate it as air pollution control equipment. However, the commission designates this as miscellaneous pollution equipment, using the letter "M" because this property could be used to control pollution from the air, water, or land. Similarly, the commission adopts the listing of Amine Treating Systems with the media Air/Land/Water. The commission adopts the addition of the item using the property name, description, and use determination percentage recommended by the committee and notes that "foul" amine is considered equivalent to "rich" amine or amine that has gathered pollutants for item M-25. This property type is described in the adopted rule language and is not further discussed in the Section by Section Discussion of this preamble.

The committee recommended that amine treating systems be added to the Tier I Table based on a review and analysis of Tier II applications submitted under Chapter 17 from April 1, 2018, through April 30, 2021. The property type consistently received a PUD of 100% each time an applicant requested a use determination for such property, demonstrating the property was consistently used wholly for pollution control. Although the adopted item number is added to the Tier I Table as 100% for pollution control purposes, an applicant is still be required, under §18.25, to submit a Tier II application if such property produces a marketable product or is not used as described in the Tier I Table.

The commission adopts the removal of the requirement from item A-115 that external floating roofs be used to comply with

a requirement in 30 TAC §115.112. This rule applies only to certain geographical areas in Texas, but external floating roofs may be installed throughout the state to comply with a pollution control requirement other than those in §115.112. Additionally, other rules may be appropriate for applicants to cite when identifying the sections of the law(s), rule(s), or regulation(s) being met or exceeded by the use, installation, construction, or acquisition of the external floating roofs. Removing this requirement for item A-115 allows applicants outside of the areas specified in §115.112 to be able to apply for a use determination using a Tier I application.

The commission adopts amendments to revise the description for item T-32 for Dielectric Coatings to clarify that the item includes factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. This change clarifies that newer and alternative technologies such as fusion-bonded epoxies that protect against corrosion of tanks or pipes could also qualify for Tier I applications.

The commission adopts the removal of subsection (b) that requires the commission to update and review the Tier I Table at least once every three years. The scheduled review required in this section is not required by statute and places an unnecessary burden on the commission to engage in a review and rulemaking on a rigid schedule. Further, the standard of review requiring "compelling evidence" in paragraphs (1) and (2) to add or remove items on the Tier I Table is also not required by statute and does not need to be imposed on the commission. Any future rulemaking to revise the Tier I Table would be subject to the rulemaking authority conferred to the commission in the Texas Water Code (TWC), the Texas Government Code (TGC), and the TTC. Removal of the requirements and limitations does not preclude the commission from reviewing the table or the committee from providing advice on it at any time. The removal of subsection (b) results in a §18.25 that no longer requires subsection formatting. References to the subsection for §18.25(a) are also removed from the rule language.

§18.26 Expedited Review List

The commission adopts amendments to §18.26 to add language to §18.26 to indicate that an application that relies on an item from the ERL must still adhere to the requirements in Chapter 18 associated with the application tier level and fee.

§18.30 Partial Determinations

The commission adopts amendments to §18.30 to remove the requirement that applicants must request a partial use determination for items on the ERL. Prior rule language did not account for a scenario in which ERL property could be used as described on the Tier I Table, making it eligible for a Tier I application. This change clarifies that property included on the Tier I Table and ERL may be included on a Tier I application when used as described on the Tier I Table. A Tier II application would still be required if the property is not used wholly for pollution control purposes or as described on the Tier I Table.

§18.35 Application Fees

Revisions are adopted to remove the provision in §18.35(a)(2) that a Tier II application is required for items listed on the ERL. Removal of this provision helps clarify that property on the ERL does not have to be submitted on a Tier II application.

The adopted amendments also update rules related to application fees. Adopted revisions to §18.35(b) explain that fees will be forfeited for a use application upon which the executive director

takes no further action, rather than for an application that is sent back to an applicant. The adopted rule revisions in §18.35(b) clarify that if, during review of an application, it is determined that the fee originally remitted with an application was not appropriate for the application, the correct fee must be submitted before application review continues. Additional adopted revisions to §18.35(c) clarify how payment may be remitted and that the payment must be made payable to the Texas Commission on Environmental Quality. This change reflects rule language used by other program areas for processing payments to the agency. Finally, the commission adopts amendment to §18.35(d) to specify that either the application fee or a receipt for payment of the application fee must accompany the application.

Final Regulatory Impact Determination

The commission reviewed the adopted amendments in light of the regulatory analysis requirements of TGC, §2001.0225, and determined the rules do not meet the definition of a "Major environmental rule." Under TGC, §2001.0225, a "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Furthermore, the adopted rulemaking does not meet any of the four applicability requirements listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule that: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopts a rule solely under the general powers of the agency instead of under a specific state law. The adopted rulemaking amends the voter-approval tax rate relief for pollution control property rules. The commission rules in Chapter 18 implement a procedure available to political subdivisions to adjust tax rates to recover maintenance and operation funds used to pay for certain property used to control pollution as set out in TTC, §26.045. The adopted rule amendments revise requirements for use determination applications submitted to the executive director. Because the adopted rules are not specifically intended to protect the environment or reduce risks to human health from environmental exposure but to implement a tax rate adjustment program, this rulemaking is not a major environmental rule and does not meet any of the four applicability requirements. These rules do not result in any new environmental requirements and should not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs.

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. No comments were received.

Takings Impact Assessment

The commission evaluated these amended rules and performed a preliminary assessment of whether TGC, Chapter 2007 is applicable. The commission's preliminary assessment indicates TGC, Chapter 2007 does not apply to these adopted amendments. Enforcement of these adopted rules will be neither a statutory nor constitutional taking of private real property. Specifically, the adopted rules do not affect a landowner's rights in private real property, because this rulemaking action does not bur-

den, restrict, or limit the owner's rights to property or reduce its value by 25% or more beyond which would otherwise exist in the absence of the proposed regulations.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received.

Effect on Sites Subject to the Federal Operating Permits Program

Participation in the program for the voter-approval tax rate relief for pollution control requirements is voluntary, but sites subject to the Federal Operating Permits Program could choose to file an application for a use determination. After the rulemaking adoption, owners or operators of affected sites subject to the federal operating permit program may choose to apply consistent with Chapter 18.

Public Comment

The commission offered a public hearing on September 29, 2025. The comment period opened on September 5, 2025, and closed on October 6, 2025. The commission received comments from the Tax Relief for Pollution Control Property Advisory Committee (committee). The comments were supportive of the proposed revisions and did not suggest changes to the proposal.

Response to Comment

Comment

The committee commented they support the proposed revisions.

Response

The commission appreciates the committee's support.

No changes were made to this rulemaking in response to this comment.

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, which authorizes the commission to perform any acts authorized by the TWC or other laws that are necessary and convenient to the exercise of its jurisdiction and powers; and TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC. The rules are also adopted under Texas Tax Code (TTC), §26.045, which authorizes the commission to adopt rules to implement the program for the voter-approval tax rate relief for pollution control requirements.

The adopted amendments implement TTC, §26.045.

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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CHAPTER 39. PUBLIC NOTICE

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts new §§39.1, 39.606, 39.804; and amendments to §§39.402, 39.403, 39.405, 39.407, 39.409, 39.411, 39.412, 39.419, 39.420, 39.423, 39.425, 39.426, 39.501, 39.503, 39.509, 39.551, 39.553, 39.601, 39.603 - 39.605, 39.651, 39.707, 39.803, 39.804, 39.807 - 39.810, 39.902, 39.903, 39.1003, 39.1005, 39.1009 and 39.1011.

Amended §§39.405, 39.409, 39.411, 39.420, 39.510, 39.553, and 39.604, and new §39.606 are adopted with changes to the proposed text as published in the August 8, 2025 issue of the *Texas Register* (50 TexReg 5145) and, therefore, will be republished.

Adopted new §39.1 and §39.804; and amendments to §§39.402, 39.403, 39.407, 39.412, 39.419, 39.423, 39.425, 39.426, 39.501, 39.503, 39.509, 39.551, 39.601, 39.603, 39.605, 39.651, 39.707, 39.803, 39.804, 39.807 - 39.810, 39.902, 39.903, 39.1003, 39.1005, 39.1009 and 39.1011 are adopted without changes to the proposed text as published in the August 8, 2025 issue of the *Texas Register* (50 TexReg 5145) and, therefore, will not be republished.

Adopted new §§39.1, 39.405(l), 39.606(a), (b)(1), (3)-(6), (c), (d)(1)-(3), (5), and (e)-(i) and the amended §§39.402(a)(10) and (11), 39.405(g), 39.407, 39.409, 39.411(e)(1), (5), (11)(A)(iv), (11)(A)(v), (11)(A)(vi), (11)(A)(vii), (14), (15), and (13), 39.411(f)(3), (4), (5) and 39.411(g), 39.412(b)(2)(A) and (b)(4), 39.419, 39.426, 39.601, 39.603 - 39.605 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).

Background and Summary of the Factual Basis for the Adopted Rules

TCEQ underwent Sunset review during the 88th Regular Legislative Session, 2023. The Sunset bill, SB 1397, continuing TCEQ, included provisions requiring changes to TCEQ's public participation rules, which are found primarily in 30 Texas Administrative Code (TAC) Chapters 39, Public Notice, and 55, Requests for Reconsideration and Contested Case Hearings; Public Comment.

The agency engaged in an extended stakeholder process for this rulemaking. A hybrid virtual/in-person stakeholder meeting was held in Austin on July 15, 2024, with in-person meeting rooms also open in TCEQ regional offices in Midland and Harlingen. Spanish-language interpretation was available for this meeting. In-person meetings were held in Arlington on July 16, 2024, and in Houston on July 18, 2024. Because the July 18, 2024, meeting in Houston was shortly after the city experienced Hurricane Beryl, a second in-person meeting was held in Houston on October 3, 2024. Professional Spanish-language interpretation was available at both Houston meetings, and an agency interpreter was available for Spanish language assistance at the Arlington meeting. Stakeholder comments were accepted until October

8, 2024. The agency received robust participation from stakeholders during this process, receiving many comments and suggestions for changes to improve the agency's public participation rules.

The TCEQ Sunset bill required the extension of the public comment period and opportunity to request a hearing for a subset of air quality permit applications. Specifically, air quality permit applications that are required to publish notice in a consolidated Notice of Receipt of Application and Intent to Obtain Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) (consolidated notice) must extend the close of the comment period and the opportunity to request a contested case hearing to at least 36 hours following the public meeting held on the permit application. The Sunset bill also required TCEQ to post permit applications electronically on TCEQ's website and make these available to the public.

During the stakeholder process, a large number of comments requested that the extension of the comment period and opportunity to request a contested case hearing following a public meeting be given to all types of permit applications. Although many other comments were beyond the scope of the current rulemaking, there was a general request to make the rules less confusing and more helpful to the public participation process. The adopted amendments to Chapter 39, along with the companion rulemaking adopting changes to Chapter 55, seek to improve and clarify the rules in addition to satisfying the requirements of the Sunset bill.

The rulemaking adoption will remove obsolete date references throughout Chapter 39 and correct minor grammatical issues to reflect current correct usage. A new Subchapter A for definitions will be added to define several commonly used terms. The commission is not finalizing proposed updates to notice requirements that would have required the addition of an email address to the information for an agency contact. The commission has determined that because staff may change during the review of a permit application, posting agency emails as contact information could lead to inaccurate information being provided throughout the review process. The agency has already implemented the Sunset bill requirement to electronically post administratively and technically complete applications on its website. Information about the availability of this information and how to find it is added to the text of required notices. Additionally, provisions are re-structured for ease of reading comprehension in some places where the current rule is in paragraph form.

The adopted rules will also make clear that required sign posting must remain in place continuously throughout the permit review process from the beginning until the end of the final comment period of a permit application. There was a change from proposal in response to comments that signs should not be required to remain in place following the end of the comment period. The adopted rule language requires signs to remain in place continuously, without interruption, until the end of the final comment period on a permit application. The signs must remain in place and be legible the entire time the public has an opportunity to submit timely comments. Also, documents required to be provided by applicants in a public place must remain in place throughout the permit review process from the beginning until a final action is taken on a permit application. This can be final action by the commission, voidance of an application, or withdrawal of an application by the applicant. Rule language at adoption was clarified in response to comment to make clear that the initial application must remain in place until replaced by the techni-

cally complete application and draft permit. The technically complete application and draft permit must then remain in the public place until final action on the permit application. These adopted changes make explicit in the rule language the agency's policy to make application information available throughout the comment period, and the changes are intended to reduce confusion on the part of both the public and the regulated industry. The commission is also adopting a new subsection in Subchapter H to detail how the commission will provide notice to the public when a comment period is extended.

The comment period and deadline to submit comments and request a contested case hearing will be extended for at least 36 hours following the close of a public meeting for air quality permits that have consolidated notice, as required by the Sunset bill, that are received on or after March 1, 2026. Because permit applications are being submitted and reviewed constantly, the new rule requirements need an implementation date by which the new rules will apply to new permit applications. The commission is adopting March 1, 2026, for this new requirement and May 1, 2026, for other adopted new requirements.

Currently, the information about how to request a contested case hearing for air quality applications is found only in Subchapter H, §39.411. This can be a source of confusion for all stakeholders seeking to understand the public participation processes for air quality permit applications. To make this information easier to access, the commission is adopting a new section in Subchapter K, Public Notice of Air Quality Permit Applications. The new section has the information about requesting a public meeting, a notice and comment hearing, and a contested case hearing for those air quality permit applications for which these opportunities exist. A comment was received that the commission should amend §39.411(e)(13) and the new §39.606(f) to mirror the statutory language in Texas Health and Safety Code (THSC), §382.058(c) relating to who may request a contested case hearing as an affected person on an application for a registration for a concrete batch plant standard permit. As the statutory language is controlling, the commission agrees that amending the rule language to more closely mirror the statutory language is appropriate.

In response to comments the commission is not adopting proposed changes to the size of required signs.

Section by Section Discussion

New Subchapter A. Definitions

The commission is adopting a new Subchapter A, Definitions, to provide clarity relating to commonly used terms in Chapter 39. Adopted new §39.1(1)-(8) defines administratively complete application, contested case hearing, notice and comment hearing, public comment, public meeting, response to comment, request for reconsideration, and technically complete application.

Subchapter H. Applicability and General Provisions.

The commission is deleting §39.402(a)(10) as obsolete. The deadline of January 1, 2018, in this provision has passed, and the commission has no FutureGen applications to which this provision applies. The remaining §39.402(a)(11) and (12) are re-numbered to (a)(10) and (11), and (b)(2) is amended to update the reference to reflect the change in numbering. The commission is also deleting obsolete language in §39.403(a).

The commission is amending §39.405(g)(1) and (2) to add clarifying language to make clear that an application must remain available for the entirety of the time an application is under review, except for applications for which there is no

requirement for a NAPD, for which the application must remain available for the publication's designated comment period, and to amend §39.405(g)(3) to replace "issues" with "the application" to be more accurate. In response to comment, the commission amended the proposed language. The adopted §39.405(g)(1) adds language that the administratively complete application must remain in place until replaced by the technically complete application, or, for applications without a requirement for a NAPD, for the publication's designated comment period. Adopted §39.405(g)(2) adds clarifying language to specify that the notice referenced in this rule is a NAPD or a combined NORI and NAPD. At adoption, the word "continuously" was added to amend §39.405(g)(3) for consistency with proposed and adopted amendments to §39.405(g)(2). New §39.405(l) adds new language for applications that are administratively complete on or after June 1, 2024, to require the executive director to make the administratively complete and technically complete applications available on the commission's website until the commission has taken action on an application or refers the application to the State Office of Administrative Hearings. This is a change from the proposed language which would have required the application to be available until there is no further opportunity for commission or judicial review, and more closely mirrors the requirement for the length of time that the agency requires hard copies of a technically complete application to be available in a local public place. This requirement exempts materials that will be overly burdensome or too large for posting on the commission's website, as allowed by SB 1397. The implementation date in this section of the rule is the date on which the commission began making applications electronically available, as required by SB 1397.

Adopted amendment to §39.407 improves clarity and requires that persons requesting to be on the mailing list provide a valid mailing address.

The commission restructures §39.409 as new language is to be added. Adopted new §39.409(a) is the current existing language. Adopted new (b) clarifies when comments must be received to be considered timely. Adopted new (c) states that the executive director may extend a comment period for good cause.

The commission is not finalizing the proposed amendment to §39.411(b)(1) that would have required an email address for the agency contact. Adopted amendments to §39.411(b)(5) re-word and re-structure for improved readability. The adopted amendment to §39.411(b)(8) requires, for applications administratively complete on or after May 1, 2026, a statement that a copy of the administratively complete application can be found online at the commission's website; and the location of the website must be included in the notice.

Adopted amendments to §39.411(c)(2) re-word and re-structure for improved readability. The adopted amendment to §39.411(c)(5) requires, for applications administratively complete on or after May 1, 2026, a statement that a copy of the technically complete application can be found online at the commission's website; and the location of the website must be included in the notice. The commission included this as a proposed amendment in the preamble of the proposal package and proposed and is adopting similar language in §39.411(f)(3). Amendments to §39.411(d)(3) are adopted to re-word and re-structure for improved readability.

The agency is not finalizing the proposed amendment to §39.411(e)(1) that would have added the requirement for an email address for an agency contact. An amendment to

§39.411(e)(5) fixes a language issue that appears to be missing punctuation and words that makes the current language confusing. The adopted amendment to §39.411(e)(11)(A)(iv) replaces the date of January 1, 2017, with March 1, 2026. Adopted new §39.411(e)(11)(A)(v) provides for requirements for initial registrations for concrete batch plant standard permits received on or after March 1, 2026, including the requirement that if a public meeting is held, then the comment period and right to request a contested case hearing extends for at least 36 hours following the close of the public meeting. Existing §39.411(e)(11)(A)(v) is renumbered to (vi) and is amended to apply existing requirements for timely hearing requests to applications received before March 1, 2026. For applications declared administratively complete on or after March 1, 2026, the new requirement for the opportunity to comment and request a hearing to be extended to at least 36 hours following a public meeting is added, as these types of permit applications have a consolidated notice. Existing §39.411(e)(11)(A)(vi) is renumbered to (vii) and amended to reflect the re-numbering. Current §39.411(e)(14) is deleted, as TCEQ regional offices no longer keep hard copies of compliance files, and many offices do not have viewing capabilities for the public. Current §39.411(e)(15) and (16) are renumbered to (e)(14) and (15).

A comment was received that the commission should amend §39.411(e)(13) to mirror the statutory language in THSC, §382.058(c) relating to who may request a contested case hearing as an affected person on an application for a registration for a concrete batch plant standard permit. As the statutory language is controlling, the commission agrees that amending the rule language to more closely mirror the statutory language is appropriate. Therefore, the commission is adopting a change to §39.411(e)(13) to be clear that for concrete batch plant standard permits, only a person actually residing within 440 yards of a proposed concrete batch plant may request a contested case hearing as a person who may be affected.

The adopted amendment to §39.411(f)(3) adds a requirement for the notice on applications that are declared administratively complete on or after May 1, 2026, to include a statement that the technically complete application and draft permit may be viewed online at the commission's website and the location of the website where these can be found. Adopted amendments to §39.411(f)(4) and (5) re-word and re-structure for improved readability. The adopted amendment to §39.411(g)(1) reflects the adopted re-numbering of the cited subsections. Adopted amendments to §39.411(g)(3) re-word and re-structure for improved readability.

The commission is amending §39.412(b)(2)(A) to reflect the adopted re-numbering of these sections. Adopted amendments to (b)(4) clarify that signs must remain in place continuously throughout the entirety of the comment period on a permit application. At adoption this was changed from having the signs remain in place until final commission action on a permit, as proposed, to having the signs remain in place continuously, without interruption, until the end of the final comment period in response to comments on the length of time that signs were to remain in place. The signs must remain in place and be legible the entire time the public has an opportunity to submit timely comments.

The commission is amending §39.419 to re-structure and re-word to clarify language related to air quality permit applications. Notice of Application and Preliminary Decision (NAPD) applies to minor New Source Review air quality permits, and the

language as written could imply that only certain major sources are subject to NAPD. The adopted amendments move language to (a) concerning major air quality permit applications subject to Chapter 116, Subchapter B and add language to specify that the NAPD requirement applies to applications subject to Chapter 116, Subchapter E. The adopted amendment also moves language to specify that NAPD does not apply to air quality permit renewal applications that do not have a poor compliance history. The adopted amendment adds new (d) to specify that for air applications mailed notice requirements under §39.602 requirements apply. The adopted amendment also renumbers (d) to (e).

Adopted amendments to §39.420(c)(1)(D)(i)(III) replace the reference to §39.402(7) to be specific about the type of permit application that is being referenced. The existing citation is incorrect, and it is clearer to state that the reference is to Chapter 116, Subchapter E of this title, relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63), whether for construction or reconstruction. The commission is not adopting the proposed new §39.420(c)(1)(D)(i)(IV)..

The commission is not adopting the proposed new §39.422..

An amendment is adopted in §39.426 (a)(1)(B) to remove an obsolete date requirement.

Subchapter I

An adopted amendment to §39.501(a) will remove obsolete date language.

Obsolete language related to applicability date is removed from §39.503(a).

Obsolete language related to date of applicability is removed from §39.509(a). A reference to an obsolete notice process and an extra word in existing language is deleted from (b). An adopted amendment to (c) replaces a citation to a specific paragraph with a citation to the subsection that contains information regarding an applicant held meeting. The agency is not finalizing the proposed amendment to §39.510(a)(5)(A) that would have added the requirement for the email of the agency contact.

Subchapter J

An adopted amendment to §39.551(a) will remove obsolete language related to the applicability date. The commission is not finalizing the proposed amendment to §39.553 (b)(3)(D) that would have added the requirement for an email for the agency contact.

Subchapter K

The removal of obsolete language regarding date of applicability in §39.601 is adopted. Adopted amendments to §39.603(c) remove the obsolete date reference.

The commission is not adopting the proposed amendment to §39.604(a)(1) relating to the size of signs for permit applications administratively complete on or after May 1, 2026. The adopted amendment to §39.604(b) was revised in response to comment to clarify that signs must remain posted continuously, without interruption, until the end of the final comment period on a permit application. An amendment to remove obsolete language from §39.605(1)(D) is adopted.

The commission is adopting new §39.606, Contested Case Hearings and Public Meetings, to specify the details on information related to contested case hearings and public meetings

on air quality permit applications. The commission is adopting a new subsection (a) to clarify that the requirements of the new section apply to air quality applications subject to Subchapters H and K of Chapter 39 to avoid any confusion on the part of the public or regulated entities. Accordingly, the other new subsections have been renumbered to reflect this change. Adopted new (b)(1)-(6) lists the types of air quality permit applications for which a contested case hearing may be requested. Adopted new (c) lists the types of air quality permits for which a notice and comment hearing may be requested. Applications for Plant-Wide Permits (PALs) were moved from new (b) to new (c) to more closely mirror the current rule requirements in §39.411. Also, clarifying language was added to adopted new (b)(6) to be clear that it applies to air renewals subject to the requirements of Chapter 116, Subchapter D (relating to Permit Renewals). Adopted new (d) lists the time periods by which a request for contested case hearing must be received to be considered timely for different types of air quality permits. Adopted (d)(1) states that for an application that is for a renewal of an air quality permit that will not result in an increase in allowable emissions and will not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under TWC, §5.753 and §5.754 and the commission's rules in 30 TAC Chapter 60 of this title, relating to Compliance History, a request for a contested case hearing must be received by the end of the 15-day comment period following NORI. The commission is not adopting a specific proposed requirement that would have stated that for an application that is for a renewal of an air quality permit that will not result in an increase in allowable emissions and will not result in the emission of an air contaminant not previously emitted and the application does involve a facility for which the applicant's compliance history is in the lowest classification under TWC, §5.753 and §5.754 and the commission's rules in 30 TAC Chapter 60, relating to Compliance History, a request for a contested case hearing must be received by end of the comment period or within 30 days of the mailing of the Response to Comments. Adopted (d)(2) lists the requirements for permit types that have a consolidated notice - applications for concrete batch plant standard permits and permit amendment applications issued under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits), for which the executive director has declared the application administratively and technically complete and prepared a draft permit within 15 days of receipt of the application. Because these types of applications must receive an extension of the comment period and the opportunity to request a contested case hearing of at least 36 hours following the end of a public meeting if a one is held, the requirements are clearly listed for the different scenarios. For permit applications received before March 1, 2026, the current requirements in §39.411(e) are repeated here, and a request for a contested case hearing must be received within 30 days following the publication of the combined notice for the opportunity to request a hearing to continue to exist. If a request is received within 30 days, then the right to request a hearing is present until 30 days following the mailing of the executive director's Response to Comments. For permit applications received on or after March 1, 2026, a request for a contested case hearing must be received within 30 days following the publication of the combined notice for the opportunity to request a hearing to continue to exist unless a public meeting is held on the application. If a public meeting is held, then the opportunity to comment and request a contested

case hearing is extended for at least 36 hours following the end of the public meeting. Additionally, a request for a contested case hearing can be submitted for up to 30 days following the mailing of the executive director's Response to Comments, if an otherwise timely hearing request is received.

Adopted new §39.606(d)(3) and (4) allow for a request for a contested case hearing to be received by the end of the comment period or within 30 days after the executive director's Response to Comments is mailed for air quality applications and amendments subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B, or the requirements of Chapter 116, Subchapter E. These are major New Source Review permit applications and amendments. Adopted new §39.606(d)(5) applies to all other applicable air quality permit applications and requires that the request for a contested case hearing must be received by the end of the 30-day comment period following the final publication of the NORI. If no hearing request is received during this time, then there is no longer an opportunity to request a contested case hearing. If a request is received during the required time frame, then the right to request a hearing is extended to 30 days after the mailing of the executive director's Response to Comments.

Adopted new §39.606(e) lists the things that must be included in a request for a contested case hearing (CCH): (e)(1) requester's location; (e)(2) description of how the requester is impacted differently than the general public; and (e)(3) the form requirements of Chapter 55. Adopted new (f) specifies that only relevant and material issues raised during the comment period can be considered if a CCH is granted. Adopted new (g) specifies that for an application for a registration to use a concrete batch plant standard permit, only someone who actually resides within 440 yards of the proposed plant may be an affected person who is entitled to a contested case hearing. Adopted new (h) states that the executive director shall hold a public meeting on permits listed in (b)(1) and (2), if requested by a legislator or any interested person or if there is substantial public interest; and adopted new (i) states that the executive director may hold a public meeting on permits listed in (b)(3) - (5) if requested by a member of the legislature who represents the general area where the facility is to be located or if there is substantial public interest in the proposed activity. The commission revised the proposed language to match the requirements in §39.411(e) and §55.154(c) and then switched the two subsections for improved readability.

Subchapter L

The adopted amendment to §39.651(a) will delete obsolete language related to the applicability date.

Subchapter M

A minor grammar fix is adopted for §39.707(b).

Subchapter N

An amendment is adopted for §39.803(a) to provide clarity. The adopted amendment to §39.803(f) and adopted new §39.804(b)(10) add citations to §39.405(l), requiring that the application be posted on the commission's website. The commission is not finalizing the proposed amendment to §39.804(a)(1) that would have added a requirement for an email for the agency contact. The adopted amendment to §39.804(b) replaces the word remediation with remedial for clarity. The adopted amendments to §39.807(b)(1) and (2) add language to clarify that it is the post-closure order and preliminary decision

that is being published and mailed. The adopted amendment to §39.809(b) removes extra words for clarity.

Subchapter O

The agency is not finalizing the proposed amendment to §39.902 that would have added the requirement for an email address for the agency contact to (b)(12). The commission is not finalizing the proposed amendment that would have added the requirement for an email address for the agency contact to §39.903(b)(9).

Subchapter P

The commission is not finalizing the proposed amendments that would have added the requirement for an email address for the agency contact to §39.1003(b)(4) and §39.1005(b)(4). The commission amends 39.1009(a) to delete the requirement to include in the public notice the location and phone number of a regional office to be contacted for information about accessing a public copy of the application because the commission posts a copy of the application on the commission's website, the TCEQ public education program provides customer service to the public regarding pending applications, and the location of a public copy of the application is not readily available to the individual who answers the phone at a region office. The commission is not finalizing the proposed amendment to §39.1011(b)(4) that would have added the requirement for an email address for the agency contact.

Final Regulatory Impact Determination

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the action is not subject to TGC, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the rulemaking adoption does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Tex. Gov't Code Ann., §2001.0225(a). Tex. Gov't Code Ann., §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. The adopted amendments do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

The rulemaking adoption is not specifically intended to protect the environment or reduce risks to human health from environmental exposure, nor does it affect in a material way the econ-

omy, a sector of the economy, productivity, competition, jobs, the environment, or the public health. The purpose of the rulemaking adoption is to update and clarify the requirements for public participation in the permitting process for air quality, water quality, and waste permit applications. The rulemaking adoption will implement the requirements in the Sunset Bill, SB 1397, 88th Regular Legislature, as well as other recommended changes. The TCEQ Sunset bill required the extension of the public comment period and opportunity to request a hearing for a subset of air quality permit applications. The Sunset bill also required TCEQ to post permit applications electronically on its website and make these available for the public. Following extensive stakeholder outreach, the commission is adopting that the comment period and opportunity to request a contested case hearing will be extended for at least 36 hours following a public meeting for air quality permit applications that have a consolidated notice. The rulemaking adoption will update and clarify language relating to public meetings, comment periods, and contested case hearings, update what language is required in the text of notices, and clarify other information related to public participation in the permitting process.

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 rulemaking adoption and performed an analysis of whether Texas Government Code (TGC), Chapter 2007, is applicable. The adopted amendments are procedural in nature and will not burden private real property. The adopted amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The adopted amendments do not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action will not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(a)(6). Therefore, the adopted amendments are not subject to the Texas Coastal Management Program (CMP).

The commission invited public comment regarding the consistency with the CMP during the public comment period. No comments regarding the CMP were received.

Effect on Sites Subject to the Federal Operating Permits Program

The adopted amendments, new sections, and repealed sections will not require any changes to outstanding federal operating permits.

Public Comment

The commission held a public hearing on September 8, 2025. The comment period closed on September 9, 2025. The commission received comments from Air Alliance Houston (AAH), Arcosa Stabilized & Recycling (Arcosa), Associated General

Contractors of Texas (AGC of Texas), the Associations- joint letter from Texas Association of Manufacturers (TAM), Texas Chemistry Council (TCC), and Texas Oil and Gas Association (TXOGA), Lone Star Legal Aid on behalf of Better Brazoria Clean Air and Clean Water in Brazoria County (Better Brazoria), Environmental Integrity Project (EIP), Harris County Attorney's Office (HCAO), Harris County Pollution Control Services (HCPCS), City of Houston Health Department (HHD), Perales, Allmon, & Ice (PAI), Texas Aggregates and Concrete Association (TACA), and Texas Industry Project (TIP). The comments expressed mixed support for the rulemaking, requested further changes, and included comments that the commission should limit the rulemaking to statutorily required changes.

Response to Comment

Comment

TIP comments that the new requirement to leave permit documents in the public place and signs in place until final commission action on a permit lacks clarity and could lead to confusion.

Response

Changes in adopted §39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application must now remain in the public place until replaced by the technically complete application and draft permit. Generally, the publication of the NAPD notifies the public of the availability of the technically complete application and draft permit. The technically complete application and draft permit must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, then the application must remain in place through the publication's designated comment period. The proposed change to §39.405(g)(2) to require the technically complete application to remain in place continuously is adopted and for consistency the same change is also being adopted for §39.405(g)(3). The signs must now be in place at the start of the comment period and remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must go up at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application, as is intended by the posting of signs. The commission notes that the current rule requires the application to remain available in the public place until the commission takes action on the application or refers it to SOAH for applications that require a NAPD and the commission did not propose to change this time period. For applications for which there is no requirement for a NAPD, the requirement in current rule is for the application to remain in place for the publication's designated comment period and the commission is retaining this requirement in the adopted rule. The suggestion in the comment that materials remain only until the end of the comment period would provide less notice to the public than current rules and what the commission proposed. No changes were made in response to that part of the comment.

Comment

TIP comments that the proposed change to §39.405 could be interpreted to require availability of the administratively complete application from the date of the NORI up to and including the end of the public comment period on the application. Such a

duplicative requirement would be confusing to the public as the technically complete application is required to be made available from the date of the NAPD until the commission has taken final action on the permit or the commission refers the permit to SOAH. TIP also comments that the extension of the requirement to maintain a copy of the administratively complete application for longer than the initial 30-day comment period after the NORI and the use of the term continuously in the proposed rule changes raises questions about how and when revisions, clarifications or updates to an application should be added to the locally available copy.

Response

Changes in adopted §39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application must now remain in place until replaced by the technically complete application and draft permit. The technically complete application and draft permit must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, as some types of permit applications are only required to publish NORI, then the application must remain in place through the publication's designated comment period. The proposed change to §39.405(g)(2) to require the technically complete application to remain in place continuously is adopted and for consistency the same change is also being adopted for §39.405(g)(3).

The commission notes that the current rule requires the application to remain available in the public place until the commission takes action on the application or refers it to SOAH and the commission did not propose to change this time period. The suggestion in the comment that materials remain only until the end of the comment period would provide less notice to the public than current rules and what the commission proposed. No changes were made in response to that part of the comment.

Comment

TIP comments with respect to §39.405(g) recommend deleting the requirement to keep the administratively complete application in place after the NAPD is published and confirming the current requirement to include "any subsequent revisions to the application" in §39.405(g)(2) to commence only with the publication of the NAPD.

Response

Changes in adopted §39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application must now remain in place until replaced by the technically complete application and draft permit. The technically complete application must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, then the application must remain in place through the publication's designated comment period. The proposed change to §39.405(g)(2) to require the technically complete application to remain in place continuously is adopted and for consistency the same change is also being adopted for §39.405(g)(3).

Comment

TIP suggested changes to new §39.405(l), including a change to specify on the commission's website that there is additional confidential information in a confidential file, if an application is submitted with confidential information. TIP also commented in its suggested changes that the commission should only keep the

electronic copies on the application available until the end of the comment period. Additionally, TIP's suggested changes request the commission change language in §39.405(g) that require the technically complete application to remain in place until the commission takes final action or refers the application to SOAH.

Response

The commission disagrees that it is necessary to add information in the rule regarding confidential information, as that is not included in the new legislative requirement in SB 1397, and therefore no change has been made in response to this comment. The commission disagrees that electronic copies of the technically complete application should not remain available until final opportunity for the public to request review of the application. The commission notes that it is a longstanding rule in §39.405(g) that the technically complete application must remain available in the public place until the commission takes action on an application or refers it to SOAH and is also declining to make changes to shorten that time until only the end of the comment period. New §39.405(l) was amended at adoption to require the technically complete application to remain in place until final action or referral to SOAH, to mirror the requirements in §39.405(g). The commission notes that following the end of the public comment period and transmittal of the executive director's response to comments, the public may continue to participate by submitting a request for contested case hearing or request for consideration. These opportunities benefit from having the technically complete application and draft permit available electronically on the commission's website. No other changes were made in response to this comment.

Comment

EIP objects to imposing additional procedural hurdles for a litigant to be considered an affected person who can pursue a matter in court. EIP states that for the sake of efficiency, clarity, and legal certainty, litigants should have a uniform standard for justifiability in administrative hearings and courts alike.

Response

This comment is outside the scope of this rulemaking. Nothing in the proposed rules imposes any additional procedural hurdles for a litigant to be considered an affected person. No changes were made in response to this comment.

Comment

EIP commented that TCEQ should amend §55.211 to provide guidelines for when a person who is not deemed an affected person is entitled to reconsideration and what the requestor must provide to meet such a standard.

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes related to requesting reconsideration or what requesters may need to provide in relation to such a request. No changes were made in response to this comment.

Comment

AGC of Texas requests that §39.606(f) be amended to match THSC §382.058(c), and to therefore be clear that an affected person is someone who actually resides within 440 yards. AGC also requests that the commission review §39.411(e)(13) so that the language matches the statutory requirement. Commenter

also wants the commission to affirm that the 440-yard setback requirement is not an environmental protectiveness measure.

Response

The commission added "actually" to new §39.606(g), which was proposed as §39.606(f), to match the statutory language, as requested by this comment. The commission is also adopting a change to §39.411(e)(13) to have the rule language more closely mirror the statutory requirement. This is a statutory requirement regarding who may request a contested case hearing as a person who may be affected for a specific type of air quality permit - a registration for a standard permit for a concrete batch plant.

Comment

Arcosa commented that the commission should clarify thresholds for granting hearings so that only requests with clear, material evidence of environmental or health impacts move forward.

Response

The commission did not propose any changes to the requirements for being an affected person or for issues for which a hearing can be granted. Therefore, this comment is outside the scope of this rulemaking. No changes have been made in response to this comment.

Comment

Better Brazoria comments that the brightline 440-yard requirement to determine access to judicial review is not consistent with Article III.

Response

The requirement that a person must actually reside within 440 yards of a proposed plant to be an affected person entitled to request a contested case hearing on a concrete batch plant standard permit is a requirement of Texas statute - THSC §382.058(c). This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria commented that TCEQ rules require a contested case hearing request to state a person's location and relative distance to the proposed facility but provides no clarification of how the agency will take into account or measure that distance. Commenter further stated that TCEQ should be consistent in how to measure distances

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes to the process for how a person may request a contested case hearing or for the contents of those requests. No changes were made in response to this rulemaking.

Comment

Better Brazoria commented that TCEQ should not allow distance to predominate over all other considerations of an affected person

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes to the consideration of distance in affected person determinations. For concrete batch plant standard permit registrations, the commission considers distance as prescribed by THSC §382.058(c). Otherwise, dis-

tance is only one of many factors that the commission considers in an affected person determination. No changes were made in response to this comment.

Comment

Better Brazoria suggested that §55.103(1)(c) should state "For an air quality standard permit for a concrete batch plant, only a person actually residing within 440 yards of the proposed plant boundary may be an affected person."

Response

The plain language of THSC §382.058(c) provides: "For purposes of this section, only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing under Section 382.056 as a person who may be affected." The statutory language does not include the "plant boundary" as requested in this comment. No changes were made in response to this comment.

Comment

Better Brazoria proposed that the commission should make §39.423 the same notice period as §39.709, which is a minimum of 30 days mailed notice of a contested case hearing.

Response

Although the Office of the Chief Clerk typically mails notice for a contested case hearing prior to 30 days to give the public sufficient time for notice of the contested case hearing, the commission retains discretion to mail the notice no less than 13 days before the hearing, as required by the current rule. No changes were made in response to this comment.

Comment

AAH requests that the commission clarify the criteria for a contested case hearing.

Response

The commission did not propose any changes to the criteria for a contested case hearing. This comment is therefore outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

The Associations requested that the commission require additional language in the text of public notices that properly informs the public that failing to submit timely comments will preclude a person from being able to potentially request a contested case hearing. This complies with the statutory text of Texas Government Code §2003.047(e-1).

Response

The commission did not propose any language related to changes in how to request a contested case hearing; therefore, this comment is outside the scope of the current rulemaking. No changes were made in response to this comment.

Comment

TIP requests the commission revise §39.411 as proposed to require notice language clarifying that if no comments are timely submitted by a person (or association meeting the requirements of 30 TAC §55.205) to the TCEQ during the public comment period, then that person or association may not be named an affected person or association by the commission or SOAH.

Response

The commission did not propose any language related to changes in how to request a contested case hearing; therefore, this comment is outside the scope of the current rulemaking. No changes were made in response to this comment.

Comment

AGC of Texas believes that there is no justification for §39.606(c)(2), with respect to why facilities with low compliance classification are treated differently, since THSC Chapter 382 and Chapter 5 of the Texas Water Code are silent on the impact of poor compliance history.

Response

In response to comment, the commission is not adopting this provision.

Comment

AGC of Texas states in their comment that it appears that all new §39.606 may not have been underlined.

Response

The proof copies submitted to TCEQ by the Secretary of State show all of new §39.606 underlined as new language. No changes were made in response to this comment.

Comment

Better Brazoria agrees with adding new §39.606, as it makes the contested case hearing process clearer to the public.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

TIP also seeks clarification on the processing and issuance of these types of applications in §39.606(a), as they should not be subject to the opportunity for any person or association to submit comments, request a public meeting, request reconsideration, or request a contested case hearing.

Response

The commission has added a new applicability subsection to new §39.606 to clarify that the section only applies to applications subject to Subchapters H and K of Chapter 39. As this is now new §39.606(a), the remaining subsections have been re-numbered accordingly. The language in new §39.606(b) mirrors the long-standing language in §39.402 and §39.411 for the types of air quality applications that have opportunities for public meetings and contested case hearings. The adopted new language provides clarity for the public but does not change the underlying requirements that already exist, other than specific changes that the commission has noted. These changes are related to comment periods for air quality permit applications with a consolidated NORI and NAPD. The commission has included the new subsection to clarify the applicability of the new §39.606.

Comment

TIP requests that the commission include language in §39.606(a) that recognizes the statutory limitation in THSC §382.056(g) which states that the commission may not seek further public comment or hold a public hearing on amendments, modifications, or renewals that "...would not result in

an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted."

Response

Language that addresses the deadline for requesting a contested case hearing on these types of applications was proposed and is being adopted in new §39.606(d)(1) specifically for contested case hearings, which mirrors existing language in §39.411. No language was proposed relating to the commission's consideration of requests on these types of applications. Furthermore, no-increase renewal applications are not included in the list of application types in §39.606(h) or (i) which list the types of air quality applications for which the executive director may hold a public meeting.

Comment

TIP requests that the commission revise §39.606(h) to be consistent with §55.154(c) and federal law.

Response

Adopted new §39.606(h) and (i), which were proposed as §39.606(g) and (h) were revised to match the requirements in §39.411(e) and §55.154(c).

Comment

PAI comments that additional time is needed to prepare a reply to responses to hearing requests. PAI states instead of the current 14-day time period, it would be more appropriate to establish a rule that allows 30 days to reply to a Response to Hearing Request.

Response

The commission did not propose to extend the time frame for replying to a Response to Hearing Request and is not adopting changes to the time frame at this time. No changes have been made in response to this comment.

Comment

HPCPS comments that an extended comment period is necessary and warranted and would afford participants time to process any new information that may have been garnered from the public meeting. HPCPS requests that the commission extend the comment period for at least 10 days following a public meeting for all types of permit applications.

Response

The commission did not propose changing comment periods for any types of permit applications other than those air quality permit applications with consolidated notice, as required by the Sunset bill. Expanding notice periods for other types of permit applications is beyond the scope of the current rulemaking project. No changes were made in response to this comment.

Comment

EIP commented that except where statutorily prohibited TCEQ should standardize and extend the length of all comment periods under §55.152 to 60 days to allow the public to secure legal and technical assistance and time to adequately review applications and permits.

Response

The proposed rules did not propose to extend any comment periods except for the one required by the TCEQ Sunset bill for air quality permit applications with consolidated notice. The length

of comment periods is provided in the notices published on permit applications. No changes were made in response to this comment.

Comment

AGC of Texas requests that the commission provide examples or clarify what good cause is to extend a comment period in §39.409(c) and §39.422. Commenter also requests clarification as to who has the burden for demonstrating good cause.

Response

The commission is not adopting the proposed §39.422. Some examples of when comment periods have been extended would include issues with notice, such as signs not being in place or documents not being available for the public to review in an appropriate local place, mistakes in notice that may be discovered later during the comment period, failure to publish notice in the correct newspaper, and other similar issues. The rules provide the basic legal standard; however, nuanced, in-depth consideration that is not easily captured by rule language can best be considered on a case-by-case basis as needed.

Comment

Better Brazoria agrees with extending the comment period for 36 hours, and suggests that this change be extended to all permits

Response

The commission appreciates the support for the extension of the comment period for certain types of air quality permit applications. The commission did not propose changing comment periods for any types of permit applications other than those air quality permit applications with consolidated notice, as required by the Sunset bill. Expanding notice periods for other types of permit applications is beyond the scope of the current rulemaking project. No changes were made in response to this comment.

Comment

Better Brazoria agrees with the language extending the comment period for good cause as it ensures more inclusive public participation.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria suggests that notice of extensions of comment periods should be published in alternative languages when required in §39.422.

Response

The commission is not adopting the proposed §39.422.

Comment

AAH requests that the commission clarify the ED's role in extending comment periods.

Response

Some examples of when comment periods have been extended would include issues with notice, such as signs not being in place or documents not being available for the public to review in an appropriate local place, mistakes in notice that may be discovered later during the comment period, failure to publish notice in

the correct newspaper, and other similar issues. The rules provide the basic legal standard; however, nuanced, in-depth consideration that is not easily captured by rule language can best be considered on a case-by-case basis as needed. No changes were made in response to this comment.

Comment

PAI believes the comment period should extend to 36 hours after the close of the public meeting for all air quality, water quality, and solid waste permit applications.

Response

The commission proposed compliance dates for new rule requirements to allow applicants to plan and be able to fully comply with these changes. Providing a date certain helps both applicants and the public know when applications must meet the new requirements. The commission has been meeting its statutory requirement to extend the comment period for at least 36 hours for air quality permit applications with a consolidated NORI and NAPD since the effective date of the sunset bill. No changes were made in response to this comment.

Comment

Better Brazoria approves current language access plan and proposed rules in §39.422(d).

Response

The commission is not adopting the proposed §39.422.

Comment

Better Brazoria commented that the commission should be aware of the lack of email/ computer availability in low-income situations.

Response

The commission appreciates the comment and acknowledges that there are commenters with less technical expertise or resources who rely on other methods to participate in the permitting process. No changes were made in response to this comment.

Comment

Better Brazoria voiced concern about the distances in concrete batch plant applications and where it will vary to avoid providing someone with standing.

Response

The requirement that a person must actually reside within 440 yards of a proposed plant to request a contested case hearing on a concrete batch plant standard permit is a requirement of Texas statute - THSC §382.058(c). The current rulemaking does not concern how the agency reviews these types of applications or how applicants may revise their applications during the permit review process and is therefore outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria commented about the abuse of the notice function by publishing in smaller newspaper circulations.

Response

This comment is outside the scope of this rulemaking. The commission does not require publication in specific newspapers, so

long as they meet the rule requirements. No changes were made in response to this comment.

Comment

HCAO suggests including the exact URL where applicable for the proposed amendments that require a statement that a copy of the administratively complete application can be found online.

Response

Because a website URL may change over time, including it in rule language is not best practice, as it can lead to future problems. No changes were made in response to this comment.

Comment

Better Brazoria proposes changes for §§39.419, 39.804, 39.1003, and 39.1005(b) - "Regardless of the notice requirements in §39.XXX of this title, the commission shall make available by electronic means on the commission's website the permit application."

Response

The adopted changes to the rules provide specifically for the commission to make both the initial application and the technically complete application and draft permit available electronically on the commission's website in new §39.405(l). This requirement applies to all types of applications that are subject to Chapter 39, Subchapter H. Therefore, it is not necessary to repeat this requirement in other places in the rules as requested by the commenter. No changes were made in response to this comment.

Comment

TIP believes that electronic availability of the application will provide greater public access to application materials than the current requirement in §39.405(g) to provide access to physical copies in a local public place.

Response

While the commission agrees that having applications and the draft permit available electronically provides the best access for the public, it is still necessary for the commission to ensure that the public can access the relevant permit application documents in a local public place, as required by statute. No changes were made in response to this comment.

Comment

AAH commented that ensuring that information about permit meetings and public hearings is made more available, readily available to community members is great.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

AAH commented that they also have concerns regarding applicants using less widely circulated newspapers.

Response

This comment is outside the scope of this rulemaking. The commission does not require publication in specific newspapers, so long as they meet the rule requirements. No changes were made in response to this comment.

Comment

Arcosa commented that the commission should encourage proactive outreach by operators (e.g., bilingual fact sheets, open houses) as an alternative to lengthier contested case proceedings.

Response

This comment is outside the scope of this rulemaking. Regulated entities are always welcome and encouraged to engage with community stakeholders during the application process. No changes have been made in response to this comment.

Comment

HCAO requests further clarification on the difference between public meeting and public hearing in Chapter 39 Subchapter A.

Response

A public meeting is intended for the public to ask questions of TCEQ staff and the applicant during the informal part of the meeting, and to provide formal oral comments that will receive an official written response from the executive director. A public meeting is not a contested case hearing. There is no definition for a public hearing included in the adopted rules. A contested case hearing is a formal legal proceeding at the State Office of Administrative Hearings before an Administrative Law Judge (ALJ). Following a contested case hearing, the ALJ will issue a Proposal for Decision and make a recommendation to the commission. The commission will then consider this decision at an open meeting and make a final decision on issuance of the permit. No changes were made in response to this comment.

Comment

HCAO requests clarification of what "too large and unduly burdensome for posting" means in §39.405(l); they further request that a tangible threshold be established before materials may be exempt.

Response

The text of the new rule language aligns with the statutory requirement. No changes were made in response to this comment.

Comment

HCAO suggests adding instructions on how shareholders can view permitting documents that are exempt under §39.405(l).

Response

Complete applications are available at physical locations and would include documents that may be too large for posting online. No changes were made in response to this comment.

Comment

Better Brazoria disagrees with the July 1, 2026 implementation date for certain rules and suggests that they should correspond with the March 1, 2026 implementation date.

Response

The commission proposed compliance dates for new rule requirements to allow applicants and the commission to plan and be able to fully comply with these changes. However, the commission is not adopting any proposed changes that would have had a July 1, 2026 implementation date. Providing a date certain helps both applicants and the public know when applications must meet the new requirements. There are two different implementation dates because some of the changes are already being

implemented by the commission, while others will require the development of new procedures and will therefore take longer for full implementation by the commission. No changes were made in response to this comment.

Comment

Better Brazoria suggests that the implementation of changes under §39.422 should be March 1, 2026, instead of May 1, 2026.

Response

The commission is not adopting the proposed new §39.422.Â

Comment

PAI supports the extension of the public comment period to 36 hours after a public meeting is held for air quality permits with a consolidated notice and believes that this requirement should apply earlier than only to those applications submitted on or after March 1, 2026.

Response

The commission proposed compliance dates for new rule requirements to allow applicants to plan and be able to fully comply with these changes. Providing a date certain helps both applicants and the public know when applications must meet the new requirements. The commission also notes that it has been implementing this statutory requirement since it became effective. No changes were made in response to this comment.

Comment

AGC of Texas comments that several proposed amendments go beyond the direction of the legislature and believes that the substantive changes should be limited to the statutory changes made through the sunset process.

Response

The purpose of this rulemaking is to improve readability and clarity of the rules to generally improve the commission's public participation processes, in addition to implementing specific requirements of the Sunset bill. No changes were made in response to this comment.

Comment

The Associations comment that the commission should confine any rule changes to those required by SB 1397 from the 88th Legislative Session.

Response

The purpose of this rulemaking is to improve readability and clarity of the rules to improve the commission's public participation processes, in addition to implementing specific requirements of the Sunset bill. No changes were made in response to this comment.

Comment

Arcosa commented that the commission should provide permit timelines certainty by setting reasonable deadlines for processing Requests for Reconsideration.

Response

The commission did not propose any changes for the process by which the commission sets Requests for Reconsideration for commission consideration. Following the end of the opportunity to request a contested case hearing or reconsideration of the executive director's initial decision, requests that have been re-

ceived are set for commission consideration on the commission's agenda. This comment is outside the scope of this rulemaking, and no changes have been made in response to this comment.

Comment

Arcosa commented that the commission should maintain flexibility for routine amendments so that these are not unnecessarily delayed.

Response

The commission did not propose any changes to the processing of routine amendments. This comment is outside the scope of this rulemaking, and no changes have been made in response.

Comment

EIP supports hybrid meetings to include virtual options for public meetings and contested case hearings. EIP comments that 30 TAC §55.154(f) should be amended to require that TCEQ produce slides, meeting audio recordings, written transcripts and presentation materials on its website and/or by email immediately following each meeting's conclusion.

Response

The current rulemaking project did not propose to include any options for public meetings; therefore, this comment is beyond the scope of this rulemaking. Virtual contested case hearings are currently allowed by the State Office of Administrative Hearings but are also beyond the scope of the current rulemaking. Information provided at a public meeting by an applicant is not under the control of the commission. The commission does not make a visual recording of public meetings and therefore does not have visual recordings to post. The commission does make an audio recording of public meetings, and the audio recording of the formal portion of the public meeting is available on the commission's website within a few days of public meetings. No changes were made in response to this comment.

Comment

EIP comments that TCEQ should establish a fund by which community members may pay for necessary contested case costs.

Response

This comment is outside the scope of this rulemaking. The current rulemaking project does not address costs associated with contested case hearings. The commission does not have the statutory authority or the mandate to provide such a fund for the public. No changes were made in response to this comment.

Comment

EIP believes that TCEQ should expand the availability of Texas Pollutant Discharge Elimination System program (TPDES) permit application information to the public. EIP comments that TCEQ should make information available for all phases of TPDES permit issuance, including draft fact sheets or statements of basis.

Response

This comment is outside the scope of this rulemaking. The commission did not propose changes to the ways in which TPDES permit applications are reviewed that would include the requested changes. No changes were made in response to this comment.

Comment

EIP comments that all recordkeeping violations are relevant and should be addressed by TCEQ, even if through informal compliance. EIP states that it is essential that TCEQ revise its approach to penalty calculations to ensure that recordkeeping violations are penalized sufficiently.

Response

This rulemaking does not concern the development of compliance history or penalty calculations. This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

EIP urges TCEQ to consider compliance history in a comprehensive, holistic manner when determining whether permits should be renewed, modified, amended or otherwise changed and not to limit evaluations to immediate sites or current owners or operators.

Response

This comment is outside the scope of this rulemaking, which does not include consideration of how the agency uses compliance history when evaluating an application for a permit. No changes were made in response to this comment.

Comment

AGC of Texas requests that the commission affirm that air quality standard permits are "off-the-shelf" authorizations issued for specific, well-characterized classes of facilities; concrete batch plants are minor sources of emissions, and that plants operating in accordance with the terms and conditions of the standard permit (developed based on a conservative protectiveness review) are protecting human health and the environment; and the primary concerns expressed about these types of operations are land-use considerations that are beyond the authority of TCEQ, and, where there is local zoning, such concerns can and have been addressed locally.

Response

The proposed rule changes did not directly concern the review of air quality standard permits. The requirement to extend the comment period and opportunity to request a contested case hearing following a public meeting held on certain types of air quality permits, which includes an application for the registration to use the concrete batch plant standard permit, is a specific statutory requirement. There are no other air quality standard permit registrations that include a right to request a contested case hearing. No changes were made in response to this comment.

Comment

Better Brazoria commented that the agency should measure from the property boundary to the residence/school/place of worship when making distance determinations. Better Brazoria further states that one facility point is not sufficient representation of a concrete batch plant as they do not correspond to emission sources and plant equipment is subject to change.

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes to the process for how a person may request a contested case hearing or for the contents of those requests, including how distance is measured when evaluating those requests. No changes were made in response to this comment.

Comment

Better Brazoria comments that applicants in Harris County are abusing the requirement that notice should be published in a newspaper of general circulation as required by §39.603.

Response

This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

AAH commented that industry misuses public notice requirements to limit the exposure of information.

Response

This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

TACA asked if the ED staff can put some discretion on that portion of the rulemaking to account for situations where the signs accidentally fell down or the signs were stolen or the signs were burned by wildfires or the signs were blown down from a tornado or from a hurricane. TACA's comments also expressed concern about leaving signs in place until final commission action on a permit application.

Response

Issues with signs that may go missing or be damaged by weather are issues that can be considered on a case-by-case basis. No changes were made in response to this comment. However, the commission did make changes to the sign-posting requirement in adopted §39.604(b) in response to comments to clarify that signs must remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must be posted at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission's intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application.

Comment

AGC of Texas opposes defining personal justiciable interest in proposed §55.103(3) since it is already included in the determination of an affected person and the new language expands the definition of justiciable too much.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

PAI commented that the new definition of "personal justiciable interest" adds limitations upon who may be considered an affected person that are not contained in statute and are inappropriate.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition

for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

PAI adds that the limitations on defining personal justiciable interest raise concerns for whether Texas programs would meet the minimum requirements to maintain delegated authority over certain federal programs such as the TPDES program.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

The Associations commented that they believe there is a risk of adding a definition for "personal justiciable interest" that has additional terms, which may unintentionally expand or restrict the agency's determination of an affected person compared to the statute.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

TIP requests that TCEQ decline to adopt proposed 30 TAC §55.103(3), which would define "personal justiciable interest" based on key concepts from Texas Water Code §5.115 but with additional terms.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

In new §39.606(g) and (h) Better Brazoria suggests including express provisions on what may trigger a public meeting and further clarify by what measure the ED will determine whether substantial public interest is present.

Response

The commission rules include the provisions on when a public meeting may be held. The factors that determine substantial public interest can vary between media. The commission did not propose specific criteria to define these terms and is not making changes in adopted rules to address this concern. No changes were made in response to this comment.

Comment

Better Brazoria comments that public meetings should be held before and after the draft permit is completed and that an informal meeting during technical review would allow the public to propose suggestions to add to the permit and a second meeting would allow the public to formally comment on the draft permit.

Response

The commission did not propose to change the way in which it holds public meetings or to provide for a second meeting before the draft permit is prepared. The commission does not believe that holding such a second meeting before the technical review of the permit is completed would be a good use of agency resources and time. No changes were made in response to this comment.

Comment

AAH requests that the commission expand the authority to request a public meeting to any legislator.

Response

The requirement to hold a public meeting at the request of a member of the legislature who represents the general area in which the facility is located or proposed to be located is a statutory requirement found at THSC §382.056(k)(1) and TWC §5.554(1). The commission did not propose changes to this requirement in Chapter 39 or 55. No changes were made in response to this comment.

Comment

HCAO requests that §39.411(e)(14) not be deleted and suggests that regional offices should be required to keep compliance history files and provide physical access to those documents

Response

TCEQ regional offices often do not have the space or on-site personnel available to assist. Compliance files are no longer kept by the agency as hard copy files, only as electronic files that can be accessed by the public without going to the physical regional office. No changes were made in response to this comment.

Comment

HCAO asserts that a copy of the application should be made physically available to the public and disagrees with deleting that requirement in §39.1009(a)

Response

The deletion in §39.1009(a) for a location of the regional office to contact for information about where a physical copy of the application can be found does not remove the requirement for providing a hard copy of the application in a local physical location. The information about where a hard copy of the application can be found is still included in the notice of the application, which is both published and available online on the commission's website. Regional staff often do not have staff on-site who are familiar with all applications filed with the commission. No change was made in response to this comment.

Comment

AGC of Texas comments §39.405(g)(1)-(2) and §39.604(b) should be modified to provide that the application and signage should be made available only through the comment period and not through final commission action as proposed.

Response

Changes in adopted §39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application must now remain in place until replaced by the technically complete application and draft permit. The technically complete application and draft permit must remain in place for the remaining entirety of the comment period. Generally, the publication of the NAPD notifies the public of the availability of the technically com-

plete application and draft permit. The technically complete application and draft permit must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, then the application must remain in place through the publication's designated comment period. The signs must now be in place at the start of the comment period and remain must remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must go up at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission's intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application.

Comment

AGC of Texas opposes change in signage size in §39.604(a)(1) for the following reasons: current size is proficient for notifying the public; signs and notice are being supplemented by social media and local advocacy; safety concerns with traffic and visibility; changes may result in more variance requests to the agency; and the change is outside the recommendation of the legislature.

Response

In response to comment the commission is not making any changes to the size of required signs in the adopted rule.

Comment

The Associations comment that they oppose change in signage size in §39.604(a)(1) for the following reasons: practical issues; highly complex industrial facilities can have several concurrent permitting actions taking several months to years for final resolution, which will make it difficult for the public to readily understand and meaningfully engage if signs are posted after public comment periods close; maintain the current requirements for applicants to post signs only during the appropriate public comment periods at the same time as physical and electronic copies of the permit application are available to ensure the public can provide timely comments.

Response

In response to comment the commission is not making any changes to the size of required signs in the adopted rule. Changes in adopted §39.604(b) were made in response to this comment addressing the time period for signage posting. The signs must now be in place at the start of the comment period and remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must go up at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission's intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application.

Comment

TIP commented on the requirement for the increased size of signs in §39.604, stating that increasing the size of the font may not allow all the information to be on the signs. TIP comments that the large size may be difficult for major plants that have multiple signs, which is different than the signs in §39.510(b)(1),

which are for inactive municipal solid waste permits. TIP comments that one possibility is to require some font to be larger for certain types of information.

Response

In response to comment the commission is not making any changes to the size of required signs in the adopted rule.

Comment

AGC of Texas asks that the commission consider consolidating all air quality permit related public notice rules under Chapter 39, Subchapter K.

Response

The adopted new §39.606 is intended to put existing public notice requirements in Chapter 39, Subchapter H also in Subchapter K to provide clarity for the public and regulated entities and to make it easier to find air-specific requirements. Therefore, the proposed and adopted rules have done this with the addition of new §39.606. Further consolidation and removing the air quality notice rules from Chapter 39, Subchapter H was not proposed by the commission and was not considered necessary for this rulemaking. No changes were made in response to this comment.

Comment

HHD generally supports the proposed changes and believes that the changes will provide multiple benefits. HHD also makes a suggestion that local compliance data be included in the permit review process, and that air monitoring data collected by local pollution control programs could be used to augment the permit approval process.

Response

The commission appreciates the support for the changes in this rulemaking. Compliance history and the use of monitoring data are issues outside the scope of this rulemaking. No change was made in response to this comment.

Comment

Better Brazoria agrees with the new proposed definitions in §39.1 and the new signage and notice requirements in §39.604(a)(1) and (b) and §39.510(b)(1).

Response

The commission appreciates the support for the rule changes. Although the commission did make some changes to §39.604 in response to other comments, no changes were made in response to this comment.

Comment

Better Brazoria recommends that the changes to Ch. 55 take effect as soon as possible and that an effective date of March 2026 seems reasonable.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria generally agrees with embracing agency use of email but encourages more community outreach.

Response

The commission appreciates the support for the changes in this rulemaking. However, the commission is not finalizing changes requiring the use of agency email addresses in notices. Due to the potential for staff changes during the course of a permit review, it could lead to misunderstandings and incorrect available information if an email changes during the pendency of the permit action.

Comment

EIP comments that Operating Permits issued under Title V of the Clean Air Act should be electronically available to anyone wishing to learn more about them.

Response

This comment is outside the scope of this rulemaking. Title V permits are not the subject of the current rulemaking project; however, the commission notes that Title V permits under review and open for comment are available electronically on the commission's website. No changes were made in response to this comment.

Comment

Better Brazoria requested that the commission add additional language clarifying that any petition for judicial review should be filed 30 days after a motion for rehearing is decided since the concurrent timing is problematic.

Response

The statutory language of TWC §5.351 subsection (b) addresses this issue. Therefore, no rule changes are required. No changes were made in response to this comment.

Comment

Better Brazoria commented that as to the proposed changes in §55.209(d) and (g), as long as the time frames are not being shortened, they agree with the changes.

Response

The time periods are not changing; only the way the time periods are explained in the rule language is changing. The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria states that all public notices should provide notice of where the facility is located or proposed to be located.

Response

This information is currently required in §39.411(b)(3) and (e)(3). No changes were made in response to this comment.

Comment

EIP comments that the commission should remove all obsolete dates from Chapter 55.

Response

The commission notes that the dates EIP identified as obsolete rule language in this comment are not actually obsolete, as the commission is still actively reviewing permit applications that would be impacted. No changes were made in response to this comment.

SUBCHAPTER A. DEFINITIONS

30 TAC §39.1

Statutory Authority

The new section is adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendment is also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendment is also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendment is adopted under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

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

Filed with the Office of the Secretary of State on January 29, 2026.

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SUBCHAPTER H. APPLICABILITY AND GENERAL PROVISIONS

30 TAC §§39.402, 39.403, 39.405, 39.407, 39.409, 39.411, 39.412, 39.419, 39.420, 39.423, 39.425, 39.426

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments and new section are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendments and new section are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments and new section are adopted under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; and the Federal Clean Air Act, 42 United States Code, §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state.

The rulemaking adoption implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

§39.405. General Notice Provisions.

(a) Failure to publish notice. If the Office of the Chief Clerk (chief clerk) prepares a newspaper notice that is required by Subchapters G - J, L, and M of this chapter (relating to Public Notice for Applications for Consolidated Permits; Applicability and General Provisions; Public Notice of Solid Waste Applications; Public Notice of Water Quality Applications and Water Quality Management Plans; Public Notice of Injection Well and Other Specific Applications; and Public Notice for Radioactive Material Licenses) and the applicant does not cause the notice to be published within 45 days of mailing of the notice from the chief clerk, or for Notice of Receipt of Application and Intent to Obtain Permit, within 30 days after the executive director declares the application administratively complete, or fails to submit the copies

of notices or affidavit required in subsection (e) of this section, the executive director may cause one of the following actions to occur.

(1) The chief clerk may cause the notice to be published and the applicant shall reimburse the agency for the cost of publication.

(2) The executive director may suspend further processing or return the application. If the application is resubmitted within six months of the date of the return of the application, it will be exempt from any application fee requirements.

(b) Electronic mailing lists. The chief clerk may require the applicant to provide necessary mailing lists in electronic form.

(c) Mail or hand delivery. When Subchapters G - L of this chapter require notice by mail, notice by hand delivery may be substituted. Mailing is complete upon deposit of the document, enclosed in a prepaid, properly addressed wrapper, in a post office or official depository of the United States Postal Service. If hand delivery is by courier-receipted delivery, the delivery is complete upon the courier taking possession.

(d) Combined notice. Notice may be combined to satisfy more than one applicable section of this chapter.

(e) Notice and affidavit. When Subchapters G - J and L of this chapter require an applicant to publish notice, the applicant must file a copy of the published notice and a publisher's affidavit with the chief clerk certifying facts that constitute compliance with the requirement. The deadline to file a copy of the published notice which shows the date of publication and the name of the newspaper is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with the requirement to publish notice. When the chief clerk publishes notice under subsection (a) of this section, the chief clerk shall file a copy of the published notice and a publisher's affidavit.

(f) Published notice. When this chapter requires notice to be published under this subsection:

(1) the applicant shall publish notice in the newspaper of largest circulation in the county in which the facility is located or proposed to be located or, if the facility is located or proposed to be located in a municipality, the applicant shall publish notice in any newspaper of general circulation in the municipality;

(2) for applications for solid waste permits and injection well permits, the applicant shall publish notice in the newspaper of largest general circulation that is published in the county in which the facility is located or proposed to be located. If a newspaper is not published in the county, the notice must be published in any newspaper of general circulation in the county in which the facility is located or proposed to be located. The requirements of this subsection may be satisfied by one publication if the newspaper is both published in the county and is the newspaper of largest general circulation in the county; and

(3) air quality permit applications required by Subchapters H and K of this chapter (relating to Applicability and General Provisions and Public Notice of Air Quality Permit Applications, respectively) to publish notice shall comply with the requirements of §39.603 of this title (relating to Newspaper Notice).

(g) Copy of application. The applicant shall make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located. If the application is submitted with confidential information marked as confidential by the applicant, the applicant shall indicate in the public

file that there is additional information in a confidential file. The copy of the application must comply with the following.

(1) A copy of the administratively complete application must be available for review and copying beginning on the first day of newspaper publication of Notice of Receipt of Application and Intent to Obtain Permit and remain available:

(A) until replaced by the technically complete application and executive director's draft permit; or

(B) for applications for which there is no requirement for a Notice of Application and Preliminary Determination, for the publication's designated comment period.

(2) A copy of the complete application (including any subsequent revisions to the application) and executive director's preliminary decision must be available for review and copying beginning on the first day of the first newspaper publication of the Notice of Application and Preliminary Decision or a Combined Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision, as applicable, required by this section and remain continuously available until the commission has taken action on the application or the commission refers the application to State Office of Administrative Hearings; and

(3) where applicable, for air quality permit applications, the applicant shall also make available the executive director's draft permit, preliminary determination summary, and air quality analysis for review and copying beginning on the first day of newspaper publication required by §39.419 of this title (relating to Notice of Application and Preliminary Decision) and remain continuously available until the commission has taken action on the application or the commission refers the application to State Office of Administrative Hearings.

(h) Failure to publish notice of air quality permit applications. If the chief clerk prepares a newspaper notice that is required by Subchapters H and K of this chapter for air quality permit applications and the applicant does not cause the notice to be published within 45 days of mailing of the notice from the chief clerk, or, for Notice of Receipt of Application and Intent to Obtain Permit, within 30 days after the executive director declares the application administratively complete, or fails to submit the copies of notices or affidavit required in subsection (i) of this section, the executive director may cause one of the following actions to occur.

(1) The chief clerk may cause the notice to be published and the applicant shall reimburse the agency for the cost of publication.

(2) The executive director may suspend further processing or return the application. If the application is resubmitted within six months of the date of the return of the application, it will be exempt from any application fee requirements.

(i) Notice and affidavit for air quality permit applications. When Subchapters H and K of this chapter require an applicant for an air quality permit action to publish notice, the applicant must file a copy of the published notice and a publisher's affidavit with the chief clerk certifying facts that constitute compliance with the requirement. The deadline to file a copy of the published notice which shows the date of publication and the name of the newspaper is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with the requirement to publish notice. When the chief clerk publishes notice under subsection (h) of this section, the chief clerk shall file a copy of the published notice and a publisher's affidavit.

(j) For applications filed on or after September 1, 2015, and subject to providing notice as prescribed by Texas Water Code, §5.115, the commission shall make available on the commission's website notice of administratively complete applications for a permit or license authorized under the Texas Water Code and the Texas Health and Safety Code.

(k) Summary of application. For permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022, the applicant will provide a plain-language summary of the application, no more than two pages long, that will describe the following:

- (1) the function of the proposed plant or facility;
- (2) the expected output of the proposed plant or facility;
- (3) the expected pollutants that may be emitted or discharged by the proposed plant or facility; and
- (4) how the applicant will control those pollutants, so that the proposed plant will not have an adverse impact on human health or the environment.

(l) Electronic copy of application. For permit applications that are declared by the executive director to be administratively complete on or after June 1, 2024, the executive director shall:

(1) make an electronic copy of the administratively complete application available on the commission's website in accordance with Texas Water Code, §5.1734 within five business days of transmitting the notice of the administratively complete application to the applicant; materials may be exempted if posting the materials on the website would be unduly burdensome or the materials are too large to be posted on the website;

(2) make an electronic copy of the technically complete application and the executive director's draft permit available on the commission's website within five business days of transmitting the notice of the technically complete application and the executive director's draft permit to the applicant; materials may be exempted if posting the materials on the website would be unduly burdensome or the materials are too large to be posted on the website; and

(3) retain these postings until the commission has taken action on the application or the commission refers the application to State Office of Administrative Hearings.

§39.409. Deadline for Public Comment, and for Requests for Reconsideration, Contested Case Hearing, or Notice and Comment Hearing.

(a) Notice given under this chapter will specify any applicable deadline to file public comment specified under §55.152 of this title (relating to Public Comment Period) and, if applicable, any deadlines to file requests for reconsideration, contested case hearing, or notice and comment hearing. After the deadline, final action on an application may be taken under Chapter 50 of this title (relating to Action on Applications and Other Authorizations).

(b) Comments are considered timely if filed between the date an application is received and the end of the comment period, including comments received between publications of the Notice of Receipt of Application and Intent to Obtain Permit and the Notice of Application and Preliminary Decision.

(c) The executive director may extend any comment period for good cause.

§39.411. Text of Public Notice.

(a) Applicants shall use notice text provided and approved by the agency. The executive director may approve changes to notice text before notice is given.

(b) When Notice of Receipt of Application and Intent to Obtain Permit by publication or by mail is required by Subchapters H and K of this chapter (relating to Applicability and General Provisions and Public Notice of Air Quality Permit Applications) for air quality permit applications, those applications are subject to subsections (e) - (h) of this section. When notice of receipt of application and intent to obtain permit by publication or by mail is required by Subchapters H - J and L of this chapter (relating to Applicability and General Provisions, Public Notice of Solid Waste Applications, Public Notice of Water Quality Applications and Water Quality Management Plans, and Public Notice of Injection Well and Other Specific Applications), Subchapter G of this chapter (relating to Public Notice for Applications for Consolidated Permits), or Subchapter M of this chapter (relating to Public Notice for Radioactive Material Licenses), the text of the notice must include the following information:

(1) the name and address of the agency and the telephone number of an agency contact from whom interested persons may obtain further information;

(2) the name, address, and telephone number of the applicant and a description of the manner in which a person may contact the applicant for further information;

(3) a brief description of the location, type of permit applied for, and nature of the proposed activity;

(4) a brief description of public comment procedures, including:

(A) a statement that the executive director will respond to comments raising issues that are relevant and material or otherwise significant; and

(B) a statement in the notice for any permit application for which there is an opportunity for a contested case hearing, that only disputed factual issues that are relevant and material to the commission's decision that are raised during the comment period can be considered if a contested case hearing is granted;

(5) A description printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice of procedures by which the public may participate in the final permit decision including, when applicable:

(A) how to request a public meeting, including a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity;

(B) how to request a contested case hearing,

(C) how to request reconsideration of the executive director's decision,

(D) how to request a notice and comment hearing, or

(E) a statement that later notice will describe procedures for public participation, and

(6) the application or permit number;

(7) if applicable, a statement that the application or requested action is subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies;

(8) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the application is available for review and copying and for permit applications that are declared to be administratively complete by the executive

director on or after May 1, 2026, a statement that a copy of the administratively complete application may be viewed online at the commission's website and the location of the website where the copy can be found;

(9) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application;

(10) for notices of municipal solid waste applications, a statement that a person who may be affected by the facility or proposed facility is entitled to request a contested case hearing from the commission. This statement must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice; and

(11) any additional information required by the executive director or needed to satisfy public notice requirements of any federally authorized program; or

(12) for radioactive material licenses under Chapter 336 of this title (relating to Radioactive Substance Rules), if applicable, a statement that a written environmental analysis on the application has been prepared by the executive director, is available to the public for review, and that written comments may be submitted; and

(13) for Class 3 modifications of hazardous industrial solid waste permits, the statement "The permittee's compliance history during the life of the permit being modified is available from the agency contact person."

(c) Unless mailed notice is otherwise provided for under this section, the chief clerk shall mail Notice of Application and Preliminary Decision to those listed in §39.413 of this title (relating to Mailed Notice). When notice of application and preliminary decision by publication or by mail is required by Subchapters G - J and L of this chapter, the text of the notice must include the following information:

(1) the information required by subsection (b)(1) - (11) of this section;

(2) a brief description of public comment procedures, printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice, including:

(A) a description of the manner in which comments regarding the executive director's preliminary decision may be submitted; and

(B) a statement in the notice for any permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted

(3) if the application is subject to final approval by the executive director under Chapter 50 of this title (relating to Action on Applications and Other Authorizations), a statement that the executive director may issue final approval of the application unless a timely contested case hearing request or a timely request for reconsideration (if applicable) is filed with the chief clerk after transmittal of the executive director's decision and response to public comment;

(4) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit;

(5) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the complete application and the executive director's preliminary decision are available for review and copying and, for applications administratively complete on or after May 1, 2026, a statement that the technically complete application and draft permit may be viewed online at

the commission's website and the location of the website where these can be found;

(6) the deadline to file comments or request a public meeting. The notice should include a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity; and

(7) for radioactive material licenses under Chapter 336 of this title, if applicable, a statement that a written environmental analysis on the application has been prepared by the executive director, is available to the public for review, and that written comments may be submitted.

(d) When notice of a public meeting or notice of a hearing by publication or by mail is required by Subchapters G - J and L of this chapter, the text of the notice must include the following information:

(1) the information required by subsection (b)(1) - (3), (6) - (8), and (11) of this section;

(2) the date, time, and place of the meeting or hearing, and a brief description of the nature and purpose of the meeting or hearing, including the applicable rules and procedures; and

(3) for notices of public meetings only, the following information must be included:

(A) a brief description of public comment procedures,

(B) a description of the manner in which comments regarding the executive director's preliminary decision may be submitted;

(C) a statement in the notice for any permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.

(e) When Notice of Receipt of Application and Intent to Obtain Permit by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the information in this subsection:

(1) the name and address of the agency and the telephone number of an agency contact from whom interested persons may obtain further information;

(2) the name, address, and telephone number of the applicant and a description of the manner in which a person may contact the applicant for further information;

(3) a brief description of the location and nature of the proposed activity;

(4) a brief description of public comment procedures, including:

(A) a statement that the executive director will respond to:

(i) all comments regarding applications for Prevention of Significant Deterioration and Nonattainment permits under Chapter 116, Subchapter B of this title (relating to New Source Review Permits) and Plant-wide Applicability Limit permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);

(ii) all comments regarding applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction; and

(iii) for all other air quality permit applications, comments raising issues that are relevant and material or otherwise significant; and

(B) a statement in the notice for any air quality permit application for which there is an opportunity for a contested case hearing, that only disputed factual issues that are relevant and material to the commission's decision that are raised during the comment period can be considered if a contested case hearing is granted;

(5) printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice, a brief description of procedures by which the public may participate in the final permit decision and, if applicable :

(A) how to request a public meeting,

(B) how to request a contested case hearing,

(C) how to request reconsideration of the executive director's decision,

(D) how to request a notice and comment hearing, or

(E) a statement that later notice will describe procedures for public participation; and

(F) a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located, if there is substantial public interest in the proposed activity, or for the following types of applications, when requested by any interested person :

(i) air quality permit applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment in Chapter 116, Subchapter B of this title;

(ii) air quality permit applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction;

(iii) air quality permit applications for the establishment or renewal of, or an increase in, a plant-wide applicability limit subject to Chapter 116 of this title; and

(6) the application or permit number;

(7) if applicable, a statement that the application or requested action is subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies;

(8) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the application is available for review and copying;

(9) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application;

(10) at a minimum, a listing of criteria pollutants for which authorization is sought in the application which are regulated under national ambient air quality standards or under state standards in Chapters 111 - 113, 115, and 117 of this title (relating to Control of Air Pollution from Visible Emissions and Particulate Matter, Control of Air Pollution from Sulfur Compounds, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, Control of Air Pollution from Volatile Organic Compounds, and Control of Air Pollution from Nitrogen Compounds);

(11) If notice is for any air quality permit application except those listed in paragraphs (12) and (15) of this subsection, the following information must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice:

(A) a statement that a person who may be affected by emissions of air contaminants from the facility or proposed facility is entitled to request a contested case hearing from the commission within the following specified time periods;

(i) for air quality permit applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title a statement that a request for a contested case hearing must be received by the commission by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(ii) for air quality permit applications subject to the requirements of Chapter 116, Subchapter E of this title, whether for construction or reconstruction, a statement that a request for a contested case hearing must be received by the commission by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(iii) for renewals of air quality permits that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History), a statement that a request for a contested case hearing must be received by the commission before the close of the 15-day comment period provided in response to the last publication of Notice of Receipt of Application and Intent to Obtain Permit;

(iv) for initial registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) received before March 1, 2026, the following statements:

(I) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(c) of this title (relating to Newspaper Notice);

(II) if no hearing requests are received by the end of the 30-day comment period there is no further opportunity to request a contested case hearing; and

(III) if any hearing requests are received before the close of the 30-day comment period, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(v) for initial registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) received on or after March 1, 2026, the following statements:

(I) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(c) of this title (relating to Newspaper Notice);

(II) if no hearing requests are received by the end of the 30-day comment period there is no further opportunity to request a contested case hearing unless a public meeting is held on the application;

(III) if a public meeting is held on the application, the end of the comment period and opportunity to request a contested case hearing will be extended for at least 36 hours following the end of the public meeting; and

(IV) if any hearing requests are received before the close of the 30-day comment period or the extended comment period following a public meeting, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(vi) for new air quality permit applications and for permit amendment applications issued under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits), for which the executive director has declared the application administratively and technically complete and prepared a draft permit within 15 days of receipt of the application, the following information:

(I) the date the application was received and the date the draft permit was completed; and

(II) for applications submitted before March 1, 2026, a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(d) of this title. If no hearing requests are received by the end of the 30-day comment period, there is no further opportunity to request a contested case hearing. If any hearing requests are received before the close of the 30-day comment period, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments; or

(III) for applications declared administratively complete by the executive director on or after March 1, 2026, a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(d) of this title. If no hearing requests are received by the end of the 30-day comment period, there is no further opportunity to request a contested case hearing, unless a public meeting is held on the application. If a public meeting is held, then the opportunity to request a contested case hearing is extended for at least 36 hours following the close of the public meeting. If any hearing requests are received before the close of the 30-day comment period or the close of a comment period extended following a public meeting, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(vii) for all air quality permit applications other than those in clauses (i) - (vi) of this subparagraph, a statement that a request for a contested case hearing must be received by the commission before the close of the 30-day comment period provided in response to the last publication of Notice of Receipt of Application and Intent to Obtain Permit. If no hearing requests are received by the end of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, there is no further opportunity to request a contested case hearing. If any hearing requests are received before the close of the 30-day comment period following

the last publication of Notice of Receipt of Application and Intent to Obtain Permit, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(B) a statement that a request for a contested case hearing must be received by the commission;

(C) a statement that a contested case hearing request must include the requester's location relative to the proposed facility or activity;

(D) a statement that a contested case hearing request should include a description of how the requester will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's uses of property which may be impacted by the proposed facility or activity;

(E) a statement that only relevant and material issues raised during the comment period can be considered if a contested case hearing request is granted; and

(F) if notice is for air quality permit applications described in subparagraph (A)(vi) of this paragraph, a statement that when no hearing requests are timely received the applicant shall publish a Notice of Application and Preliminary Decision that provides an opportunity for public comment and to request a public meeting.

(12) if notice is for air quality applications for a permit under Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities), filed on or before January 1, 2018, a Multiple Plant Permit under Chapter 116, Subchapter J of this title (relating to Multiple Plant Permits), or for a Plant-wide Applicability Limit under Chapter 116 of this title, a statement that any person is entitled to request a public meeting or a notice and comment hearing, as applicable, from the commission;

(13) notification that only those persons actually residing within 440 yards of a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title may request a contested case hearing as a person who may be affected;

(14) if notice is for an application for an air quality permit under Chapter 116, Subchapter B, Division 6 of this title (relating to Prevention of Significant Deterioration Review) that would authorize only emissions of greenhouse gases as defined in §101.1 of this title (relating to Definitions), a statement that any interested person is entitled to request a public meeting or a notice and comment hearing, as applicable, from the commission; and

(15) any additional information required by the executive director or needed to satisfy federal public notice requirements.

(f) The chief clerk shall mail Notice of Application and Preliminary Decision, or the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision, as provided for in §39.603(c) or (d) of this title, to those listed in §39.602 of this title (relating to Mailed Notice). When notice of application and preliminary decision by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the information in this subsection:

(1) the information required by subsection (e) of this section;

(2) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit;

(3) the location, at a public place in the county with internet access in which the facility is located or proposed to be located, at which a copy of the complete application and the executive director's draft permit and preliminary decision are available for review and copying and, for applications administratively complete on or after May 1, 2026, a statement that the technically complete application and draft permit may be viewed online at the commission's website and the location of the website where these can be found;

(4) a brief description of public comment procedures,

(A) a description of the manner in which comments regarding the executive director's draft permit and, as applicable, preliminary decision, preliminary determination summary, and air quality analysis may be submitted; or

(B) a statement in the notice for any air quality permit application for which there is an opportunity for contested case hearing that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted; and

(C) the public comment procedures must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice;

(5) the deadline to file comments or request a public meeting, including:

(A) a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity; and

(B) a statement that the comment period will be for at least 30 days following publication of the Notice of Application and Preliminary Decision;

(6) if the application is subject to final approval by the executive director under Chapter 50 of this title, a statement that the executive director may issue final approval of the application unless a timely contested case hearing request or a timely request for reconsideration (if applicable) is filed with the chief clerk after transmittal of the executive director's decision and response to public comment;

(7) If the executive director prepares a Response to Comments as required by §55.156 of this title (relating to Public Comment Processing), the chief clerk will make the executive director's response to public comments available on the commission's website;

(8) in addition to the requirements in paragraphs (1) - (7) of this subsection, for air quality permit applications for permits under Chapter 116, Subchapter B, Divisions 5 and 6 of this title (relating to Nonattainment Review Permits and Prevention of Significant Deterioration Review):

(A) as applicable, the degree of increment consumption that is expected from the source or modification;

(B) a statement that the state's air quality analysis is available for comment;

(C) the deadline to request a public meeting;

(D) a statement that the executive director will hold a public meeting at the request of any interested person; and

(E) a statement that the executive director's draft permit and preliminary decision, preliminary determination summary, and air quality analysis are available electronically on the commission's website at the time of publication of the Notice of Application and Preliminary Decision; and

(9) in addition to the requirements in paragraphs (1) - (7) of this subsection, for air quality permit applications for permits under Chapter 116, Subchapter E of this title:

(A) the deadline to request a public meeting;

(B) a statement that the executive director will hold a public meeting at the request of any interested person; and

(C) a statement that the executive director's draft permit and preliminary decision are available electronically on the commission's website at the time of publication of the Notice of Application and Preliminary Decision.

(g) When notice of a public meeting by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the information in this subsection:

(1) the information required by subsection (e)(1) - (3), (4)(A), (6), (8), (9), and (15) of this section;

(2) the date, time, and place of the public meeting, and a brief description of the nature and purpose of the meeting, including the applicable rules and procedures; and

(3) a brief description of public comment procedures, including

(A) a description of the manner in which comments regarding the executive director's draft permit and preliminary decision and, as applicable, preliminary determination summary and air quality analysis may be submitted and

(B) a statement in the notice for any air quality permit application for which there is an opportunity for contested case hearing that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.

(h) When notice of a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings) by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the following information:

(1) the information required by subsection (e)(1) - (3), (6), (9), and (15) of this section; and

(2) the date, time, and place of the hearing, and a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

§39.420. *Transmittal of the Executive Director's Response to Comments and Decision.*

(a) Except for air quality permit applications, when required by and subject to §55.156 of this title (relating to Public Comment Processing), after the close of the comment period, the chief clerk shall transmit to the people listed in subsection (b) of this section the following information:

(1) the executive director's decision;

(2) the executive director's response to public comments;

(3) instructions for requesting that the commission reconsider the executive director's decision; and

(4) instructions for requesting a contested case hearing.

(b) The following persons shall be sent the information listed in subsection (a) of this section:

(1) the applicant;

(2) any person who requested to be on the mailing list for the permit action;

(3) any person who submitted comments during the public comment period;

(4) any person who timely filed a request for a contested case hearing;

(5) Office of the Public Interest Counsel; and

(6) the director of the External Relations Division.

(c) When required by and subject to §55.156 of this title, for air quality permit applications, after the close of the comment period, the chief clerk shall:

(1) transmit to the people listed in subsection (d) of this section the following information:

(A) the executive director's decision;

(B) the executive director's response to public comments;

(C) instructions for requesting that the commission reconsider the executive director's decision; and

(D) instructions, which include the statements in clause (ii) of this subparagraph, for requesting a contested case hearing for applications:

(i) for the following types of applications:

(I) permit applications which are subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title (relating to New Source Review Permits) as described in §39.402(a)(2) of this title (relating to Applicability to Air Quality Permits and Permit Amendments);

(II) permit and permit amendment applications which are not subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title, and for which hearing requests were received by the end of the 30-day comment period following the final publication of Notice of Receipt of Application and Intent to Obtain Permit, and these requests were not withdrawn as described in:

(-a-) §39.402(a)(1), (3), (11) and (12) of this title; and

(-b-) §39.402(a)(4) and (5) of this title;

(III) applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction; and

(ii) the following statements must be included:

(I) a statement that a person who may be affected by emissions of air contaminants from the facility or proposed facility is entitled to request a contested case hearing from the commission;

(II) that a contested case hearing request must include the requester's location relative to the proposed facility or activity;

(III) that a contested case hearing request should include a description of how and why the requester will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's uses of property which may be impacted by the proposed facility or activity;

(IV) that only relevant and material disputed issues of fact raised during the comment period can be considered if a contested case hearing request is granted; and

(V) that a contested case hearing request may not be based on issues raised solely in a comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment; and

(2) for applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title, make available by electronic means on the commission's website the executive director's draft permit and preliminary decision, the executive director's response to public comments, and, as applicable, preliminary determination summary and air quality analysis.

(d) The following persons shall be sent the information listed in subsection (c) of this section:

(1) the applicant;

(2) any person who requested to be on the mailing list for the permit action;

(3) any person who submitted comments during the public comment period;

(4) any person who timely filed a request for a contested case hearing;

(5) Office of the Public Interest Counsel; and

(6) the director of the External Relations Division.

(e) For air quality permit applications which meet the following conditions, items listed in subsection (c)(1)(C) and (D) of this section are not required to be included in the transmittals:

(1) applications for which no timely hearing request is submitted in response to the Notice of Receipt of Application and Intent to Obtain a Permit;

(2) applications for which one or more timely hearing requests are submitted in response to the Notice of Receipt of Application and Intent to Obtain Permit and for which this is the only opportunity to request a hearing, and all of the requests are withdrawn before the date the preliminary decision is issued;

(3) the application is for any renewal application that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted unless the application involves a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History); or

(4) applications for a Prevention of Significant Deterioration permit that would authorize only emissions of greenhouse gases as defined in §101.1 of this title (relating to Definitions).

(f) For applications for which all timely comments and requests have been withdrawn before the filing of the executive director's response to comments, the chief clerk shall transmit only the items listed in subsection (a)(1) and (2) of this section and the executive director may act on the application under §50.133 of this title (relating to Executive Director Action on Application or WQMP Update).

(g) For post-closure order applications under Subchapter N of this chapter (relating to Public Notice of Post-Closure Orders), the chief clerk shall transmit only items listed in subsection (a)(1) and (2) of this

section to the people listed in subsection (b)(1) - (3), (5), and (6) of this section.

(h) For applications for air quality permits under Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities), the chief clerk will not transmit the item listed in subsection (a)(4) of this section.

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 I. PUBLIC NOTICE OF SOLID WASTE APPLICATIONS

30 TAC §§39.501, 39.503, 39.509, 39.510

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste. In addition, the amendments are adopted under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2001.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, and 27.019; and THSC, §361.024.

§39.510. *Notice Requirements for Inactive Municipal Solid Waste Permit.*

(a) This section applies to the owners or operators of inactive permitted municipal solid waste (MSW) facilities, which are those facilities that have not accepted waste within two years of permit issuance or have ceased accepting waste for at least two consecutive years. For

the purposes of this section, permit issuance means the date that a permit is issued by the commission or the date of a final, non-appealable decision regarding the permit. This section applies to facilities permitted before, on, or after the effective date of this rule.

(1) Within two years of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owner or operator of an inactive MSW facility shall notify the executive director, in writing, that the facility is inactive and that the owner or operator intends to operate the facility in the future. In the event that the owner or operator does not intend to operate the facility, the owner or operator should begin voluntary permit revocation procedures.

(2) Within two years of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owner or operator of an inactive permitted MSW facility shall publish notice of intent to operate the facility, at least once, in a newspaper of the largest circulation that is published in the county in which the facility is located or proposed to be located. If a newspaper is not published in the county, then the owner or operator shall publish notice in a newspaper of general circulation in the county in which the facility is located or proposed to be located, and such notice may be satisfied by a one-time publication if the publishing newspaper meets the circulation requirements. Thereafter, notice must be published annually in accordance with this paragraph, until the facility begins accepting waste or voluntary permit revocation is requested.

(3) Within two years of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owner or operator of an inactive permitted MSW facility shall provide, by certified mail, the notice of intent to operate the facility to:

(A) landowners within 500 feet of the facility property line, as determined by county tax rolls or other reliable sources;

(B) the mayor and health authorities of the city or town in which territorial limits or extraterritorial jurisdiction the facility is located or proposed to be located;

(C) the county judge and health authorities of the county in which the facility is located or proposed to be located; and

(D) the council of governments that serves or covers the area or county in which the facility is located or proposed to be located. Thereafter, notice must be sent annually in accordance with this paragraph, until the facility begins accepting waste.

(4) The owner or operator shall file an affidavit with the executive director certifying facts that constitute compliance with the notice requirements of paragraphs (2) and (3) of this subsection within 30 days of the last publication of the published notice required by paragraph (2) of this subsection. The owner or operator shall also file a copy of the published notice required by paragraph (2) of this subsection with the executive director that shows the date of publication and the name of the newspaper within ten business days after its publication. The deadline to file a copy of the published notice that shows the date of publication and the name of the newspaper is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with the public notice requirements of paragraphs (2) and (3) of this subsection creates a rebuttable presumption of compliance with the requirement to publish notice.

(5) The text of the newspaper notice and the mailed notice must include:

(A) the name and address of the agency and the telephone number of an agency contact from whom interested persons may obtain further information;

(B) the name, address, and telephone number of the owner or operator and a contact person from whom interested persons may obtain further information and, if different, the location of the facility or activity to be regulated by the permit;

(C) a brief description of the activity authorized by the permit;

(D) the permit number and permit issuance date; and

(E) a statement indicating that the permitted facility may begin construction or operation at a future time, and an estimated date of when the facility is expected to begin construction and operation.

(b) Within six months of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owners or operators of permitted MSW facilities that are not receiving waste shall provide signs specifying the facility's status. At the owner's or operator's expense, a sign or signs must be placed at the site of the permitted facility declaring that the permit has been issued and stating the manner in which the commission and owner or operator may be contacted for further information. Such signs must be provided by the owner or operator and must substantially meet the following requirements. Signs must:

(1) consist of dark lettering on a white background and must be no smaller than four feet by four feet with letters at least three inches in height and block printed capital lettering;

(2) be headed by the words "AUTHORIZED MUNICIPAL SOLID WASTE DISPOSAL FACILITY";

(3) include the words "PERMIT NO.", the number of the permit, and the type of permit;

(4) include the words "for further information contact";

(5) include the words "Texas Commission on Environmental Quality" and the address and telephone number of the appropriate commission regional office;

(6) include the name of the owner or operator, and the address of the appropriate responsible official;

(7) include the telephone number of the owner or operator;

(8) include the expected start-up date for beginning operation; and

(9) remain in place and legible until the facility is opened. The owner or operator shall provide a verification to the executive director that the sign posting was conducted according to the requirements of this section.

(c) Each sign placed at the site must be located within ten feet of every property line bordering a public highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs, shall be required along any property line paralleling a public highway, street, or road. This section's sign requirements do not apply to properties under the same ownership that are noncontiguous or separated by intervening public highway, street, or road, unless the property is part of the permitted facility.

(d) The executive director may approve variances from the requirements of subsections (b) and (c) of this section if the owner or operator has demonstrated that it is not practical to comply with the

specific requirements of this subsection and alternative sign posting plans proposed by the applicant are at least as effective in providing notice to the public. Approval from the executive director under this subsection must be received before posting alternative signs for purposes of satisfying the requirements of this section.

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 J. PUBLIC NOTICE OF WATER QUALITY APPLICATIONS AND WATER QUALITY MANAGEMENT PLANS

30 TAC §39.551, §39.553

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendment is also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air; and THSC, §382.059, which authorized certain permit applications to be filed prior to September 1, 2001. In addition, the amendments are adopted under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024 and §382.011.

§39.553. *Water Quality Management Plan Updates.*

(a) Applicability. This section applies to Water Quality Management Plan (WQMP) Updates.

(b) Notice of WQMP updates.

(1) The chief clerk shall publish notice of the WQMP update in the *Texas Register*.

(2) The chief clerk shall mail the notice of the WQMP update to persons known to the commission to be interested in the WQMP update, and to persons requesting notices of the WQMP identified on mailing lists maintained by the chief clerk, in accordance with §39.407 of this title (relating to Mailing Lists).

(3) Section 39.411 of this title (relating to Text of Public Notice) does not apply to WQMP updates. However, the notice of the WQMP update shall:

(A) include the name and address of the agency;

(B) provide an opportunity to submit written comments on the proposed WQMP update;

(C) describe the public comment procedures and the time and place of any public meeting; and

(D) include the name, address, and telephone number of an agency contact person from whom interested persons may obtain information.

(4) The notice shall provide at least a 30-day public comment period.

(5) Any public meeting shall be held and conducted in accordance with the requirements and procedures of §55.156 of this title (relating to Public Comment Processing).

(c) The executive director shall prepare a response to all significant public comments received by the commission before the end of the comment period. The executive director may revise the WQMP update based on public comment, if appropriate.

(d) As described in §50.133 of this title (relating to Executive Director Action on Application or WQMP Update), the executive director may certify the WQMP update.

(e) After the executive director certifies a WQMP update, the chief clerk shall mail a copy of the Response to Comments and certified WQMP update to all persons who submitted timely comments.

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 K. PUBLIC NOTICE OF AIR QUALITY PERMIT APPLICATIONS

30 TAC §§39.601, 39.603 - 39.606

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.013, concerning General Jurisdiction of Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also adopted under Texas Health and Safety Code (THSC), §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments are also adopted under Texas Government Code (TGC), §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; and TGC, §2003.047, concerning Hearings for Texas Commission on Environmental Quality, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission; and the Federal Clean Air Act, 42 United States Code, §7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state.

The adopted amendments implement THSC, §382.056.

§39.604. *Sign-Posting.*

(a) At the applicant's expense, a sign or signs must be placed at the site of the existing or proposed facility declaring the filing of an application for a permit and stating the manner in which the commission may be contacted for further information. Such signs must be provided by the applicant and must substantially meet the following requirements:

(1) Signs must consist of dark lettering on a white background and must be no smaller than 18 inches by 28 inches and all lettering must be no less than 1-1/2 inches in size and block printed capital lettering;

(2) Signs must be headed by the words listed in the following subparagraph:

(A) "PROPOSED AIR QUALITY PERMIT" for new permits and permit amendments; or

(B) "PROPOSED RENEWAL OF AIR QUALITY PERMIT" for permit renewals.

(3) Signs must include the words "APPLICATION NO." and the number of the permit application. More than one application

number may be included on the signs if the respective public comment periods coincide;

(4) Signs must include the words "for further information contact";

(5) Signs must include the words "Texas Commission on Environmental Quality" and the address of the appropriate commission regional office;

(6) Signs must include the telephone number of the appropriate commission office;

(b) The sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible continuously throughout the entirety of all comment periods on the permit application. The applicant shall provide a verification that the sign posting was conducted according to this section.

(c) Each sign placed at the site must be located within ten feet of every property line paralleling a public highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign but no more than three signs must be required along any property line paralleling a public highway, street, or road. The executive director may approve variations from these requirements if it is determined that alternative sign posting plans proposed by the applicant are more effective in providing notice to the public. This section's sign requirements do not apply to properties under the same ownership that are noncontiguous or separated by intervening public highway, street, or road, unless directly involved by the permit application.

(d) The executive director may approve variations from the requirements of this subsection if the applicant has demonstrated that it is not practical to comply with the specific requirements of this subsection and alternative sign posting plans proposed by the applicant are at least as effective in providing notice to the public. The approval from the executive director under this subsection must be received before posting signs for purposes of satisfying the requirements of this section.

(e) Alternative language sign posting is required whenever alternative language newspaper notice would be required under §39.426 of this title (relating to Alternative Language Requirements). The applicant shall post additional signs in each alternative language in which the bilingual education program is taught. The alternative language signs must be posted adjacent to each English language sign required in this section. The alternative language sign posting requirements of this subsection must be satisfied without regard to whether alternative language newspaper notice is waived under §39.426 of this title. The alternative language signs must meet all other requirements of this section.

§39.606. Contested Case Hearings and Public Meetings.

(a) Applicability. This section is only applicable to air quality permit applications as specified in Subchapters H and K of Chapter 39 (Public Notice).

(b) A contested case hearing may be requested for the following types of air quality permit applications:

(1) air quality permit applications and for permit amendment applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title (relating to New Source Review Permits);

(2) air quality permit applications and for permit amendment applications subject to the requirements of Chapter 116, Sub-

chapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(G), 40 CFR Part 63);

(3) for registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits);

(4) air quality permit applications and for permit amendment applications issued under Chapter 116, Subchapter G of this title (relating to Flexible Permits);

(5) all other permit applications subject to the requirements of Chapter 116, Subchapter B (relating to New Source Review Permits); and

(6) applications for renewals of air quality permit applications subject to Chapter 116, Subchapter D of this title (relating to Permit Renewals).

(c) A notice and comment hearing may be requested for the following types of air quality permit applications:

(1) a Multiple Plant Permit under Chapter 116, Subchapter J of this title (relating to Multiple Plant Permits);

(2) a permit under Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities); and

(3) air quality permit applications subject to the requirements of Chapter 116, Subchapter C of this title (relating to Plant-wide Applicability Limits).

(d) For a request for a contested case hearing to be considered timely it must be received by:

(1) for renewals of air quality permits that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History, by the end of the 15-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit;

(2) for initial registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) and for new air quality permit applications and for permit amendment applications issued under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits), for which the executive director has declared the application administratively and technically complete and prepared a draft permit, within 15 days of receipt of the application:

(A) for applications received before March 1, 2026:

(i) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(c) of this title (relating to Newspaper Notice);

(ii) if no hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision, there is no further opportunity to request a contested case hearing; and

(iii) if any hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(B) for applications received on or after March 1, 2026:

(i) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision;

(ii) if no hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision there is no further opportunity to request a contested case hearing unless a public meeting is held on the application;

(iii) if a public meeting is held on the application, the end of the comment period and opportunity to request a contested case hearing will be extended for at least 36 hours following the end of the public meeting; and

(iv) if any hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision or the extended comment period following a public meeting, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(3) for all air quality permit applications and for permit amendment applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title, by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(4) for all air quality permit applications and for permit amendment applications subject to the requirements of Chapter 116, Subchapter E of this title, by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(5) for all other applicable air quality permit applications:

(A) a request for a contested case hearing must be received by the commission before the close of the 30-day comment period provided in response to the last publication of Notice of Receipt of Application and Intent to Obtain Permit;

(B) if no hearing requests are received by the end of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, there is no further opportunity to request a contested case hearing;

(C) if any hearing requests are received before the close of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments.

(e) Requests for contested case hearings must be timely, in writing, and must include the following information:

(1) the requester's location relative to the proposed facility or activity;

(2) a description of how the requester will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's uses of property which may be impacted by the proposed facility or activity; and

(3) the form requirements of Chapter 55 of this title.

(f) Only relevant and material issues raised during the comment period can be considered if a contested case hearing request is granted.

(g) For applications for a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title, only those persons actually residing within 440 yards of the proposed plant may request a contested case hearing as a person who may be affected.

(h) The executive director shall hold a public meeting on permit applications listed in (b)(1)- (2) of this section if requested by a member of the legislature who represents the general area where the facility is to be located, if there is substantial public interest in the proposed activity, or if requested by any interested person.

(i) The executive director may hold a public meeting on permit applications listed in (b)(3) - (5) of this section if requested by a member of the legislature who represents the general area where the facility is to be located or if there is substantial public interest in the proposed activity.

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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Amy L. Browning

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SUBCHAPTER L. PUBLIC NOTICE OF INJECTION WELL AND OTHER SPECIFIC APPLICATIONS

30 TAC §39.651

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102 which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. Additionally,

the amendments are adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste. The amendments are also adopted to comply with Title VI of the Civil Rights Act of 1964, 42 United States Code, §§2000d *et seq.*, and United States Implementing Regulations at 40 Code of Federal Regulations Parts 5 and 7, which prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and intimidation and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance. The commission receives financial assistance from the United States Environmental Protection Agency (EPA) and, therefore, must ensure nondiscrimination in its programs and activities pursuant to federal nondiscrimination laws and EPA's implementing regulation.

The adopted amendments implement TWC, Chapter 5, Subchapter M, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019, and THSC, §361.024.

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 M. PUBLIC NOTICE FOR RADIOACTIVE MATERIAL LICENSES

30 TAC §39.707

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid

waste; and THSC, §401.051, which authorizes the commission to adopt rules relating to control of sources of radiation. In addition, the amendment is adopted under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024.

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SUBCHAPTER N. PUBLIC NOTICE OF POST-CLOSURE ORDERS

30 TAC §§39.803, 39.804, 39.807 - 39.810

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; and TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; and Texas Government Code, §2001.004, which requires state agencies to adopt procedural rules.

The rulemaking adoption implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, and 5.122; and THSC, §361.024.

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 O. PUBLIC NOTICE FOR MARINE SEAWATER DESALINATION PROJECTS

30 TAC §39.902, §39.903

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.013 which establishes the general jurisdiction of the commission; TWC, §5.102 which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §5.103; TWC, §5.103 which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.120 which requires the commission to administer the law so as to promote judicious use and maximum conservation and protection of the environment and the natural resources of the state; TWC, §26.011 which provides the commission with the authority to establish the level of quality to be maintained in, and to control the quality of the water in the state by subjecting waste discharges or impending waste discharges to reasonable rules or orders adopted or issued by the commission in the public interest; TWC, §26.027 and §26.041 which authorize the commission to issue permits for the discharge of waste or pollutants into or adjacent to water in the state, and to set standards to prevent the discharge of waste that is injurious to the public health; and TWC, §18.005(e) which directs the commission to adopt rules to expedite permitting and related processes for the discharge of both treated marine seawater and waste resulting from the desalination process, in accordance with TWC, Chapter 18.

The adopted rules implement TWC, §18.005.

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 P. OTHER NOTICE REQUIREMENTS

30 TAC §§39.1003, 39.1005, 39.1009, 39.1011

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste. In addition, amendments are adopted under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, concerning Hearings for Texas Commission on Environmental Quality, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024.

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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CHAPTER 55. REQUESTS FOR RECONSIDERATION AND CONTESTED CASE HEARINGS; PUBLIC COMMENT

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§55.103, 55.152, 55.154, 55.156, 55.200, 55.201, 55.203, 55.209, 55.210, 55.211, 55.250, 55.251, and 55.254.

Amended §§55.103, 55.152, 55.201, 55.209, 55.251 and 55.254 are adopted with changes to the proposed text as published in the August 8, 2025 issue of the *Texas Register* (50 TexReg 5185) and, therefore, will be republished. Amended §§55.154, 55.156, 55.200, 55.203, 55.209 - 55.211, 55.250, and 55.254 are adopted without changes to the proposed text as published in the August 8, 2025 issue of the *Texas Register* (50 TexReg 5185) and, therefore, will not be republished.

The adopted amendments to §55.152 and §55.154 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).

Background and Summary of the Factual Basis for the Adopted Rules

TCEQ underwent Sunset review during the 88th Regular Legislative Session, 2023. The Sunset bill, SB 1397, continuing the Texas Commission on Environmental Quality (TCEQ), included provisions requiring certain changes to TCEQ's public participation rules, which are found primarily in Title 30 Texas Administrative Code (TAC) Chapters 39 and 55.

The agency engaged in an extended stakeholder process for this rulemaking. A hybrid virtual/in-person stakeholder meeting was held on July 15, 2024, in Austin, with in-person meeting rooms also open in TCEQ regional offices in Midland and Harlingen. Spanish language interpretation was available for this meeting. In-person meetings were held on July 16, 2024, in Arlington and on July 18, 2024, in Houston. Because the July 18, 2024, meeting in Houston was shortly after the city experienced a hurricane, a second in-person meeting was held in Houston on October 3, 2024. Professional Spanish-language interpretation was available at both Houston meetings, and an agency interpreter was available for Spanish language assistance at the Arlington meeting. Stakeholder comments were accepted until October 8, 2024. The agency received robust participation from stakeholders during this process, receiving many comments and suggestions for changes to improve the agency's public participation rules.

The TCEQ Sunset bill required the extension of public comment period and opportunity to request a hearing for a specific subset of air quality permit applications. Specifically, air quality permit applications that are required to publish notice in a consolidated Notice of Receipt of Application and Intent to Obtain Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) (consolidated notice) must extend the close of the comment period and the opportunity to request a contested case hearing to at least 36 hours following a public meeting held on the permit application. During the stakeholder process, a large number of comments requested that this extension be given to all types of permit applications. Although many other comments were beyond the scope of the current rulemaking, there was a general request to make the rules less confusing and more helpful to assist the public participation process. The adopted amendments to Chapter 55, along with the companion rulemaking adopting changes to Chapter 39, seek to improve and clarify the rules in addition to satisfying the requirements of the Sunset bill.

The adopted amendments in Chapter 55 will expand the current definitions section to add definitions relating to the public participation processes. In response to public comment received, the commission is not adopting a proposed definition for personal justiciable interest. The other proposed definitions are being adopted. The adopted amendments will extend the public comment period and opportunity to request a contested case hearing for at least 36 hours following the close of a public meeting for air quality permit applications with consolidated notice. This adopted requirement will apply to applications that the executive director receives on or after March 1, 2026. Because the agency is continually processing permit applications, a specific date by which new requirements will be in place is necessary to ensure smooth and fair processing of permit applications and not require current applications to follow new requirements that

do not exist when the applications are submitted. As the executive director has the authority to extend comment periods and the requirement for the extension has been a statutory requirement since September 1, 2023, when the agency has held public meetings for air quality permit applications with consolidated notice, the comment period has been extended. The current rule changes will make that requirement clear to both the regulated industry and the public. The adopted amendments will specify that the commission will follow new notice procedures that are being adopted in Chapter 39 when a comment period or period to request a contested case hearing is extended, to allow the public to know what the process is. The adopted amendments will clarify and update language, including removing a requirement for a fax number and adding a requirement for a valid email address in requests submitted to the commission for a contested case hearing or request for reconsideration. The commission is not adopting proposed new §39.422 in Chapter 39, so conforming proposed new language in Chapter 55 is also not being adopted. Further adopted changes update language to conform with current stylistic and grammar conventions.

Section by Section Discussion

Subchapter D. Applicability and Definitions.

Current §55.103 is amended to revise and clarify the existing definition for affected person as new §55.103(1). Adopted new §§55.103(2)-(6) will add new definitions for contested case hearing, motion to overturn, motion for rehearing, public meeting, and request for reconsideration. These are terms that the public has indicated consistently cause confusion; therefore, the new definitions are intended to provide clarity and assist the public in understanding the different components that are part of the public participation process. In response to public comment, the proposed definition for personal justiciable interest is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public. The numbering of the remaining proposed definitions is being updated from proposal to reflect this change.

Subchapter E. Public Comment and Public Meetings.

Section 55.152(b) is amended to extend the public comment period to at least the close of a public meeting by adding new §55.152(b)(1) for existing language and §55.152(b)(2) to specify that the comment period is extended for at least 36 hours following the close of a public meeting for air quality applications with a consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision that are received by the executive director on or after March 1, 2026. The commission is not adopting proposed new §55.152(c) which would have specified that any extension of time for filing public comments or hearing requests must follow the notice procedures of §39.422 (relating to Notice of Extension of Comment Period) because the commission is not adopting proposed new §39.422. New §55.152(c), which was proposed as (d), specifies that timely comments are those received by the Office of the Chief Clerk by the end of the comment period. Section 55.154(a) is amended to add the word "hearing" to be clear that a public meeting is not a contested case hearing under the Texas Administrative Procedure Act.

Subchapter F. Requests for Reconsideration or Contested Case Hearing.

Section 55.200 is adopted to remove obsolete language regarding the date of applicability. Subsections 55.201(d) and (e) are amended to remove the requirement for a fax number and to

add the requirement for a valid email address to be included in a request for hearing. The commission is not adopting proposed new subsection 55.201(g)(3), which would have added the requirement that extensions of time for filing public comments or hearing requests must follow the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period) because the commission is not adopting proposed new §39.422. The adopted amendments of § 55.209 (d) and (g) revise the phrasing of the rule to make clear that the parties shall file notice of the response or reply with the chief clerk and shall serve the notice of the filing on the parties. Subsection 55.210(c)(4) is amended to extend the public comment period to at least the close of any public meeting, and for at least 36 hours following the close of a public meeting for air quality permit applications with a consolidated notice that are received on or after March 1, 2026. Subsection 55.210(c)(6) is amended to update the type of recording to the more appropriate audio recording.

Subchapter G. Requests for Contested Case Hearing and Public Comment on Certain Applications.

Section 55.250 is adopted to remove obsolete language regarding the date of applicability. Subsection 55.251(c)(1) is amended to remove the requirement for a fax number and add the requirement for a valid email address. The adopted amendment to §55.251(f)(2) clarifies that the commission may extend the time for submission of public comments and hearing requests. The commission is not adopting new §55.251(f)(3) which would have added the requirement that extensions of time for filing public comments or hearing requests must follow the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period), because the commission is not adopting proposed new §39.422. Adopted amendments of § 55.254 (e) and (f) revise the phrasing of the rule to make clear that the parties shall file notice of the response or reply with the chief clerk and shall serve the notice of the filing on the parties. Section 55.251(g) is adopted for repeal as obsolete, as the commission no longer has authority over weather modification licenses or permits, and Texas Water Code Chapter 18 does allow for the opportunity for a contested case hearing on certain types of permit applications.

Final Regulatory Impact Determination

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the action is not subject to TGC, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the rulemaking adoption does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in TGC, §2001.0225(a).

The rulemaking adoption is not specifically intended to protect the environment or reduce risks to human health from environmental exposure, nor does it affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health. The purpose of the rulemaking adoption is to update and clarify the requirements for public participation in the permitting process for air quality, water quality, and waste permit applications. The rulemaking adoption will implement changes to comply with the requirements in the Sunset

bill, SB 1397, 88th Regular Legislature, as well as other recommended changes. The TCEQ Sunset bill required the extension of the public comment period and opportunity to request a hearing for a subset of air quality permit applications that have a consolidated notice. Following extensive stakeholder outreach, the commission is adopting that the comment period and opportunity to request a contested case hearing be extended for at least 36 hours following the close of a public meeting for air quality permit applications with a consolidated notice that are received on or after March 1, 2026. The adopted amendments will specify that the commission will follow new notice procedures that are being simultaneously adopted in Chapter 39 when a comment period or period to request a contested case hearing is extended, to allow the public to know what the process is. The adopted amendments will clarify and update language, including removing a requirement for a fax number and adding a requirement for a valid email address in requests submitted to the commission for a contested case hearing or request for reconsideration. Further adopted changes update language to conform with current stylistic and grammar conventions.

As defined in TGC, TGC, §2001.0225, only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The adopted amendments do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

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 rulemaking adoption and performed an analysis of whether Texas Government Code (TGC), Chapter 2007, is applicable. The adopted amendments are procedural in nature and will not burden private real property. The adopted amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The adopted amendments do not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action will not constitute a taking under TGC, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(b)(2) or (4), nor will the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(a)(6). Therefore, the adopted amendments are not subject to the Texas Coastal Management Program.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments regarding the CMP were received.

Effect on Sites Subject to the Federal Operating Permits Program

The adopted amendments will not require any changes to outstanding federal operating permits.

Public Comment

The commission held a public hearing on September 8, 2025. The comment period closed on September 9, 2025. The commission received comments from Air Alliance Houston (AAH), Arcosa Stabilized & Recycling (Arcosa), Associated General Contractors of Texas (AGC of Texas), the Associations- joint letter from Texas Association of Manufacturers (TAM), Texas Chemistry Council (TCC), and Texas Oil and Gas Association (TXOGA), Lone Star Legal Aid of behalf of Better Brazoria Clean Air and Clean Water in Brazoria County (Better Brazoria), Environmental Integrity Project (EIP), Harris County Attorney's Office (HCAO), Harris County Pollution Control Services (HCPCS), City of Houston Health Department (HHD), Perales, Allmon, & Ice (PAI), Texas Aggregates and Concrete Association (TACA), and Texas Industry Project (TIP). The comments expressed mixed support for the rulemaking, requested further changes, and included comments that the commission should limit the rulemaking to statutorily required changes.

Response to Comment

Comment

TIP comments that the new requirement to leave permit documents in the public place and signs in place until final commission action on a permit lacks clarity and could lead to confusion.

Response

Changes in adopted §§39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application must now remain in the public place until replaced by the technically complete application and draft permit. Generally, the publication of the NAPD notifies the public of the availability of the technically complete application and draft permit. The technically complete application and draft permit must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, then the application must remain in place through the publication's designated comment period. The proposed change to §39.405(g)(2) to require the technically complete application to remain in place continuously is adopted and for consistency the same change is also being adopted for §39.405(g)(3).

The signs must now be in place at the start of the comment period and remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must go up at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application, as is intended by the posting of signs.

The commission notes that the current rule requires the application to remain available in the public place until the commission

takes action on the application or refers it to SOAH for applications that require a NAPD and the commission did not propose to change this time period. For applications for which there is no requirement for a NAPD, the requirement in current rule is for the application to remain in place for the publication's designated comment period and the commission is retaining this requirement in the adopted rule. The suggestion in the comment that materials remain only until the end of the comment period would provide less notice to the public than current rules and what the commission proposed. No changes were made in response to that part of the comment.

Comment

TIP comments that the proposed change to §39.405 could be interpreted to require availability of the administratively complete application from the date of the NORI up to and including the end of the public comment period on the application. Such a duplicative requirement would be confusing to the public as the technically complete application is required to be made available from the date of the NAPD until the commission has taken final action on the permit or the commission refers the permit to SOAH. TIP also comments that the extension of the requirement to maintain a copy of the administratively complete application for longer than the initial 30-day comment period after the NORI and the use of the term continuously in the proposed rule changes raises questions about how and when revisions, clarifications or updates to an application should be added to the locally available copy.

Response

Changes in adopted §§39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application must now remain in place until replaced by the technically complete application and draft permit. The technically complete application and draft permit must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, as some types of permit applications are only required to publish NORI, then the application must remain in place through the publication's designated comment period. The proposed change to §39.405(g)(2) to require the technically complete application to remain in place continuously is adopted and for consistency the same change is also being adopted for §39.405(g)(3).

The commission notes that the current rule requires the application to remain available in the public place until the commission takes action on the application or refers it to SOAH and the commission did not propose to change this time period. The suggestion in the comment that materials remain only until the end of the comment period would provide less notice to the public than current rules and what the commission proposed. No changes were made in response to that part of the comment.

Comment

TIP comments with respect to §39.405(g) recommend deleting the requirement to keep the administratively complete application in place after the NAPD is published and confirming the current requirement to include "any subsequent revisions to the application" in §39.405(g)(2) to commence only with the publication of the NAPD.

Response

Changes in adopted §§39.405(g)(1) and (2) and §39.604(b) were made in response to this comment. The initial application

must now remain in place until replaced by the technically complete application and draft permit. The technically complete application must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, then the application must remain in place through the publication's designated comment period. The proposed change to §39.405(g)(2) to require the technically complete application to remain in place continuously is adopted and for consistency the same change is also being adopted for §39.405(g)(3).

Comment

TIP suggested changes to new §39.405(l), including a change to specify on the commission's website that there is additional confidential information in a confidential file, if an application is submitted with confidential information. TIP also commented in its suggested changes that the commission should only keep the electronic copies on the application available until the end of the comment period. Additionally, TIP's suggested changes request the commission change language in §39.405(g) that require the technically complete application to remain in place until the commission takes final action or refers the application to SOAH.

Response

The commission disagrees that it is necessary to add information in the rule regarding confidential information, as that is not included in the new legislative requirement in SB 1397, and therefore no change has been made in response this comment. The commission disagrees that electronic copies of the technically complete application should not remain available until final opportunity for the public to request review of the application. The commission notes that it is a longstanding rule in §39.405(g) that the technically complete application must remain available in the public place until the commission takes action on an application or refers it to SOAH and is also declining to make changes to shorten that time until only the end of the comment period. New §39.405(l) was amended at adoption to require the technically complete application to remain in place until final action or referral to SOAH, to mirror the requirements in §39.405(g). The commission notes that following the end of the public comment period and transmittal of the executive director's response to comments, the public may continue to participate by submitting a request for contested case hearing or request for consideration. These opportunities benefit from having the technically complete application and draft permit available electronically on the commission's website. No other changes were made in response to this comment.

Comment

EIP objects to imposing additional procedural hurdles for a litigant to be considered an affected person who can pursue a matter in court. EIP states that for the sake of efficiency, clarity, and legal certainty, litigants should have a uniform standard for justifiability in administrative hearings and courts alike.

Response

This comment is outside the scope of this rulemaking. Nothing in the proposed rules imposes any additional procedural hurdles for a litigant to be considered an affected person. No changes were made in response to this comment.

Comment

EIP commented that TCEQ should amend §55.211 to provide guidelines for when a person who is not deemed an affected person is entitled to reconsideration and what the requestor must provide to meet such a standard.

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes related to requesting reconsideration or what requesters may need to provide in relation to such a request. No changes were made in response to this comment.

Comment

AGC of Texas requests that §39.606(f) be amended to match THSC §382.058(c), and to therefore be clear that an affected person is someone who actually resides within 440 yards. AGC also requests that the commission review §39.411(e)(13) so that the language matches the statutory requirement. Commenter also wants the commission to affirm that the 440-yard setback requirement is not an environmental protectiveness measure.

Response

The commission added "actually" to new §39.606(g), which was proposed as §39.606(f), to match the statutory language, as requested by this comment. The commission is also adopting a change to §39.411(e)(13) to have the rule language more closely mirror the statutory requirement. This is a statutory requirement regarding who may request a contested case hearing as a person who may be affected for a specific type of air quality permit - a registration for a standard permit for a concrete batch plant.

Comment

Arcosa commented that the commission should clarify thresholds for granting hearings so that only requests with clear, material evidence of environmental or health impacts move forward.

Response

The commission did not propose any changes to the requirements for being an affected person or for issues for which a hearing can be granted. Therefore, this comment is outside the scope of this rulemaking. No changes have been made in response to this comment.

Comment

Better Brazoria comments that the brightline 440-yard requirement to determine access to judicial review is not consistent with Article III.

Response

The requirement that a person must actually reside within 440 yards of a proposed plant to be an affected person entitled to request a contested case hearing on a concrete batch plant standard permit is a requirement of Texas statute - THSC §382.058(c). This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria commented that TCEQ rules require a contested case hearing request to state a person's location and relative distance to the proposed facility but provides no clarification of how the agency will take into account or measure that distance. Commenter further stated that TCEQ should be consistent in how to measure distances

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes to the process for how a person may request a contested case hearing or for the contents of those requests. No changes were made in response to this rulemaking.

Comment

Better Brazoria commented that TCEQ should not allow distance to predominate over all other considerations of an affected person

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes to the consideration of distance in affected person determinations. For concrete batch plant standard permit registrations, the commission considers distance as prescribed by THSC §382.058(c). Otherwise, distance is only one of many factors that the commission considers in an affected person determination. No changes were made in response to this comment.

Comment

Better Brazoria suggested that §55.103(1)(c) should state "For an air quality standard permit for a concrete batch plant, only a person actually residing within 440 yards of the proposed plant boundary may be an affected person."

Response

The plain language of THSC §382.058(c) provides: "For purposes of this section, only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing under Section 382.056 as a person who may be affected." The statutory language does not include the "plant boundary" as requested in this comment. No changes were made in response to this comment.

Comment

Better Brazoria proposed that the commission should make §39.423 the same notice period as §39.709, which is a minimum of 30 days mailed notice of a contested case hearing.

Response

Although the Office of the Chief Clerk typically mails notice for a contested case hearing prior to 30 days to give the public sufficient time for notice of the contested case hearing, the commission retains discretion to mail the notice no less than 13 days before the hearing, as required by the current rule. No changes were made in response to this comment.

Comment

AAH requests that the commission clarify the criteria for a contested case hearing.

Response

The commission did not propose any changes to the criteria for a contested case hearing. This comment is therefore outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

The Associations requested that the commission require additional language in the text of public notices that properly informs the public that failing to submit timely comments will preclude a person from being able to potentially request a contested case

hearing. This complies with the statutory text of Texas Government Code §2003.047(e-1).

Response

The commission did not propose any language related to changes in how to request a contested case hearing; therefore, this comment is outside the scope of the current rulemaking. No changes were made in response to this comment.

Comment

TIP requests the commission revise §39.411 as proposed to require notice language clarifying that if no comments are timely submitted by a person (or association meeting the requirements of 30 TAC §55.205) to the TCEQ during the public comment period, then that person or association may not be named an affected person or association by the commission or SOAH.

Response

The commission did not propose any language related to changes in how to request a contested case hearing; therefore, this comment is outside the scope of the current rulemaking. No changes were made in response to this comment.

Comment

AGC of Texas believes that there is no justification for §39.606(c)(2), with respect to why facilities with low compliance classification are treated differently, since THSC Chapter 382 and Chapter 5 of the Texas Water Code are silent on the impact of poor compliance history.

Response

In response to comment, the commission is not adopting this provision.

Comment

AGC of Texas states in their comment that it appears that all new §39.606 may not have been underlined.

Response

The proof copies submitted to TCEQ by the Secretary of State show all of new §39.606 underlined as new language. No changes were made in response to this comment.

Comment

Better Brazoria agrees with adding new §39.606, as it makes the contested case hearing process clearer to the public.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

TIP also seeks clarification on the processing and issuance of these types of applications in §39.606(a), as they should not be subject to the opportunity for any person or association to submit comments, request a public meeting, request reconsideration, or request a contested case hearing.

Response

The commission has added a new applicability subsection to new §39.606 to clarify that the section only applies to applications subject to Subchapters H and K of Chapter 39. As this is now new §39.606(a), the remaining subsections have been

re-numbered accordingly. The language in new §39.606(b) mirrors the long-standing language in §39.402 and §39.411 for the types of air quality applications that have opportunities for public meetings and contested case hearings. The adopted new language provides clarity for the public but does not change the underlying requirements that already exist, other than specific changes that the commission has noted. These changes are related to comment periods for air quality permit applications with a consolidated NORI and NAPD. The commission has included the new subsection to clarify the applicability of the new §39.606.

Comment

TIP requests that the commission include language in §39.606(a) that recognizes the statutory limitation in THSC §382.056(g) which states that the commission may not seek further public comment or hold a public hearing on amendments, modifications, or renewals that "...would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted."

Response

Language that addresses the deadline for requesting a contested case hearing on these types of applications was proposed and is being adopted in new §39.606(d)(1) specifically for contested case hearings, which mirrors existing language in §39.411. No language was proposed relating to the commission's consideration of requests on these types of applications. Furthermore, no-increase renewal applications are not included in the list of application types in §39.606(h) or (i) which list the types of air quality applications for which the executive director may hold a public meeting.

Comment

TIP requests that the commission revise §39.606(h) to be consistent with §55.154(c) and federal law.

Response

Adopted new §§39.606(h) and (i), which were proposed as §§39.606(g) and (h) were revised to match the requirements in §39.411(e) and §55.154(c).

Comment

PAI comments that additional time is needed to prepare a reply to responses to hearing requests. PAI states instead of the current 14-day time period, it would be more appropriate to establish a rule that allows 30 days to reply to a Response to Hearing Request.

Response

The commission did not propose to extend the time frame for replying to a Response to Hearing Request and is not adopting changes to the time frame at this time. No changes have been made in response to this comment.

Comment

HCPCS comments that an extended comment period is necessary and warranted and would afford participants time to process any new information that may have been garnered from the public meeting. HCPCS requests that the commission extend the comment period for at least 10 days following a public meeting for all types of permit applications.

Response

The commission did not propose changing comment periods for any types of permit applications other than those air quality permit applications with consolidated notice, as required by the Sunset bill. Expanding notice periods for other types of permit applications is beyond the scope of the current rulemaking project. No changes were made in response to this comment.

Comment

EIP commented that except where statutorily prohibited TCEQ should standardize and extend the length of all comment periods under §55.152 to 60 days to allow the public to secure legal and technical assistance and time to adequately review applications and permits.

Response

The proposed rules did not propose to extend any comment periods except for the one required by the TCEQ Sunset bill for air quality permit applications with consolidated notice. The length of comment periods is provided in the notices published on permit applications. No changes were made in response to this comment.

Comment

AGC of Texas requests that the commission provide examples or clarify what good cause is to extend a comment period in §39.409(c) and §39.422. Commenter also requests clarification as to who has the burden for demonstrating good cause.

Response

The commission is not adopting the proposed §39.422. Some examples of when comment periods have been extended would include issues with notice, such as signs not being in place or documents not being available for the public to review in an appropriate local place, mistakes in notice that may be discovered later during the comment period, failure to publish notice in the correct newspaper, and other similar issues. The rules provide the basic legal standard; however, nuanced, in-depth consideration that is not easily captured by rule language can best be considered on a case-by-case basis as needed.

Comment

Better Brazoria agrees with extending the comment period for 36 hours, and suggests that this change be extended to all permits

Response

The commission appreciates the support for the extension of the comment period for certain types of air quality permit applications. The commission did not propose changing comment periods for any types of permit applications other than those air quality permit applications with consolidated notice, as required by the Sunset bill. Expanding notice periods for other types of permit applications is beyond the scope of the current rulemaking project. No changes were made in response to this comment.

Comment

Better Brazoria agrees with the language extending the comment period for good cause as it ensures more inclusive public participation.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria suggests that notice of extensions of comment periods should be published in alternative languages when required in §39.422.

Response

The commission is not adopting the proposed §39.422.

Comment

AAH requests that the commission clarify the ED's role in extending comment periods.

Response

Some examples of when comment periods have been extended would include issues with notice, such as signs not being in place or documents not being available for the public to review in an appropriate local place, mistakes in notice that may be discovered later during the comment period, failure to publish notice in the correct newspaper, and other similar issues. The rules provide the basic legal standard; however, nuanced, in-depth consideration that is not easily captured by rule language can best be considered on a case-by-case basis as needed. No changes were made in response to this comment.

Comment

PAI believes the comment period should extend to 36 hours after the close of the public meeting for all air quality, water quality, and solid waste permit applications.

Response

The commission proposed compliance dates for new rule requirements to allow applicants to plan and be able to fully comply with these changes. Providing a date certain helps both applicants and the public know when applications must meet the new requirements. The commission has been meeting its statutory requirement to extend the comment period for at least 36 hours for air quality permit applications with a consolidated NORI and NAPD since the effective date of the sunset bill. No changes were made in response to this comment.

Comment

Better Brazoria approves current language access plan and proposed rules in §39.422(d).

Response

The commission is not adopting the proposed §39.422.

Comment

Better Brazoria commented that the commission should be aware of the lack of email/ computer availability in low-income situations.

Response

The commission appreciates the comment and acknowledges that there are commenters with less technical expertise or resources who rely on other methods to participate in the permitting process. No changes were made in response to this comment.

Comment

Better Brazoria voiced concern about the distances in concrete batch plant applications and where it will vary to avoid providing someone with standing.

Response

The requirement that a person must actually reside within 440 yards of a proposed plant to request a contested case hearing on a concrete batch plant standard permit is a requirement of Texas statute - THSC §382.058(c). The current rulemaking does not concern how the agency reviews these types of applications or how applicants may revise their applications during the permit review process and is therefore outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria commented about the abuse of the notice function by publishing in smaller newspaper circulations.

Response

This comment is outside the scope of this rulemaking. The commission does not require publication in specific newspapers, so long as they meet the rule requirements. No changes were made in response to this comment.

Comment

HCAO suggests including the exact URL where applicable for the proposed amendments that require a statement that a copy of the administratively complete application can be found online.

Response

Because a website URL may change over time, including it in rule language is not best practice, as it can lead to future problems. No changes were made in response to this comment.

Comment

Better Brazoria proposes changes for §§39.419, 39.804, 39.1003, and 39.1005(b) - "Regardless of the notice requirements in §39.XXX of this title, the commission shall make available by electronic means on the commission's website the permit application."

Response

The adopted changes to the rules provide specifically for the commission to make both the initial application and the technically complete application and draft permit available electronically on the commission's website in new §39.405(l). This requirement applies to all types of applications that are subject to Chapter 39, Subchapter H. Therefore, it is not necessary to repeat this requirement in other places in the rules as requested by the commenter. No changes were made in response to this comment.

Comment

TIP believes that electronic availability of the application will provide greater public access to application materials than the current requirement in §39.405(g) to provide access to physical copies in a local public place.

Response

While the commission agrees that having applications and the draft permit available electronically provides the best access for the public, it is still necessary for the commission to ensure that the public can access the relevant permit application documents in a local public place, as required by statute. No changes were made in response to this comment.

Comment

AAH commented that ensuring that information about permit meetings and public hearings is made more available, readily available to community members is great.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

AAH commented that they also have concerns regarding applicants using less widely circulated newspapers.

Response

This comment is outside the scope of this rulemaking. The commission does not require publication in specific newspapers, so long as they meet the rule requirements. No changes were made in response to this comment.

Comment

Arcosa commented that the commission should encourage proactive outreach by operators (e.g., bilingual fact sheets, open houses) as an alternative to lengthier contested case proceedings.

Response

This comment is outside the scope of this rulemaking. Regulated entities are always welcome and encouraged to engage with community stakeholders during the application process. No changes have been made in response to this comment.

Comment

HCAO requests further clarification on the difference between public meeting and public hearing in Chapter 39 Subchapter A.

Response

A public meeting is intended for the public to ask questions of TCEQ staff and the applicant during the informal part of the meeting, and to provide formal oral comments that will receive an official written response from the executive director. A public meeting is not a contested case hearing. There is no definition for a public hearing included in the adopted rules. A contested case hearing is a formal legal proceeding at the State Office of Administrative Hearings before an Administrative Law Judge (ALJ). Following a contested case hearing, the ALJ will issue a Proposal for Decision and make a recommendation to the commission. The commission will then consider this decision at an open meeting and make a final decision on issuance of the permit. No changes were made in response to this comment.

Comment

HCAO requests clarification of what "too large and unduly burdensome for posting" means in §39.405(l); they further request that a tangible threshold be established before materials may be exempt.

Response

The text of the new rule language aligns with the statutory requirement. No changes were made in response to this comment.

Comment

HCAO suggests adding instructions on how shareholders can view permitting documents that are exempt under §39.405(l).

Response

Complete applications are available at physical locations and would include documents that may be too large for posting online. No changes were made in response to this comment.

Comment

Better Brazoria disagrees with the July 1, 2026 implementation date for certain rules and suggests that they should correspond with the March 1, 2026 implementation date.

Response

The commission proposed compliance dates for new rule requirements to allow applicants and the commission to plan and be able to fully comply with these changes. However, the commission is not adopting any proposed changes that would have had a July 1, 2026 implementation date. Providing a date certain helps both applicants and the public know when applications must meet the new requirements. There are two different implementation dates because some of the changes are already being implemented by the commission, while others will require the development of new procedures and will therefore take longer for full implementation by the commission. No changes were made in response to this comment.

Comment

Better Brazoria suggests that the implementation of changes under §39.422 should be March 1, 2026, instead of May 1, 2026.

Response

The commission is not adopting the proposed new §39.422.

Comment

PAI supports the extension of the public comment period to 36 hours after a public meeting is held for air quality permits with a consolidated notice and believes that this requirement should apply earlier than only to those applications submitted on or after March 1, 2026.

Response

The commission proposed compliance dates for new rule requirements to allow applicants to plan and be able to fully comply with these changes. Providing a date certain helps both applicants and the public know when applications must meet the new requirements. The commission also notes that it has been implementing this statutory requirement since it became effective. No changes were made in response to this comment.

Comment

AGC of Texas comments that several proposed amendments go beyond the direction of the legislature and believes that the substantive changes should be limited to the statutory changes made through the sunset process.

Response

The purpose of this rulemaking is to improve readability and clarity of the rules to generally improve the commission's public participation processes, in addition to implementing specific requirements of the Sunset bill. No changes were made in response to this comment.

Comment

The Associations comment that the commission should confine any rule changes to those required by SB 1397 from the 88th Legislative Session.

Response

The purpose of this rulemaking is to improve readability and clarity of the rules to improve the commission's public participation processes, in addition to implementing specific requirements of the Sunset bill. No changes were made in response to this comment.

Comment

Arcosa commented that the commission should provide permit timelines certainty by setting reasonable deadlines for processing Requests for Reconsideration.

Response

The commission did not propose any changes for the process by which the commission sets Requests for Reconsideration for commission consideration. Following the end of the opportunity to request a contested case hearing or reconsideration of the executive director's initial decision, requests that have been received are set for commission consideration on the commission's agenda. This comment is outside the scope of this rulemaking, and no changes have been made in response to this comment.

Comment

Arcosa commented that the commission should maintain flexibility for routine amendments so that these are not unnecessarily delayed.

Response

The commission did not propose any changes to the processing of routine amendments. This comment is outside the scope of this rulemaking, and no changes have been made in response.

Comment

EIP supports hybrid meetings to include virtual options for public meetings and contested case hearings. EIP comments that 30 TAC §55.154(f) should be amended to require that TCEQ produce slides, meeting audio recordings, written transcripts and presentation materials on its website and/or by email immediately following each meeting's conclusion.

Response

The current rulemaking project did not propose to include any options for public meetings; therefore, this comment is beyond the scope of this rulemaking. Virtual contested case hearings are currently allowed by the State Office of Administrative Hearings but are also beyond the scope of the current rulemaking. Information provided at a public meeting by an applicant is not under the control of the commission. The commission does not make a visual recording of public meetings and therefore does not have visual recordings to post. The commission does make an audio recording of public meetings, and the audio recording of the formal portion of the public meeting is available on the commission's website within a few days of public meetings. No changes were made in response to this comment.

Comment

EIP comments that TCEQ should establish a fund by which community members may pay for necessary contested case costs.

Response

This comment is outside the scope of this rulemaking. The current rulemaking project does not address costs associated with contested case hearings. The commission does not have the statutory authority or the mandate to provide such a fund for the public. No changes were made in response to this comment.

Comment

EIP believes that TCEQ should expand the availability of Texas Pollutant Discharge Elimination System program (TPDES) permit application information to the public. EIP comments that TCEQ should make information available for all phases of TPDES permit issuance, including draft fact sheets or statements of basis.

Response

This comment is outside the scope of this rulemaking. The commission did not propose changes to the ways in which TPDES permit applications are reviewed that would include the requested changes. No changes were made in response to this comment.

Comment

EIP comments that all recordkeeping violations are relevant and should be addressed by TCEQ, even if through informal compliance. EIP states that it is essential that TCEQ revise its approach to penalty calculations to ensure that recordkeeping violations are penalized sufficiently.

Response

This rulemaking does not concern the development of compliance history or penalty calculations. This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

EIP urges TCEQ to consider compliance history in a comprehensive, holistic manner when determining whether permits should be renewed, modified, amended or otherwise changed and not to limit evaluations to immediate sites or current owners or operators.

Response

This comment is outside the scope of this rulemaking, which does not include consideration of how the agency uses compliance history when evaluating an application for a permit. No changes were made in response to this comment.

Comment

AGC of Texas requests that the commission affirm that air quality standard permits are "off-the-shelf" authorizations issued for specific, well-characterized classes of facilities; concrete batch plants are minor sources of emissions, and that plants operating in accordance with the terms and conditions of the standard permit (developed based on a conservative protectiveness review) are protecting human health and the environment; and the primary concerns expressed about these types of operations are land-use considerations that are beyond the authority of TCEQ, and, where there is local zoning, such concerns can and have been addressed locally.

Response

The proposed rule changes did not directly concern the review of air quality standard permits. The requirement to extend the comment period and opportunity to request a contested case hearing following a public meeting held on certain types of air quality permits, which includes an application for the registration to use the concrete batch plant standard permit, is a specific statutory requirement. There are no other air quality standard permit registrations that include a right to request a contested case hearing. No changes were made in response to this comment.

Comment

Better Brazoria commented that the agency should measure from the property boundary to the residence/school/place of worship when making distance determinations. Better Brazoria further states that one facility point is not sufficient representation of a concrete batch plant as they do not correspond to emission sources and plant equipment is subject to change.

Response

This comment is outside the scope of this rulemaking. The commission did not propose any changes to the process for how a person may request a contested case hearing or for the contents of those requests, including how distance is measured when evaluating those requests. No changes were made in response to this comment.

Comment

Better Brazoria comments that applicants in Harris County are abusing the requirement that notice should be published in a newspaper of general circulation as required by §39.603.

Response

This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

AAH commented that industry misuses public notice requirements to limit the exposure of information.

Response

This comment is outside the scope of this rulemaking. No changes were made in response to this comment.

Comment

TACA asked if the ED staff can put some discretion on that portion of the rulemaking to account for situations where the signs accidentally fell down or the signs were stolen or the signs were burned by wildfires or the signs were blown down from a tornado or from a hurricane. TACA's comments also expressed concern about leaving signs in place until final commission action on a permit application.

Response

Issues with signs that may go missing or be damaged by weather are issues that can be considered on a case-by-case basis. No changes were made in response to this comment. However, the commission did make changes to the sign-posting requirement in adopted §39.604(b) in response to comments to clarify that signs must remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must be posted at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission's intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application.

Comment

AGC of Texas opposes defining personal justiciable interest in proposed §55.103(3) since it is already included in the determination of an affected person and the new language expands the definition of justiciable too much.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

PAI commented that the new definition of "personal justiciable interest" adds limitations upon who may be considered an affected person that are not contained in statute and are inappropriate.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

PAI adds that the limitations on defining personal justiciable interest raise concerns for whether Texas programs would meet the minimum requirements to maintain delegated authority over certain federal programs such as the TPDES program.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

The Associations commented that they believe there is a risk of adding a definition for "personal justiciable interest" that has additional terms, which may unintentionally expand or restrict the agency's determination of an affected person compared to the statute.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

TIP requests that TCEQ decline to adopt proposed 30 TAC §55.103(3), which would define "personal justiciable interest" based on key concepts from Texas Water Code §5.115 but with additional terms.

Response

The purpose of this rulemaking is to implement statutory and sunset review requirements regarding TCEQ's public participation process. In response to comment, the proposed definition for this term is not being adopted, as commenters indicated that it would not provide additional clarity or guidance to the public.

Comment

In new §39.606(g) and (h) Better Brazoria suggests including express provisions on what may trigger a public meeting and further clarify by what measure the ED will determine whether substantial public interest is present.

Response

The commission rules include the provisions on when a public meeting may be held. The factors that determine substantial public interest can vary between media. The commission did not propose specific criteria to define these terms and is not making changes in adopted rules to address this concern. No changes were made in response to this comment.

Comment

Better Brazoria comments that public meetings should be held before and after the draft permit is completed and that an informal meeting during technical review would allow the public to propose suggestions to add to the permit and a second meeting would allow the public to formally comment on the draft permit.

Response

The commission did not propose to change the way in which it holds public meetings or to provide for a second meeting before the draft permit is prepared. The commission does not believe that holding such a second meeting before the technical review of the permit is completed would be a good use of agency resources and time. No changes were made in response to this comment.

Comment

AAH requests that the commission expand the authority to request a public meeting to any legislator.

Response

The requirement to hold a public meeting at the request of a member of the legislature who represents the general area in which the facility is located or proposed to be located is a statutory requirement found at THSC §382.056(k)(1) and TWC §5.554(1). The commission did not propose changes to this requirement in Chapter 39 or 55. No changes were made in response to this comment.

Comment

HCAO requests that §39.411(e)(14) not be deleted and suggests that regional offices should be required to keep compliance history files and provide physical access to those documents

Response

TCEQ regional offices often do not have the space or on-site personnel available to assist. Compliance files are no longer kept by the agency as hard copy files, only as electronic files that can be accessed by the public without going to the physical regional office. No changes were made in response to this comment.

Comment

HCAO asserts that a copy of the application should be made physically available to the public and disagrees with deleting that requirement in §39.1009(a)

Response

The deletion in §39.1009(a) for a location of the regional office to contact for information about where a physical copy of the application can be found does not remove the requirement for providing a hard copy of the application in a local physical location. The information about where a hard copy of the application can be found is still included in the notice of the application, which is both published and available online on the commission's website. Regional staff often do not have staff on-site who are fa-

miliar with all applications filed with the commission. No change was made in response to this comment.

Comment

AGC of Texas comments §39.405(g)(1)-(2) and §39.604(b) should be modified to provide that the application and signage should be made available only through the comment period and not through final commission action as proposed.

Response

Changes in adopted §§39.405(g)(1) and (2) and 39.604(b) were made in response to this comment. The initial application must now remain in place until replaced by the technically complete application and draft permit. The technically complete application and draft permit must remain in place for the remaining entirety of the comment period. Generally, the publication of the NAPD notifies the public of the availability of the technically complete application and draft permit. The technically complete application and draft permit must remain in place until the commission takes final action on the application or refers the application to the State Office of Administrative Hearings. If there is no requirement for a NAPD, then the application must remain in place through the publication's designated comment period. The signs must now be in place at the start of the comment period and remain must remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must go up at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission's intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application.

Comment

AGC of Texas opposes change in signage size in §39.604(a)(1) for the following reasons: current size is proficient for notifying the public; signs and notice are being supplemented by social media and local advocacy; safety concerns with traffic and visibility; changes may result in more variance requests to the agency; and the change is outside the recommendation of the legislature.

Response

In response to comment the commission is not making any changes to the size of required signs in the adopted rule.

Comment

The Associations comment that they oppose change in signage size in §39.604(a)(1) for the following reasons: practical issues; highly complex industrial facilities can have several concurrent permitting actions taking several months to years for final resolution, which will make it difficult for the public to readily understand and meaningfully engage if signs are posted after public comment periods close; maintain the current requirements for applicants to post signs only during the appropriate public comment periods at the same time as physical and electronic copies of the permit application are available to ensure the public can provide timely comments.

Response

In response to comment the commission is not making any changes to the size of required signs in the adopted rule. Changes in adopted §39.604(b) were made in response to this comment addressing the time period for signage posting. The

signs must now be in place at the start of the comment period and remain posted continuously, without interruption, until the end of the final comment period on a permit application. Thus, the signs must go up at the beginning of NORI and remain in place until completion of the final comment period following the final publication of the NAPD. This accomplishes the commission's intent that the public be informed of their opportunity to participate in the review of the permit application through the entirety of the time that the public is able to submit timely comments on the application.

Comment

TIP commented on the requirement for the increased size of signs in §39.604, stating that increasing the size of the font may not allow all the information to be on the signs. TIP comments that the large size may be difficult for major plants that have multiple signs, which is different than the signs in §39.510(b)(1), which are for inactive municipal solid waste permits. TIP comments that one possibility is to require some font to be larger for certain types of information.

Response

In response to comment the commission is not making any changes to the size of required signs in the adopted rule.

Comment

AGC of Texas asks that the commission consider consolidating all air quality permit related public notice rules under Chapter 39, Subchapter K.

Response

The adopted new §39.606 is intended to put existing public notice requirements in Chapter 39, Subchapter H also in Subchapter K to provide clarity for the public and regulated entities and to make it easier to find air-specific requirements. Therefore, the proposed and adopted rules have done this with the addition of new §39.606. Further consolidation and removing the air quality notice rules from Chapter 39, Subchapter H was not proposed by the commission and was not considered necessary for this rulemaking. No changes were made in response to this comment.

Comment

HHD generally supports the proposed changes and believes that the changes will provide multiple benefits. HHD also makes a suggestion that local compliance data be included in the permit review process, and that air monitoring data collected by local pollution control programs could be used to augment the permit approval process.

Response

The commission appreciates the support for the changes in this rulemaking. Compliance history and the use of monitoring data are issues outside the scope of this rulemaking. No change was made in response to this comment.

Comment

Better Brazoria agrees with the new proposed definitions in §39.1 and the new signage and notice requirements in §39.604(a)(1) and (b) and §39.510(b)(1).

Response

The commission appreciates the support for the rule changes. Although the commission did make some changes to §39.604

in response to other comments, no changes were made in response to this comment.

Comment

Better Brazoria recommends that the changes to Ch. 55 take effect as soon as possible and that an effective date of March 2026 seems reasonable.

Response

The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria generally agrees with embracing agency use of email but encourages more community outreach.

Response

The commission appreciates the support for the changes in this rulemaking. However, the commission is not finalizing changes requiring the use of agency email addresses in notices. Due to the potential for staff changes during the course of a permit review, it could lead to misunderstandings and incorrect available information if an email changes during the pendency of the permit action.

Comment

EIP comments that Operating Permits issued under Title V of the Clean Air Act should be electronically available to anyone wishing to learn more about them.

Response

This comment is outside the scope of this rulemaking. Title V permits are not the subject of the current rulemaking project; however, the commission notes that Title V permits under review and open for comment are available electronically on the commission's website. No changes were made in response to this comment.

Comment

Better Brazoria requested that the commission add additional language clarifying that any petition for judicial review should be filed 30 days after a motion for rehearing is decided since the concurrent timing is problematic.

Response

The statutory language of TWC §5.351 subsection (b) addresses this issue. Therefore, no rule changes are required. No changes were made in response to this comment.

Comment

Better Brazoria commented that as to the proposed changes in §§55.209(d) and (g), as long as the time frames are not being shortened, they agree with the changes.

Response

The time periods are not changing; only the way the time periods are explained in the rule language is changing. The commission appreciates the support for the changes in this rulemaking. No changes were made in response to this comment.

Comment

Better Brazoria states that all public notices should provide notice of where the facility is located or proposed to be located.

Response

This information is currently required in §§39.411(b)(3) and (e)(3). No changes were made in response to this comment.

Comment

EIP comments that the commission should remove all obsolete dates from Chapter 55.

Response

The commission notes that the dates EIP identified as obsolete rule language in this comment are not actually obsolete, as the commission is still actively reviewing permit applications that would be impacted. No changes were made in response to this comment.

SUBCHAPTER D. APPLICABILITY AND DEFINITIONS

30 TAC §55.103

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendments are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments are adopted under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules.

The rulemaking adoption implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

§55.103. *Definitions.*

The following words and terms, when used in Subchapters D - G of this chapter (relating to Applicability and Definitions; Public Comment and Public Meetings; Requests for Reconsideration or Contested Case Hearing; and Requests for Contested Case Hearing and Public Comment on Certain Applications) shall have the following meanings.

(1) **Affected person**--A person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

(A) The determination of whether a person is affected shall be governed by §55.203 of this title (relating to Determination of Affected Person), or, if applicable, under §55.256 of this title (relating to Determination of Affected Person).

(B) Notwithstanding any other law, a state agency, except a river authority, may not file a request for a contested case hearing or request for reconsideration, nor may it be considered an affected person or named a party, or otherwise contest an application for a permit or license received by the commission on or after September 1, 2011 unless the state agency is the applicant.

(C) For an air quality standard permit for a concrete batch plant, only a person actually residing within 440 yards of the proposed plant may be an affected person

(2) **Contested case hearing**--A proceeding, including occupational licensing hearings, in which the legal rights, duties, or privileges of a person are determined by a state agency after an opportunity for adjudicative hearing.

(3) **Motion to overturn**--A request for the commission to overturn a final decision made by the executive director under §50.139 of this title (relating to Motion to Overturn the Executive Director's Decision).

(4) **Motion for rehearing**--A request for the commission to reconsider its final decision on a permit application under §50.119 of this title (relating to Notice of Commission Action, Motion for Rehearing) and §80.272 of this title (relating to Motion for Rehearing).

(5) **Public meeting**--A meeting held under §55.154 of this title (relating to Public Meetings) that is intended for the taking of public comments. A public meeting is not a contested case hearing.

(6) **Request for reconsideration**--A request that the commission reconsider the decision of the executive director on a permit application.

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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Texas Commission on Environmental Quality

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SUBCHAPTER E. PUBLIC COMMENT AND PUBLIC MEETINGS

30 TAC §§55.152, 55.154, 55.156

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendments are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments are adopted under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; and the Federal Clean Air Act, 42 United States Code, §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state.

The rulemaking adoption implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

§55.152. Public Comment Period.

(a) Public comments must be filed with the chief clerk within the time period specified in the notice. The public comment period shall end 30 days after the last publication of the Notice of Application and Preliminary Decision, except that the time period shall end:

(1) 30 days after the last publication of Notice of Receipt of Application and Intent to Obtain Permit under §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit), or 30 days after Notice of Application and Preliminary Decision if a second notice is required under §39.419 of this title (relating to Notice of Application and Preliminary Decision), for an air quality permit application not otherwise specified in this section;

(2) 30 days after the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice

of Application and Preliminary Decision under §39.603 of this title (relating to Newspaper Notice) for a registration for a concrete batch plant under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits), unless the plant is to be temporarily located in or contiguous to the right-of-way of a public works project;

(3) 30 days after the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision under §39.603 of this title for an application for a new permit or permit amendment under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits);

(4) 15 days after the last publication of Notice of Receipt of Application and Intent to Obtain Permit under §39.418 of this title, or 30 days after Notice of Application and Preliminary Decision if a second notice is required under §39.419 of this title, for a permit renewal under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);

(5) 45 days after the last publication of the notice of Application and Preliminary Decision for an application for a hazardous waste facility permit, or to amend, extend, or renew or to obtain a Class 3 Modification of such a permit, or 30 days after the publication of Notice of Application and Preliminary Decision for Class 3 modifications of non-hazardous industrial solid waste permits;

(6) 30 days after the mailing of the notice of draft production area authorization under Chapter 331 of this title (relating to Underground Injection Control);

(7) the time specified in commission rules for other specific types of applications; or

(8) as extended by the executive director for good cause.

(b) The public comment period shall automatically be extended if a public meeting is held:

(1) to at least the close of any public meeting for permit applications; and

(2) for at least 36 hours following the close of any public meeting for air quality permit applications with a consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision that are received by the executive director on or after March 1, 2026.

(c) Timely comments are those received by the Office of the Chief Clerk by the end of the comment period.

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 F. REQUESTS FOR RECONSIDERATION OR CONTESTED CASE HEARING

30 TAC §§55.200, 55.201, 55.203, 55.209 - 55.211

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air; and THSC, §382.059, which authorized certain permit applications to be filed prior to September 1, 2001. In addition, the amendments are adopted under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking adoption implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024 and §382.011.

§55.201. *Requests for Reconsideration or Contested Case Hearing.*

(a) A request for reconsideration or contested case hearing must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director's decision and response to comments and provides instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing.

(b) The following may request a contested case hearing under this chapter:

- (1) the commission;
- (2) the executive director;
- (3) the applicant; and
- (4) affected persons, when authorized by law.

(c) A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided by subsection (a) of this section, may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment, and, for

applications filed on or after September 1, 2015, must be based only on the requester's timely comments.

(d) A hearing request must substantially comply with the following:

(1) give the name, address, daytime telephone number, and, where possible, a valid email address of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, a valid email address, who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

(3) request a contested case hearing;

(4) for applications filed:

(A) before September 1, 2015, list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to comments that the requester disputes and the factual basis of the dispute and list any disputed issues of law or policy; or

(B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requester during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to the requester's comments that the requester disputes, the factual basis of the dispute, and list any disputed issues of law; and

(5) provide any other information specified in the public notice of application.

(e) Any person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license as set forth in §55.103 of this title (relating to Definitions), may file a request for reconsideration of the executive director's decision. The request must be in writing and be filed by United States mail, facsimile, or hand delivery with the chief clerk within the time provided by subsection (a) of this section. The request should also contain the name, address, daytime telephone number, and, where possible, a valid email address of the person who files the request. The request for reconsideration must expressly state that the person is requesting reconsideration of the executive director's decision and give reasons why the decision should be reconsidered.

(f) Documents that are filed with the chief clerk before the public comment deadline that comment on an application but do not request reconsideration or a contested case hearing shall be treated as public comment.

(g) Procedures for late filed public comments, requests for reconsideration, or contested case hearing are as follows.

(1) A request for reconsideration or contested case hearing, or public comment shall be processed under §55.209 of this title (relating to Processing Requests for Reconsideration and Contested Case

Hearing) or under §55.156 of this title (relating to Public Comment Processing), respectively, if it is filed by the deadline. The chief clerk shall accept a request for reconsideration or contested case hearing, or public comment that is filed after the deadline, but the chief clerk shall not process it. The chief clerk shall place the late documents in the application file.

(2) The commission may extend the time allowed to file a request for reconsideration, or a request for a contested case hearing.

(h) Any person, except the applicant, the executive director, the public interest counsel, and a state agency that is prohibited by law from contesting the issuance of a permit or license as set forth in §55.103 of this title, who was provided notice as required under Chapter 39 of this title (relating to Public Notice) but who failed to file timely public comment, failed to file a timely hearing request, failed to participate in the public meeting held under §55.154 of this title (relating to Public Meetings), and failed to participate in the contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings) may file a motion for rehearing under §50.119 of this title (relating to Notice of Commission Action, Motion for Rehearing), or §80.272 of this title (relating to Motion for Rehearing) or may file a motion to overturn the executive director's decision under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) only to the extent of the changes from the draft permit to the final permit decision.

(i) Applications for which there is no right to a contested case hearing include:

(1) a minor amendment or minor modification of a permit under Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits);

(2) a Class 1 or Class 2 modification of a permit under Chapter 305, Subchapter D of this title;

(3) any air permit application for the following:

(A) initial issuance of an electric generating facility permit;

(B) permits issued under Chapter 122 of this title (relating to Federal Operating Permits Program);

(C) a permit issued under Chapter 116, Subchapter B, Division 6 of this title (relating to Prevention of Significant Deterioration Review) that would authorize only emissions of greenhouse gases as defined in §101.1 of this title (relating to Definitions); or

(D) amendment, modification, or renewal of an air application that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. The commission may hold a contested case hearing if the application involves a facility for which the applicant's compliance history contains violations that are unresolved and that constitute a recurring pattern of egregious conduct that demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations;

(4) hazardous waste permit renewals under §305.65(8) of this title (relating to Renewal);

(5) an application, under Texas Water Code, Chapter 26, to renew or amend a permit if:

(A) the applicant is not applying to:

(i) increase significantly the quantity of waste authorized to be discharged; or

(ii) change materially the pattern or place of discharge;

(B) the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;

(C) any required opportunity for public meeting has been given;

(D) consultation and response to all timely received and significant public comment has been given; and

(E) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit;

(6) an application for a Class I injection well permit used only for the disposal of nonhazardous brine produced by a desalination operation or nonhazardous drinking water treatment residuals under Texas Water Code, §27.021, concerning Permit for Disposal of Brine from Desalination Operations or of Drinking Water Treatment Residuals in Class I Injection Wells;

(7) the issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit, or the authorization for the use of an injection well under a general permit under Texas Water Code, §27.025, concerning General Permit Authorizing Use of Class I Injection Well to Inject Nonhazardous Brine from Desalination Operations or Nonhazardous Drinking Water Treatment Residuals;

(8) an application for a permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions), if the application was submitted on or before January 1, 2018;

(9) other types of applications where a contested case hearing request has been filed, but no opportunity for hearing is provided by law; and

(10) an application for a production area authorization, except as provided in accordance with §331.108 of this title (relating to Opportunity for a Contested Case Hearing on a Production Area Authorization Application).

§55.209. Processing Requests for Reconsideration and Contested Case Hearing.

(a) This section and §55.211 of this title (relating to Commission Action on Requests for Reconsideration or Contested Case Hearing) apply only to requests for reconsideration and contested case hearing that are timely filed.

(b) After the final deadline to submit requests for reconsideration or contested case hearing, the chief clerk shall process any requests for reconsideration or hearing by both:

(1) referring the application and requests for reconsideration or contested case hearing to the alternative dispute resolution director. The alternative dispute resolution director shall try to resolve any dispute between the applicant and the requesters; and

(2) scheduling the hearing request and request for reconsideration for a commission meeting. However, if only a request for reconsideration is submitted and the commission has delegated its authority to act on the request to the general counsel, the request for reconsideration shall be scheduled for a commission meeting only if the general counsel directs the chief clerk to do so. The chief clerk should try to schedule the requests for a commission meeting that will be held approximately 44 days after the final deadline for timely filed requests for reconsideration or contested case hearing.

(c) The chief clerk shall mail notice to the applicant, executive director, public interest counsel, and all timely commenters and requesters at least 35 days before the first meeting at which the commission considers the requests. The notice shall explain how to participate in the commission decision, describe alternative dispute resolution under commission rules, and explain the relevant requirements of this chapter.

(d) The executive director, the public interest counsel, and the applicant may submit written responses to the requests no later than 12 days after the chief clerk mails notice of the first meeting at which the commission will consider the hearing request, unless extended by the general counsel. Each party shall file its response with the chief clerk. On the same day, each party shall serve the executive director, the public interest counsel, the director of the External Relations Division, the applicant, and any requesters its response or notice that its response is available electronically on the commission's website along with instructions for accessing the responses or requesting a mailed copy.

(e) Responses to hearing requests must specifically address:

- (1) whether the requester is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

(f) Responses to requests for reconsideration should address the issues raised in the request.

(g) The requesters may submit written replies to a response no later than 26 days after the chief clerk mails notice of the first meeting at which the commission will consider the request for reconsideration and the hearing request, unless extended by the general counsel. The requester shall file a reply with the chief clerk. On the same day, the requester shall serve to the executive director, the public interest counsel, and the applicant its reply or notice that its reply is available electronically on the commission's website.

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

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For further information, please call: (512) 239-2678



SUBCHAPTER G. REQUESTS FOR CONTESTED CASE HEARING AND PUBLIC COMMENT ON CERTAIN APPLICATIONS

30 TAC §§55.250, 55.251, 55.254

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. In addition, the amendments are adopted under Texas Government Code, §2001.004, which requires state agencies to adopt procedural rules.

The rulemaking adoption implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024 and §382.011.

§55.251. *Requests for Contested Case Hearing, Public Comment.*

(a) The following may request a contested case hearing under this section:

- (1) the commission;
- (2) the executive director;
- (3) the applicant; and
- (4) affected persons, when authorized by law.

(b) A request for a contested case hearing by an affected person must be in writing and be filed by United States mail, facsimile, or hand delivery with the chief clerk within the time provided by subsection (d) of this section.

(c) A hearing request must substantially comply with the following:

(1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number and, where possible, a valid email address, who shall be responsible for receiving all official communications and documents for the group.

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the activity that is the subject of the application and

how and why the requester believes he or she will be affected by the activity in a manner not common to members of the general public;

(3) request a contested case hearing; and

(4) provide any other information specified in the public notice of application.

(d) Deadline for hearing requests; public comment period. A hearing request must be filed with the chief clerk within the time period specified in the notice. The public comment period shall also end at the end of this time period. The time period shall end as specified in §55.152 of this title (relating to Public Comment Period).

(e) Documents that are filed with the chief clerk that comment on an application but that do not request a hearing will be treated as public comment.

(f) Late filed hearing requests and public comment, extensions.

(1) A hearing request or public comment shall be processed under §55.254 of this title (relating to Hearing Request Processing) or under §55.253 of this title (relating to Public Comment Processing), respectively, if it is filed by the deadline for hearing requests and public comment. The chief clerk shall accept a hearing request or public comment that is filed after the deadline but the chief clerk shall not process it. The chief clerk shall place the late documents in the file for the application.

(2) The commission may extend the time allowed for filing public comments or a hearing request.

§55.254. Hearing Request Processing.

(a) The requirements in this section and §55.255 of this title (relating to Commission Action on Hearing Request) apply only to hearing requests that are filed within the time period specified in §55.251(d) of this title (relating to Requests for Contested Case Hearing, Public Comment).

(b) The executive director shall file a statement with the chief clerk indicating that technical review of the application is complete. The executive director will file the statement with the chief clerk either before or after public notice of the application is issued.

(c) After a hearing request is filed and the executive director has filed a statement that technical review of the application is complete, the chief clerk shall process the hearing request by both:

(1) referring the application and hearing request to the alternative dispute resolution director. The alternative dispute resolution director shall try to resolve any dispute between the applicant and the person making the request for hearing; and

(2) scheduling the hearing request for a commission meeting. The chief clerk shall attempt to schedule the request for a commission meeting that will be held approximately 44 days after the later of the following:

(A) the deadline to request a hearing specified in the public notice of the application; or

(B) the date the executive director filed the statement that technical review is complete.

(d) The chief clerk shall mail notice to the applicant, executive director, public interest counsel, and the persons making a timely hearing request at least 35 days before the first meeting at which the commission considers the request. The chief clerk shall explain how the person may submit public comment to the executive director, describe alternative dispute resolution under commission rules, explain

that the agency may hold a public meeting, and explain the requirements of this chapter.

(e) The executive director, the public interest counsel, and the applicant may submit written responses to the hearing request no later than 12 days after the chief clerk mails notice of the first meeting at which the commission will consider the hearing request, unless extended by the general counsel. Each party shall file its response with the chief clerk. On the same day, each party shall serve the applicant, the executive director, the public interest counsel, the External Relations Division, and any persons filing hearing requests its response or notice that its response is available electronically on the commission's website along with instructions for accessing the responses and requesting a mailed copy.

(f) The person who filed the hearing request may submit a written reply to a response no later than 26 days after the chief clerk mails notice of the first meeting at which the commission will consider the hearing request, unless extended by the general counsel. A reply may also contain additional information responding to the letter by the chief clerk required by subsection (d) of this section. The requester shall file its reply with the chief clerk. On the same day, the requester shall serve to the executive director, the public interest counsel, and the applicant its reply or notice that its reply is available electronically on the commission's website.

(g) The executive director or the applicant may file a request with the chief clerk that the application be sent directly to the State Office of Administrative Hearings (SOAH) for a hearing on the application. If a request is filed under this subsection, the commission's scheduled consideration of the hearing request will be canceled. An application may only be sent to SOAH under this subsection if the executive director, the applicant, the public interest counsel, and all timely hearing requesters agree on a list of issues and a maximum expected duration of the hearing.

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 29, 2026.

TRD-202600362
Amy L. Browning
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Effective date: February 18, 2026
Proposal publication date: August 8, 2025
For further information, please call: (512) 239-2678

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)

SUBCHAPTER D. CLAIMS PROCESSING--PAYROLL

34 TAC §§5.40, 5.41, 5.48

The Comptroller of Public Accounts adopts amendments to §5.40, concerning overpayments and underpayments of compensation, §5.41, concerning payroll requirements, and §5.48, concerning deductions for contributions to charitable organizations, without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5595). The rules will not be republished.

The amendments to §5.40 reformat the definitions listed in subsections (a), (b), and (c) to conform with other definitions in Chapter 5; add a definition of "CAPPS" (Centralized Accounting, Payroll and Personnel System) in new subsection (b)(1)(A); delete the definition of "USPS" (Uniform Statewide Payroll System) in subsection (b)(1)(N) and the reference to USPS in subsection (b)(3)(B) because USPS is no longer used by the comptroller; and add a reference to CAPPS in subsection (b)(3)(B) because CAPPS replaces the functions of USPS as it relates to this subsection.

The amendments to §5.41 alphabetize the definitions in subsection (a) for ease of use; delete the definitions of "appropriation year," "fiscal year," "standard work schedule" and "non-standard work schedule" because these terms either do not appear anywhere else in this section or will not appear anywhere else in this section if these amendments become effective; add a definition of "comptroller" in new subsection (a)(4); delete the definition of "USPS" in subsection (a)(16) and all references to "USPS" in subsections (c), (h), (i), (l), (m), and (n) because USPS is no longer used by the comptroller; change "Comptroller of Public Accounts" to "comptroller" in subsection (a)(6) to use the defined term; shorten the deadline by which a payroll document must be received by the comptroller if a state agency wants to pick up its warrants before payday under a bailment contract the agency has executed with the comptroller in subsection (c)(2)(A), from seven workdays to one workday before the day on which the agency wants to pick up the warrants because our current business process has improved; substitute "CAPPS" for references to "USPS" in subsections (n)(2) and (n)(2)(A) because CAPPS replaces the functions of USPS as it relates to this subsection; delete "or to use the payroll and personnel components of CAPPS" as a conforming change in subsection (n)(2)(B); update the title to §5.46 in subsection (r)(1)(A), the statutory reference and title for the State University Employees Uniform Insurance Benefits Act in subsection (r)(3)(N), and the reference to the Judicial Retirement System of Texas Plan One and Plan Two in subsection (r)(3)(T); delete the Department of Assistive and Rehabilitative Services from the list of authorized payroll deductions in subsection (r)(3)(R) because this agency no longer exists; and add the Texas School for the Deaf and the Texas School for the Blind and Visually Impaired to the list of authorized payroll deductions in subsection (r)(3)(R) in compliance with Vernon's Civil Statutes, Art. 6228a-5.

The amendments to §5.48 delete the definitions of "direct services" and "indirect services" in subsections (a)(9) and (a)(19) respectively because these terms are no longer used in this section; correct the statutory reference in subsection (a)(35) to Government Code, Chapter 659, Subchapter I; delete the definition of "uniform statewide payroll/personnel system" in subsection (a)(38) because this system is no longer used by the comptroller; update the language in subsections (b)(1)(E)(i) and (e)(2) regarding the first day a state agency, other than an institution of higher education, is required to permit its state employees to authorize a deduction to mirror the language in Government Code, Section 659.132 regarding authorized deductions; change "generic materials" to "generic campaign

materials" in subsection (n)(2)(K) to use the defined term; and correct a typographical error in subsection (y)(1).

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments to §5.40 are adopted under Government Code, §659.006, which requires the comptroller by rule to prescribe procedures for state agencies to follow in making adjustments to payrolls for the pay period immediately following the period in which an inaccurate payment or deduction is made or in which other error occurs. The amendments are also adopted under Government Code, §666.008, which authorizes the comptroller to adopt rules and establish procedures to administer Government Code, Chapter 666, regarding recovering excess compensation paid to a state officer or employee.

The amendments to §5.41 are adopted under Government Code, §659.004(b), which authorizes the comptroller, in consultation with the state auditor, to adopt rule that prescribe uniform procedures for payroll and personnel reporting. The comptroller has consulted with the state auditor regarding the amendments to §5.41 as required by Government Code, §659.004(b).

The amendments to §5.48 are adopted under Government Code, §659.142(d), which requires the comptroller to adopt rules for the administration of Government Code, Chapter 659, Subchapter I regarding charitable contributions, with the advice of the State Employee Charitable Campaign Advisory Committee (State Advisory Committee). The comptroller provided a copy of the proposed amendments to Section 5.48 to the State Advisory Committee and has received their response.

The amendments to §5.40 implement Government Code, §659.006 and Government Code, Chapter 666.

The amendments to §5.41 implement Government Code, §659.004 regarding payroll and personnel reporting.

The amendments to §5.48 implement Government Code, Chapter 659, Subchapter I.

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 28, 2026.

TRD-202600336

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

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



SUBCHAPTER F. CLAIMS PROCESSING-- GENERAL REQUIREMENTS

34 TAC §5.61

The Comptroller of Public Accounts adopts amendments to §5.61, concerning approval and certification of certain payment, SPRS, and USPS documents, without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5616). The rule will not be republished.

The amendments to §5.61 delete all references to "USPS" (Uniform Statewide Payroll/Personnel System) throughout this section because USPS is no longer used by the comptroller.

The amendments to subsection (a) alphabetize the definitions for ease of use; delete the definition of "appropriation year" in paragraph (1) because the term does not appear anywhere else in this section; change "comptroller of public accounts" to "Comptroller of Public Accounts" in paragraph (4) to format the term the same as it is formatted in other sections of Chapter 5; and delete the definitions of "USPS" and "USPS document" in paragraphs (18) and (19) respectively because USPS is no longer used by the comptroller.

The amendments to subsection (i) shorten from ten days to five days the deadline by which the comptroller must receive written notice of a revocation by a governing body of an authorization of a presiding officer or executive director to designate individuals to approve the agency's payment and SPRS documents in paragraph (1)(B), and the deadline by which the comptroller must receive written notice of a revocation by a head of agency of the authorization of a chief deputy to designate individuals to approve the agency's payment and SPRS documents in paragraph (2)(A) because modern communication methods, such as email, can be used to provide faster notice than was available when this section was written, preventing an individual from approving, or designating others from approving, the agency's payment and SPRS documents after the individual's authorization has been revoked.

The amendments to subsection (k) shorten from ten days to five days the deadline in paragraphs (1)(D) and (2)(C) by which the comptroller must receive written notice of a revocation of the designation of an individual to approve payment and SPRS document if the individual does not have a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment; set forth a process in new paragraphs (1)(E) and (2)(D) for notifying the comptroller of the revocation of the designation of an individual to approve payment and SPRS documents if the individual has a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment and SPRS documents, and describe the process, in paragraph (3)(B) and new paragraph (3)(C), for notifying the comptroller of the revocation of an individual's authority to approve payment and SPRS documents if the individual's employment has been terminated because modern communication methods, such as email, can be used to provide faster notice than was available when this section was written, preventing an individual from approving, or designating others to approve, the agency's payment and SPRS documents after the individual's authorization has been revoked.

The amendments to subsection (o) change the Penal Code reference in paragraph (5) from "§33.02(b)" to "§33.02" to correct the statutory reference.

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments are adopted under Government Code, §2101.035(a), which authorizes the comptroller to adopt procedures and rules for the effective operation of the uniform statewide accounting system. The amendments are also adopted under Government Code, §2103.032(a), which authorizes the comptroller by rule to establish a system for state agencies to submit and approve vouchers electronically if the

comptroller determines that the system will facilitate the operation and administration of the uniform statewide accounting system.

The amendments implement Government Code, §2101.035 regarding administration of USAS and §2103.032 regarding approval and submission of vouchers.

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 28, 2026.

TRD-202600338

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

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



SUBCHAPTER L. CLAIMS PROCESSING-- REPLACEMENT PAYMENTS

34 TAC §5.140

The Comptroller of Public Accounts adopts amendments to §5.140, concerning replacement payments, without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5626). The rule will not be republished.

The amendments to subsection (a) change "comptroller of public accounts" to "comptroller" in subsection (a)(9)(A) to use the defined term and delete "the Uniform Statewide Payroll/Personnel System" from the definition of "statewide accounting system" in subsection (a)(10) because this system is no longer used by the comptroller.

The amendments also correct references to Labor Code, Chapter 210, in subsections (e)(1), (e)(2), and (g)(3).

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments are adopted under Government Code, §403.016(f) and §403.054(h), which require the comptroller to adopt rules regarding electronic funds transfer and the issuance of replacement warrants.

The amendments implement Government Code, §403.016 regarding electronic funds transfers and §403.054 regarding replacement warrants.

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 28, 2026.

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Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

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**SUBCHAPTER O. UNIFORM STATEWIDE
ACCOUNTING SYSTEM**

34 TAC §5.210

The Comptroller of Public Accounts adopts amendments to §5.210 regarding uniform statewide accounting system, without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5628). The rule will not be republished.

The amendments to subsection (b) alphabetize the definitions for ease of use; update the definition of "Individual Accounting and/or Payroll System" to clarify that this system is not a direct component of the uniform statewide accounting system, but this system must report to it; delete the definition of "USPS" (Uniform Statewide Payroll/Personnel System) and delete the reference to "USPS" from the definition of "SPRS" (Standardized Payroll/Personnel Reporting System) because USPS is no longer used by the comptroller.

The amendments to subsection (c) delete the reference to "USPS" because USPS is no longer used by the comptroller, and change "comptroller" to "the comptroller" in paragraph (2) to correct a typographical error.

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments are adopted under Government Code, §2101.035(a) and §2101.036(a), which authorize the comptroller to adopt procedures and rules for the effective operation of the uniform statewide accounting system and adopt rules related to state agency internal accounting systems.

The amendments implement Government Code, §2101.035 regarding the uniform statewide accounting system, and Government Code, §2101.036 regarding state agency internal accounting systems.

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 28, 2026.

TRD-202600341

Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

**PART 5. TEXAS BOARD OF PARDONS
AND PAROLES**

**CHAPTER 143. EXECUTIVE CLEMENCY
SUBCHAPTER A. FULL PARDON AND
RESTORATION OF RIGHTS OF CITIZENSHIP**

37 TAC §143.11

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 143, Subchapter A, §143.11, concerning full pardon and restoration of rights of citizenship. The amendments are adopted with changes to the proposed text as published in the November 14, 2025, edition of the *Texas Register* (50 TexReg 7410). The amendments are adopted to provide edits for sentence structure, and for uniformity and consistency throughout the rules. The text of the rule will be republished.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Article 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.11. Request of the Governor.

The Board shall consider a recommendation for a full pardon and, if applicable, request for restoration of firearm rights in any case upon the request of the Governor as authorized by Government Code, Section 508.050.

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 27, 2026.

TRD-202600319

Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
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Proposal publication date: November 14, 2025
For further information, please call: (512) 406-5309

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**SUBCHAPTER D. REPRIEVE FROM
EXECUTION**

37 TAC §143.42

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 143, Subchapter D, concerning reprieve from execution, §143.42. The amendments are adopted with

changes to the proposed text as published in the November 14, 2025, edition of the *Texas Register* (50 TexReg 7411). The amendments are adopted to provide edits for grammar, uniformity and consistency throughout the rules, and to reiterate the Governor's statutory authority regarding reprieves. The text of the rule will be republished.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Article 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.42. Reprieve Recommended by the Board.

The Board will consider a reprieve of execution from death sentence upon receipt of a written application on behalf of an offender. The individual filing such application, if other than the offender, may be required to demonstrate that the individual is authorized by the offender to file such application. Any such application shall be addressed to the Texas Board of Pardons and Paroles and contain the following information:

- (1) the name of the applicant, execution number, together with any other pertinent identifying information;
- (2) identification of the applicant's agents, if any, who are presenting the application;
- (3) certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date, if said information is not contained in the sentence;
- (4) a brief statement of the offense for which the offender has been sentenced to death;
- (5) a brief statement of the appellate history of the case, including its current status;
- (6) a brief statement of the legal issues which have been raised during the judicial progress of the case;
- (7) the requested length of duration of the reprieve, which shall be in increments of 30 days in accordance with the governor's statutory authority to grant one 30-day reprieve, unless a different duration is requested upon the basis of the grounds for the application set forth pursuant to paragraph (8) of this section; and,
- (8) all grounds upon the basis of which the reprieve is requested; provided that such grounds shall not call upon the Board to decide technical questions of law which are properly presented via the judicial process.

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 27, 2026.

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Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
Effective date: February 16, 2026
Proposal publication date: November 14, 2025
For further information, please call: (512) 406-5309



SUBCHAPTER E. COMMUTATION OF SENTENCE

37 TAC §143.54, §143.58

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 143, Subchapter E, concerning commutation of sentence, §143.54 and §143.58. The amendments are adopted without change to the proposed text as published in the November 14, 2025, edition of the *Texas Register* (50 TexReg 7411). The amendments are adopted to provide edits for grammar, and for uniformity and consistency throughout the rules. The text of the rules will not be republished.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Article 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

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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TRD-202600321
Richard Gamboa
Technical Writer
Texas Board of Pardons and Paroles
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Proposal publication date: November 14, 2025
For further information, please call: (512) 406-5309



SUBCHAPTER F. REMISSION OF FINES AND FORFEITURES

37 TAC §143.72, §143.74

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 143, Subchapter F, concerning remission of fines and forfeitures, §143.72 and §143.74. The amendments are adopted without change to the proposed text as published in the November 14, 2025, edition of the *Texas Register* (50 TexReg 7413). The amendments are adopted to provide edits for clarity, and for uniformity and consistency throughout the rules. The text of the rules will not be republished.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Article 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

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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TRD-202600322

Richard Gamboa

Technical Writer

Texas Board of Pardons and Paroles

Effective date: February 16, 2026

Proposal publication date: November 14, 2025

For further information, please call: (512) 406-5309



SUBCHAPTER G. RESTORATION OF DRIVER'S LICENSE

37 TAC §143.81

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 143, Subchapter G, concerning restoration

of driver's license, §143.81. The amendments are adopted without change to the proposed text as published in the November 14, 2025, edition of the *Texas Register* (50 TexReg 7414). The amendments are adopted to provide edits for sentence structure. The text of the rule will not be republished.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under the Texas Constitution, Article 4, Section 11, and the Code of Criminal Procedure, Article 48.01 and Article 48.03. Article 4, Section 11, Texas Constitution authorizes the Board to make clemency recommendations to the Governor. Article 48.01 and Article 48.03, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

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 27, 2026.

TRD-202600323

Richard Gamboa

Technical Writer

Texas Board of Pardons and Paroles

Effective date: February 16, 2026

Proposal publication date: November 14, 2025

For further information, please call: (512) 406-5309





REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Texas Department of Transportation

Title 43, Part 1

Notice of Intention to Review

In accordance with Government Code, §2001.039, the Texas Department of Transportation (department) files this notice of intention to review Title 43 TAC, Part 1, Chapter 10, *Ethical Conduct by Entities Doing Business with the Department*, and Chapter 11, *Design*, Chapter 12, *Public Donation and Participation Program*, Chapter 13, *Materials Quality*, Chapter 15, *Financing and Construction of Transportation Projects*, Chapter 16, *Planning and Development of Transportation Projects*, Chapter 21, *Right of Way*, Chapter 22, *Use of State Property*.

The department will accept comments regarding whether the reasons for adopting these rules continue to exist. Comments regarding this rule review may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Rule Review." The deadline for receipt of comments is 5:00 p.m. on *March 16, 2026*.

In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

TRD-202600373

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: January 29, 2026



Adopted Rule Reviews

Commission on State Emergency Communications

Title 1, Part 12

In accordance with Texas Government Code §2001.039, the Commission on State Emergency Communications (CSEC) has concluded its review of the rules in Title 1, Part 12, Texas Administrative Code, Chapter 252, *Administration*. The notice of proposed rule review was published in the August 15, 2025 issue of the *Texas Register* (50 TexReg 5345).

No comments were received regarding CSEC's notice of review.

CSEC has determined the reasons for adopting the rules continue to exist with the exception of rule 252.4. Furthermore, the review process indicated that rules 252.2 – 252.3 and 252.5 – 252.9 needed amendments to update the rules to reduce inefficiency, be more consistent with relevant statutes, update the agency's procedures, reflect current terminology in the industry, and improve clarity. Accordingly, CSEC adopts with amendments 1 TAC §§252.2 – 252.3 and 252.5 – 252.9, as proposed in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7785) and adopted elsewhere in this issue of the *Texas Register*, repeals 1 TAC §252.4, as proposed in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7791) and adopted elsewhere in this issue of the *Texas Register*, and readopts without amendment 1 TAC §252.1.

TRD-202600384

Kenny Moreland

General Counsel

Commission on State Emergency Communications

Filed: January 29, 2026



In accordance with Texas Government Code §2001.039, the Commission on State Emergency Communications (CSEC) has concluded its review of the rules in Title 1, Part 12, Texas Administrative Code, Chapter 253, *Practice and Procedure*. The notice of proposed rule review was published in the August 15, 2025 issue of the *Texas Register* (50 TexReg 5345).

No comments were received regarding CSEC's notice of review.

CSEC has determined the reasons for adopting the rules continue to exist. Furthermore, the review process indicated that rules 253.1 and 253.3 – 253.5 needed amendments to update, simplify, and clarify the agency's procedures regarding petitions for rulemaking, protest procedures, negotiated rulemaking, and enhanced contract and performance monitoring. Accordingly, CSEC adopts with amendments 1 TAC §§253.1 and 253.3 – 253.5, as proposed in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7792) and adopted elsewhere in this issue of the *Texas Register*, and readopts without amendment 1 TAC §253.2.

TRD-202600385

Kenny Moreland

General Counsel

Commission on State Emergency Communications

Filed: January 29, 2026



Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review 19 TAC Chapter 151, Commissioner's Rules Concerning Passing Standards for Educator Certification Examinations, pursuant to Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 151 in the October 17, 2025 issue of the *Texas Register* (50 TexReg 6887).

Relating to the review of 19 TAC Chapter 151, TEA finds that the reasons for adopting these rules continue to exist and readopts the rules.

TEA received no comments related to the review of Chapter 151.

At a later date, TEA plans to add passing standards for new exams.

This concludes the review of Chapter 151.

TRD-202600393

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: January 30, 2026



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 104, Children Participating in Rodeos

Notice of the review of this chapter was published in the November 28, 2025, issue of the *Texas Register* (50 TexReg 7739). HHSC received no comments concerning this chapter.

DSHS has reviewed Chapter 104 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 104. Any amendments, if applicable, to Chapter 104 identified by DSHS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DSHS's review of 25 TAC Chapter 104 as required by Texas Government Code §2001.039.

TRD-202600386

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: January 30, 2026

Texas Workforce Commission

Title 40, Part 20

The Texas Workforce Commission (TWC) adopts the review of Chapter 806, Purchases of Products and Services from People with Disabilities, in accordance with Texas Government Code, §2001.039. The proposed notice of intent to review rules was published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7343).

During the review, TWC determined that Chapter 806, Subchapter J, Transition and Retention Plans, is obsolete and no longer needed, because the subchapter expired on September 1, 2023, and therefore should be repealed.

PUBLIC COMMENTS

The public comment period closed on December 8, 2025. TWC received comments from East Texas Lighthouse for the Blind and an ability rights advocate, KJH Consultant Services.

COMMENT: Both commenters expressed support for the Purchasing from People with Disabilities program. One of the commenters provided recommendations for strengthening the rules.

RESPONSE: The Commission appreciates the comments and support for the program. The commenter's recommendations are beyond the scope of this rule review project. This project's scope is to determine whether the reasons for adopting the rules in Chapter 806 continue to exist. TWC will, however, take the comments into consideration when determining whether any amendments to the rules are warranted in future rulemaking projects.

TWC has assessed and determined that the reasons for adopting the rules continue to exist and therefore readopts Chapter 806, Purchases of Products and Services from People with Disabilities. As a result of the review, Chapter 806, Subchapter J, will be repealed in a future agency rulemaking.

TRD-202600495

Les Trobman

General Counsel

Texas Workforce Commission

Filed: February 3, 2026



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of the Attorney General

Texas Water Code and Texas Healthy and Safety Code
Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code and the Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to Section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. Blackhorn Environmental Services, LLC*; Cause No. D-1-GN-22-001858; in the 459th Judicial District Court, Travis County, Texas.

Background: Blackhorn Environmental Services, LLC (Blackhorn) owns and operates an oil and gas waste disposal facility in Orange Grove, Jim Wells County, Texas. Blackhorn holds permits issued by the Texas Commission on Environmental Quality (TCEQ) and the Railroad Commission. The State filed suit against Blackhorn for its alleged unauthorized processing, disposal, and injection of TCEQ-regulated solid waste, discharging unauthorized air emissions, odor nuisances, and preventing access to records. The State alleges violations of the Texas Solid Waste Disposal Act, the Injection Well Act, the Texas Clean Air Act, the Texas Water Code, and TCEQ rules and permits promulgated thereunder.

Proposed Settlement: The State and Blackhorn Environmental Services, LLC propose an Agreed Final Judgment and Permanent Injunction that orders Blackhorn to implement air monitoring standard operating procedures, cease accepting and disposing of TCEQ-regulated solid waste, and provide training on proper waste acceptance, storage, processing, injection, and disposal. In addition, the proposed judgment assesses against Blackhorn \$300,000.00 in civil penalties and \$100,000.00 in attorney's fees.

For a complete description of the proposed settlement, the Agreed Final Judgment and Permanent Injunction should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Jake Marx, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, MC 066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911, email: Jake.Marx@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202600488
Justin Gordon
General Counsel
Office of the Attorney General
Filed: February 2, 2026

State Bar of Texas

Proposed Rule 1.06W, Texas Rules of Disciplinary Procedure

COMMITTEE ON DISCIPLINARY RULES AND REFERENDA PROPOSED RULE CHANGES

Rule 1.06W Definitions

The Committee on Disciplinary Rules and Referenda, or CDRR, was created by Government Code section 81.0872 and is responsible for overseeing the initial process for proposing a disciplinary rule. Pursuant to Government Code section 81.0876, the committee publishes the following proposed rules. The committee will accept comments concerning the proposed rules through March 31, 2026. Comments can be submitted at texasbar.com/CDRR or by email to cdrr@texasbar.com. The committee will hold a public hearing on the proposed rules by teleconference on April 1, 2026, at 10 a.m. CST. For teleconference participation information, please go to texasbar.com/cdrr/participate.

Proposed Rule (Redline Version)

1.06. Definitions:

W. "Investigatory Panel" means a panel of the Committee that conducts a ~~nonadversarial~~ proceeding during the investigation of the Complaint by the Chief Disciplinary Counsel.

...

Proposed Rule (Clean Version)

1.06. Definitions:

W. "Investigatory Panel" means a panel of the Committee that conducts a proceeding during the investigation of the Complaint by the Chief Disciplinary Counsel.

TRD-202600347
Andie Parnell
Staff Attorney
State Bar of Texas
Filed: January 28, 2026

◆ ◆ ◆
Proposed Rule 2.12, Texas Rules of Disciplinary Procedure

COMMITTEE ON DISCIPLINARY RULES AND REFERENDA PROPOSED RULE CHANGES

2.12. Investigation and Determination of Just Cause

The Committee on Disciplinary Rules and Referenda, or CDRR, was created by Government Code section 81.0872 and is responsible for overseeing the initial process for proposing a disciplinary rule. Pursuant to Government Code section 81.0876, the committee publishes the following proposed rules. The committee will accept comments concerning the proposed rules through March 31, 2026. Comments can be submitted at texasbar.com/CDRR or by email to cdrr@texasbar.com. The committee will hold a public hearing on the proposed rules by teleconference on April 1, 2026, at 10 a.m. CST. For teleconference participation information, please go to texasbar.com/cdrr/participate.

Proposed Rule (Redline Version)

2.12. Investigation and Determination of Just Cause:

A. Chief Disciplinary Counsel Determination of Just Cause: The Chief Disciplinary Counsel will investigate a Complaint to determine whether Just Cause exists.

1. General Rule: ~~The Chief Disciplinary Counsel shall, within 60 days of the date that the Respondent's response to the Complaint is due, determine that Just Cause does or does not exist, or that the case will be set for an investigatory hearing. The Chief Disciplinary Counsel must make a Just Cause determination within 60 days of the date that the Respondent's response to the Complaint is due.~~

2. Exceptions: The Just Cause determination date is extended to 60 days after the latest of:

- a. the date of compliance specified in any investigatory subpoena issued by the Chief Disciplinary Counsel under (B) unless extended by objections under (D) or by agreement;
- b. the date of any enforcement order issued by a district court under (E); or
- c. the date that an investigatory hearing is completed.

B. Issuance of Subpoenas: During the investigation, the Chief Disciplinary Counsel, with the Committee chair's approval, may issue a subpoena that relates directly to a specific allegation of attorney misconduct for the production of documents, electronically stored information, or tangible things or to compel the attendance of a witness, including the Respondent, at an investigatory hearing.

C. Requirements of Subpoenas: A subpoena must notify the witness of the time, date, and place of appearance or production and must contain a description of materials to be produced. A subpoena must be served on a witness personally or in accordance with Rule 21a, Texas Rules of Civil Procedure. Proof of service may be by certification of the server or by return receipt. A witness, other than the Respondent, who is commanded to appear at an investigatory hearing is entitled to the same fee and expense reimbursement as a witness commanded to appear in district court.

D. Objections to Subpoenas: Before the time specified for compliance, the Respondent or witness must present any objection to the chair of the Investigatory Panel, if an investigatory hearing has been set, or to the Committee chair, if an investigatory hearing has not been set. Objections must be made in good faith. If the chair overrules an objection in whole or in part, and the Respondent or witness fails to comply with the chair's ruling, the Chief Disciplinary Counsel may seek to enforce the subpoena in district court under (E).

E. Enforcement of Subpoenas: The Chief Disciplinary Counsel may seek enforcement of a subpoena in the district court of the county in which appearance or production is required. The Respondent or witness may raise any good faith objection to the subpoena. If after notice and a hearing the district court finds that a person's noncompliance with or objection to a subpoena is in bad faith, then ~~after notice and a hearing~~, the court may order

the person to pay the Chief Disciplinary Counsel's reasonable and necessary costs and attorney fees. The district court's order is not appealable. The Chief Disciplinary Counsel must not consider a Respondent's good faith objection to an investigatory subpoena as grounds for Just Cause.

F. Setting and Conducting Investigatory Hearing: The Chief Disciplinary Counsel may set a Complaint for an investigatory hearing. The hearing will be set before an Investigatory Panel and ~~is a nonadversarial proceeding that~~ may be conducted by teleconference. The chair of the Investigatory Panel may administer oaths and may set forth procedures for eliciting evidence, including witness testimony. Witness examination may be conducted by the Chief Disciplinary Counsel, the Respondent, or the Investigatory Panel. An investigatory hearing is strictly confidential and any record may be released only for use in a disciplinary matter.

G. Results of Investigatory Hearing: An investigatory hearing may result in a Sanction negotiated with the Respondent or in the Chief Disciplinary Counsel's dismissing the Complaint or finding Just Cause. The terms of a negotiated Sanction must be in a written judgment with findings of fact and conclusions of law. The judgment must be entered into the record by the chair of the Investigatory Panel and signed by the Chief Disciplinary Counsel and the Respondent.

H. Dismissal Before Investigatory Hearing: If at any time prior to a scheduled investigatory hearing on a Complaint the Chief Disciplinary Counsel determines that Just Cause does not exist, the Chief Disciplinary Counsel shall cancel the investigatory hearing and place the case on a Summary Disposition docket.

Proposed Rule (Clean Version)

2.12. Investigation and Determination of Just Cause:

A. Chief Disciplinary Counsel Determination of Just Cause: The Chief Disciplinary Counsel will investigate a Complaint to determine whether Just Cause exists.

1. *General Rule:* The Chief Disciplinary Counsel shall, within 60 days of the date that the Respondent's response to the Complaint is due, determine that Just Cause does or does not exist, or that the case will be set for an investigatory hearing.
2. *Exceptions:* The Just Cause determination date is extended to 60 days after the latest of:
 - a. the date of compliance specified in any investigatory subpoena issued by the Chief Disciplinary Counsel under (B) unless extended by objections under (D) or by agreement;
 - b. the date of any enforcement order issued by a district court under (E); or
 - c. the date that an investigatory hearing is completed.

B. Issuance of Subpoenas: During the investigation, the Chief Disciplinary Counsel, with the Committee chair's approval, may issue a subpoena that relates directly to a specific allegation of attorney misconduct for the production of documents, electronically stored information, or tangible things or to compel the attendance of a witness, including the Respondent, at an investigatory hearing.

C. Requirements of Subpoenas: A subpoena must notify the witness of the time, date, and place of appearance or production and must contain a description of materials to be produced. A subpoena must be served on a witness personally or in accordance with Rule 21a, Texas Rules of Civil Procedure. Proof of service may be by certification of the server or by return receipt. A witness, other than the Respondent, who is commanded to appear at an investigatory hearing is entitled to the same fee and expense reimbursement as a witness commanded to appear in district court.

D. Objections to Subpoenas: Before the time specified for compliance, the Respondent or witness must present any objection to the chair of the Investigatory Panel, if an investigatory hearing has been set, or to the Committee chair, if an investigatory hearing has not been set. Objections must be made in good faith. If the chair overrules an objection in whole or in part, and the Respondent or witness fails to comply with the chair's ruling, the Chief Disciplinary Counsel may seek to enforce the subpoena in district court under (E).

E. Enforcement of Subpoenas: The Chief Disciplinary Counsel may seek enforcement of a subpoena in the district court of the county in which appearance or production is required. The Respondent or witness may raise any good faith objection to the subpoena. If after notice and a hearing the district court finds that a person's noncompliance with or objection to a subpoena is in bad faith, then the court may order the person to pay the Chief Disciplinary Counsel's reasonable and necessary costs and attorney fees. The district court's order is not appealable. The Chief Disciplinary Counsel must not consider a Respondent's good faith objection to an investigatory subpoena as grounds for Just Cause.

F. Setting and Conducting Investigatory Hearing: The Chief Disciplinary Counsel may set a Complaint for an investigatory hearing. The hearing will be set before an Investigatory Panel and may be conducted by teleconference. The chair of the Investigatory Panel may administer oaths and may set forth procedures for eliciting evidence, including witness testimony. Witness examination may be conducted by the Chief Disciplinary Counsel, the Respondent, or the Investigatory Panel. An investigatory hearing is strictly confidential and any record may be released only for use in a disciplinary matter.

G. Results of Investigatory Hearing: An investigatory hearing may result in a Sanction negotiated with the Respondent or in the Chief Disciplinary Counsel's dismissing the Complaint or finding Just Cause. The terms of a negotiated Sanction must be in a written judgment with findings of fact and conclusions of law. The judgment must be entered into the record by the chair of the Investigatory Panel and signed by the Chief Disciplinary Counsel and the Respondent.

H. Dismissal Before Investigatory Hearing: If at any time prior to a scheduled investigatory hearing on a Complaint the Chief Disciplinary Counsel determines that Just Cause does not exist, the Chief Disciplinary Counsel shall cancel the investigatory hearing and place the case on a Summary Disposition docket.

TRD-202600348
Andie Parnell
Staff Attorney
State Bar of Texas
Filed: January 28, 2026



Comptroller of Public Accounts

Correction of Error

The Comptroller of Public Accounts proposed amendments to 34 TAC §16.202 and §16.205 in the January 30, 2026, issue of the *Texas Register* (51 TexReg 525).

Due to an error by the Texas Register, the text for §16.202(c)(2) was published incorrectly. The correct text should be as follows:

(2) Of the funds allocated pursuant to a grant issuance plan [eyele], 25% shall be allocated for council-directed targeted interventions. The council shall establish parameters for the authorized uses of the targeted intervention component [of each grant eyele].

Additionally, the text for §16.205(c)(3) was published incorrectly. The period at the end of the sentence should have been included in the language being removed as follows:

[(3) providing any service in the state of Texas, whether or not the individuals performing the service are residents of the state.]

TRD-202600518



Office of Consumer Credit Commissioner

Adjustments to Maximum Fee Amounts

Section 394.210 of the Texas Finance Code lists maximum fee amounts for debt management and debt settlement providers. Under Section 394.2101, the OCCC publishes adjustments to these amounts based on the Consumer Price Index for All Urban Consumers (1982-84).

The amount of the debt management setup fee in TEX. FIN. CODE §394.210(f)(1) is adjusted to \$144.00.

The amount of the debt management monthly service fee in TEX. FIN. CODE §394.210(f)(2) is adjusted to the lesser of \$14.00 per account or \$72.00.

The amount of the debt settlement setup fee in TEX. FIN. CODE §394.210(g)(1) is adjusted to \$574.00.

The amount of the debt settlement monthly service fee in TEX. FIN. CODE §394.210(g)(2) is adjusted to the lesser of \$14.00 per account or \$72.00.

The amount of the counseling or education if no debt management or settlement service provided fee in TEX. FIN. CODE §394.210(i) is adjusted to \$144.00.

The amount of the fee for dishonored payment in TEX. FIN. CODE §394.210(n) remains \$30.00.

Note: These calculations are based on comparing the reference base index for December 2011 (225.672) to the index for December 2025 (324.000). The percentage is a 43.5712% increase, rounded to the nearest dollar.

TRD-202600508
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: February 3, 2026



Adjustments to Maximum Fee Amounts

The Consumer Credit Commissioner of Texas has ascertained the following maximum administrative fee and acquisition charge by use of the formula and method described in 7 Texas Administrative Code §83.503(1)(c) and §83.605(b)(3).

The amount of the administrative fee in TEX. FIN. CODE §342.201(g) remains \$130.00.

The amount of the acquisition charge in TEX. FIN. CODE §342.252(b) remains \$130.00.

Note: These calculations are based on comparing the reference base index for December 2023 (895.777) to the index for December 2025 (944.287) of the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1967=100. The percentage change represents a 5.4154% increase, which is rounded to the nearest whole percent as 5.0%. The result is then adjusted to the next lower multiple of \$5.00.

The above dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 2026, and extending through June 30, 2027.

TRD-202600509

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 3, 2026



Notice of Rate Bracket Adjustment

The Consumer Credit Commissioner of Texas has ascertained the following brackets and ceilings by use of the formula and method described in TEX. FIN. CODE §341.203.¹

The amounts of brackets in TEX. FIN. CODE §342.201(a) are changed to \$2,760.00 and \$23,000.00, respectively.

The amounts of brackets in TEX. FIN. CODE §342.201(e) are changed to \$4,600.00, \$9,660.00, and \$23,000.00, respectively.

The ceiling amount in TEX. FIN. CODE §§342.251 and 342.259 are changed to \$920.00 and \$1,840.00, respectively.

The amounts of the brackets in TEX. FIN. CODE §345.055 are changed to \$4,600.00 and \$9,200.00, respectively.

The amount of the bracket in TEX. FIN. CODE §345.103 is changed to \$4,600.00.

The ceiling amount of TEX. FIN. CODE §371.158 is changed to \$23,000.00.

The amounts of the brackets in TEX. FIN. CODE §371.159 are changed to \$276.00, \$1,840.00, and \$2,760.00, respectively.

¹ Computation method: As required by Texas Finance Code §341.203, the December 2025 CPI (944.287) is divided by the December 1967 base index (101.6), yielding a ratio of approximately 9.29 and a corresponding 929 percent change. The statute requires this amount to be rounded down to the nearest lower multiple of 10 percent; accordingly, the applied increase is 920 percent.

TRD-202600507

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 3, 2026



Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/09/26 - 02/15/26 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/09/26 - 02/15/26 is 18.00% for commercial² credit.

The monthly ceiling as prescribed by §303.005³ and §303.009 for the period of 02/01/26 - 02/28/26 is 18.00%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

³ Only for variable rate commercial transactions, as provided by §303.004(a).

TRD-202600506

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: February 3, 2026



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 17, 2026**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A physical copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at <https://www.tceq.texas.gov/goto/efilings> or the TCEQ Commissioners' Integrated Database at <https://www.tceq.texas.gov/goto/cid>, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at Enforcement Division, MC 128, P.O. Box 13087, Austin, Texas 78711-3087 and must be postmarked by 5:00 p.m. on **March 17, 2026**. Written comments may also be sent to the enforcement coordinator by email to ENF-COMNT@tceq.texas.gov or by facsimile machine at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed contact information; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Brandon-Irene Water Supply Corporation; DOCKET NUMBER: 2025-0973-MLM-E; IDENTIFIER: RN101437325; LOCATION: Brandon, Hill County; TYPE OF FACILITY: public wa-

ter supply; PENALTY: \$1,333; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(2) COMPANY: CSWR-TEXAS UTILITY OPERATING COMPANY, LLC; DOCKET NUMBER: 2025-1619-PWS-E; IDENTIFIER: RN101201309; LOCATION: Rockport, Aransas County; TYPE OF FACILITY: public water supply; PENALTY: \$5,298; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(3) COMPANY: City of Farmersville; DOCKET NUMBER: 2025-0942-MWD-E; IDENTIFIER: RN105156343; LOCATION: Farmersville, Collin County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$10,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$8,100; ENFORCEMENT COORDINATOR: Madison Crawford, 512-239-4603; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(4) COMPANY: City of Mount Calm; DOCKET NUMBER: 2025-0959-PWS-E; IDENTIFIER: RN101391662; LOCATION: Mount Calm, Hill County; TYPE OF FACILITY: public water supply; PENALTY: \$1,937; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$1,550; ENFORCEMENT COORDINATOR: Obianuju Iyasele, (512) 239-5280; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(5) COMPANY: City of Port Neches; DOCKET NUMBER: 2023-1640-MWD-E; IDENTIFIER: RN101608313; LOCATION: Groves, Jefferson County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$240,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$240,000; ENFORCEMENT COORDINATOR: Casey Cobb, (512) 239-0351; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(6) COMPANY: City of Raymondville; DOCKET NUMBER: 2025-1150-MWD-E; IDENTIFIER: RN100525955; LOCATION: Raymondville, Willacy County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$48,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$38,400; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(7) COMPANY: City of Wills Point; DOCKET NUMBER: 2024-0781-MWD-E; IDENTIFIER: RN102852514; LOCATION: Wills Point, Van Zandt County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$11,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$9,200; ENFORCEMENT COORDINATOR: Derek Osborn, (512) 239-0353; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(8) COMPANY: City of Woodville; DOCKET NUMBER: 2025-1236-MWD-E; IDENTIFIER: RN101720704; LOCATION: Woodville, Tyler County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$15,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$12,500; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(9) COMPANY: Dixie Chemical Company, Inc.; DOCKET NUMBER: 2025-1237-AIR-E; IDENTIFIER: RN100218486; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufactur-

ing plant; PENALTY: \$9,350; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(10) COMPANY: Grimes Co. Water Reclamation, LLC; DOCKET NUMBER: 2025-0979-MWD-E; IDENTIFIER: RN106353626; LOCATION: Plantersville, Grimes County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$16,500; ENFORCEMENT COORDINATOR: Madison Crawford, 512-239-4603; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(11) COMPANY: Johan S. Giesbrecht and Marie Giesbrecht; DOCKET NUMBER: 2024-1551-PST-E; IDENTIFIER: RN101781276; LOCATION: Edmonson, Hale County; TYPE OF FACILITY: temporarily out-of-service underground storage tank; PENALTY: \$6,771; ENFORCEMENT COORDINATOR: Elizabeth Vanderwerken, (512) 239-5900; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(12) COMPANY: Kuraray America, Inc.; DOCKET NUMBER: 2024-1948-AIR-E; IDENTIFIER: RN107305922; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: \$17,138; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$6,855; ENFORCEMENT COORDINATOR: John Burkett, (512) 239-4169; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(13) COMPANY: Lion Elastomers LLC; DOCKET NUMBER: 2023-1384-AIR-E; IDENTIFIER: RN100224799; LOCATION: Port Neches, Jefferson County; TYPE OF FACILITY: rubber manufacturing plant; PENALTY: \$42,063; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$21,031; ENFORCEMENT COORDINATOR: Casey Cobb, (512) 239-0351; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(14) COMPANY: Orangefield Water Supply Corporation; DOCKET NUMBER: 2025-0978-MWD-E; IDENTIFIER: RN105137533; LOCATION: Orangefield, Orange County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: \$9,375; ENFORCEMENT COORDINATOR: Madison Crawford, 512-239-4603; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(15) COMPANY: RK Hall, LLC; DOCKET NUMBER: 2024-1021-AIR-E; IDENTIFIER: RN104483698; LOCATION: Garden City, Glascock County; TYPE OF FACILITY: aggregate production operation; PENALTY: \$7,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$3,000; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(16) COMPANY: SI Group, Inc.; DOCKET NUMBER: 2025-0503-AIR-E; IDENTIFIER: RN102800315; LOCATION: Baytown, Harris County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: \$7,518; ENFORCEMENT COORDINATOR: John Burkett, (512) 239-4169; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(17) COMPANY: Squatty Potties, LLC; DOCKET NUMBER: 2025-1642-SLG-E; IDENTIFIER: RN111632899; LOCATION: Kingsbury, Guadalupe County; TYPE OF FACILITY: sludge transporter business; PENALTY: \$31,500; ENFORCEMENT COORDINATOR: Alejandra Basave, (713) 767-3751; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(18) COMPANY: Stella Rose Homes LLC; DOCKET NUMBER: 2026-0058-WQ-E; IDENTIFIER: RN112329529; LOCATION: Granbury, Hood County; TYPE OF FACILITY: operator; PENALTY: \$875; ENFORCEMENT COORDINATOR: Madison Travis, (512) 239-4687; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(19) COMPANY: T. Gray Electric Co., Inc.; DOCKET NUMBER: 2024-1311-AIR-E; IDENTIFIER: RN105727242; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: electric motor refinishing facility; PENALTY: \$2,375; ENFORCEMENT COORDINATOR: Michael Wilkins, (325) 698-6134; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, REGION 03 - ABILENE.

(20) COMPANY: Tegrity Contractors, Inc; DOCKET NUMBER: 2026-0060-WQ-E; IDENTIFIER: RN112309125; LOCATION: Gilmer, Upshur County; TYPE OF FACILITY: operator; PENALTY: \$875; ENFORCEMENT COORDINATOR: Madison Travis, (512) 239-4687; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(21) COMPANY: The Dow Chemical Company; DOCKET NUMBER: 2022-1587-AIR-E; IDENTIFIER: RN100542711; LOCATION: Orange, Orange County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: \$65,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: \$32,687; ENFORCEMENT COORDINATOR: Raven Daigle, (713) 767-3634; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(22) COMPANY: Winkler Water Supply Corporation; DOCKET NUMBER: 2025-1312-PWS-E; IDENTIFIER: RN101212017; LOCATION: Streetman, Navarro County; TYPE OF FACILITY: public water supply; PENALTY: \$1,550; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (512) 239-2510; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

TRD-202600489

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: February 3, 2026



Enforcement Orders

An agreed order was adopted regarding Jose Alfonso Castillo, Docket No. 2022-1113-WOC-E on February 3, 2026 assessing \$2,737 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Pence, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding E & J Fernandes Inc dba Johnny's Country, Docket No. 2023-0141-PST-E on February 3, 2026 assessing \$9,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marilyn Norrod, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Solu LLC, Docket No. 2023-0345-PST-E on February 3, 2026 assessing \$9,736 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jun Zhang, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kyle C. Rigsby, Docket No. 2023-0362-LII-E on February 3, 2026 assessing \$5,450 in administrative penalties with \$1,100 deferred. Information concerning any aspect of this order may be obtained by contacting Jun Zhang, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TEXAS CHILDREN'S HOSPITAL dba Texas Children's Maternity Center, Docket No. 2023-0388-PST-E on February 3, 2026 assessing \$11,600 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding WAKA WATER SUPPLY CORPORATION, Docket No. 2023-0604-PWS-E on February 3, 2026 assessing \$3,050 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pack Ellis, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Victoria Rodriguez, Docket No. 2023-0995-LII-E on February 3, 2026 assessing \$2,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jun Zhang, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Southwest Texas Commercial Properties LLC dba Star Stop 430527, Docket No. 2023-1047-PST-E on February 3, 2026 assessing \$5,825 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Frontier Fuel, L.P. dba Amarillo Cardlock, Docket No. 2023-1614-PST-E on February 3, 2026 assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting David Keagle, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SL Corner Store Inc dba Silverlake Plaza Food Mart, Docket No. 2024-0840-PST-E on February 3, 2026 assessing \$3,040 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mihir Kulkarni, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202600511

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 3, 2026



Notice of District Petition - D-01052025-003

Notice issued February 3, 2026

TCEQ Internal Control No. D-01052025-003: Bellagio 443, LLC, a Wyoming limited liability company (Petitioner), filed a petition (petition) for the creation of Kaufman County Municipal Utility District No. 15 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas

Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Megatel Capital Investments, LLC, on the property to be included in the proposed District and the aforementioned entity has consented to the creation of the district; (3) the proposed District will contain approximately 445.993 acres of land located within Kaufman County, Texas; and (4) all of the land to be included within the proposed district is located wholly within the extraterritorial jurisdiction of the City of Mesquite, Texas (City). The petition further states that the work to be done by the proposed District at the present time is the construction, maintenance and operation of a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; the construction, maintenance and operation of a sanitary sewer collection, treatment and disposal system, for domestic and commercial purposes; the construction, installation, maintenance, purchase and operation of drainage and roadway facilities and improvements; and the construction, installation, maintenance, purchase and operation of facilities, systems, plants and enterprises of such additional facilities as shall be consonant with the purposes for which the District is organized. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$64,830,000. The financial analysis in the application was based on an estimated \$55,025,000 (\$45,280,000 for water, wastewater, and drainage plus \$9,745,000 for roads) at the time of submittal.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202600510

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: February 3, 2026



Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the Executive Director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 17, 2026**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Additionally, copies of the DO can be found online by using either the Chief Clerk's eFiling System at <https://www.tceq.texas.gov/goto/efilings> or the TCEQ Commissioners' Integrated Database at <https://www.tceq.texas.gov/goto/cid>, and searching either of those databases with the proposed DO's identifying information, such as its docket number. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on March 17, 2026**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Harry Demo and Junk LLC; DOCKET NUMBER: 2023-1276-IHW-E; TCEQ ID NUMBER: RN111781340; LOCATION: 607 Grand Avenue in Arlington, Tarrant County; TYPE OF FACILITY: unauthorized industrial and hazardous waste transportation business; PENALTY: \$27,671; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202600491
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: February 3, 2026

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Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **March 17, 2026**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A physical copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at <https://www.tceq.texas.gov/goto/efilings> or the TCEQ Commissioners' Integrated Database at <https://www.tceq.texas.gov/goto/cid>, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on March 17, 2026**. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: City of Pearsall; DOCKET NUMBER: 2022-0728-MSW-E; TCEQ ID NUMBER: RN104680772; LOCATION: Loma Vista Street, approximately 727 feet northeast of the intersection of Loma Vista Street and Gilliam Road in Pearsall, Frio County; TYPE OF FACILITY: a Citizens' Collection Station; PENALTY: \$2,550; Supplemental Environmental Project offset amount of \$2,550 applied to Tire Collection Event; STAFF ATTORNEY: Taylor Pack Ellis, Litigation, MC 175, (512) 239-6860; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-202600490

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: February 3, 2026

◆ ◆ ◆
Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Commercial Bank of Texas, N.A. SOAH Docket No. 582-26-10057 TCEQ Docket No. 2024-1219-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. (CT) - February 26, 2026

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 24, 2025 concerning assessing administrative penalties against and requiring certain actions of COMMERCIAL BANK OF TEXAS, N.A., for violations in Angelina County, Texas, of: Tex. Water Code §26.3475(c)(1) and (d) and 30 Texas Administrative Code §§37.815(a) and (b), 334.49(a)(2), (c)(2)(C), and (c)(4)(C), 334.50(b)(1)(A), 334.54(b)(3) and (c)(1), and 334.602(a).

The hearing will allow COMMERCIAL BANK OF TEXAS, N.A., the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford COMMERCIAL BANK OF TEXAS, N.A., the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of COMMERCIAL BANK OF TEXAS, N.A. to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** COMMERCIAL BANK OF TEXAS, N.A., the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code chs. 7 and 26, and 30 Texas Administrative Code chs. 37, 70, and 334; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §§70.108 and 70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Allison Alt, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail

Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

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

Issued: January 30, 2026

TRD-202600512

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 3, 2026



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Michael Boyd Irby and Emili Dawn Irby SOAH Docket No. 582-26-10056 TCEQ Docket No. 2022-1393-OSS-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. (CT) - February 26, 2026

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

Meeting ID: 161 984 0712

Password: TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

Meeting ID: 161 984 0712

Password: 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed February 19, 2025 concerning assessing administrative penalties against and requiring certain actions of Michael Boyd Irby and Emili Dawn Irby, for violations in Rockwall County, Texas, of: Tex. Water Code §26.121(a)(1), Tex. Health & Safety Code §366.012(a), and 30 Texas Administrative Code §§285.31(d), 285.33(d)(2)(E), 285.33(d)(2)(G), 285.33(d)(2)(G)(v), and 285.70(a)(1).

The hearing will allow Michael Boyd Irby and Emili Dawn Irby, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Michael Boyd Irby and Emili Dawn Irby, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of **Michael Boyd Irby and Emili Dawn Irby to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Michael Boyd Irby and Emili Dawn Irby, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code ch. 26, Tex. Health & Safety Code ch. 366, and 30 Texas Administrative Code Chapters 70 and 285; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and Chapter 80, and 1 Texas Administrative Code Chapter 155.

Further information regarding this hearing may be obtained by contacting Marilyn Norrod, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

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

Issued: January 30, 2026

TRD-202600513

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: February 3, 2026



Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 293

The Texas Commission on Environmental Quality (commission) will conduct a public hearing to receive testimony regarding proposed revisions to 30 Texas Administrative Code (TAC) Chapter 293, Water Districts, §§293.11, 293.12, 293.15, 293.32, 293.41, 293.59, 293.63, 293.81, and 293.91 under the requirements of Chapters 49 and 54 Water Code, §54.030 and §49.011; and Texas Government Code, Chapter 2001, Subchapter B.

The proposed rulemaking would implement House Bill (HB) 2815 relating to the powers, authorities, duties, and responsibilities of certain conservation and reclamation districts, HB 3437 relating to the authority to approve change orders for certain contracts for the construction, repair, and renovation of water district facilities, HB 1410 relating to the issuance of bonds by certain conservation and reclamation districts, HB 3507 relating to contracts for the construction, repair, and renovation of certain conservation and reclamation district facilities, Senate Bill (SB) 938 relating to the issuance by certain conservation and reclamation districts of bonds for the development and maintenance of recreational facilities, and SB 1397 relating to notice requirements.

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on March 16, 2026, at 2:00 p.m. in Building E Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Thursday March 12, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on March 13, 2026, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at: <https://events.teams.microsoft.com/event/e31ba8a7-3785-4fc3-be53-881cb6209591@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

If you need translation services, please contact TCEQ at (800) 687-4040. Si desea información general en español, puede llamar al (800) 687-4040.

Written comments may be submitted to Corey Bowling, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2025-009-293-OW. The comment period closes at 11:59 p.m. on March 17, 2026. Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For

further information, please contact Jacob Houston, Districts Section, (512) 239-3582.

TRD-202600345

Amy L. Browning

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 28, 2026



Request for Nominations - Water Utility Operator Licensing Advisory Committee (WUOLAC)

The Texas Commission on Environmental Quality (TCEQ or commission) is requesting nominations for a total of six individuals to serve on the TCEQ Water Utility Operator Licensing Advisory Committee (committee).

The committee membership represents various geographic areas of the state, ethnicities, businesses, governments, associations, and industries. If you have served on this advisory committee, nominated someone, or self-nominated in the past, you may do so again. When members' terms expire, the committee representation changes and individuals with varying backgrounds and geographic locations are needed to fill the vacancies.

The authority for the committee is found in 30 Texas Administrative Code Chapter 5, Advisory Committees and Groups. The 13-member committee's sole duty is to advise the commission regarding water and wastewater operator licensing and training issues and facilitate communication between the commission and the water and wastewater utility industries. The main objectives are to: 1) review training and educational materials to promote quality education and training; 2) review Job Task Analysis and exam validations; 3) advise and assist regarding licensing requirements; 4) assist with the review of rules, regulations, guidance documents, and policy statements; 5) represent a diversity of viewpoints; and 6) promote interaction with outside organizations.

All appointments will be made by the TCEQ commissioners. The term of the appointments will begin September 1, 2026, and serve through August 31, 2030. The committee meets, as needed, usually four times a year. Meetings are held at the TCEQ offices located at 12100 Park 35 Circle in Austin, Texas, or virtually. Meetings last approximately two to four hours. No financial compensation is available. Additional information regarding the Committee is available on the https://www.tceq.texas.gov/licensing/groups/wuoc_comm.html website.

To nominate an individual or to self-nominate, download and complete the Water Utility Operator Licensing Advisory Committee application on the https://www.tceq.texas.gov/licensing/groups/wuoc_comm.html website, or contact us directly to request an application be mailed to you. You may submit a resume in addition to the application, but not in lieu of the application.

DEADLINE: Completed applications must be received at TCEQ by 5:00 p.m. on March 13, 2026. Applications will be accepted by email oltraining@tceq.texas.gov with the Subject line "WUOLAC Nomination", or via United States mail to: Training Specialist, Occupational Licensing Section, MC 178, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202600392

Amy L. Browning

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 30, 2026

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General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of January 19, 2026 to January 30, 2026. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, February 6, 2026. The public comment period for this project will close at 5:00 p.m. on Sunday, March 8, 2026.

Federal Agency Activities:

Applicant: Texas Department of Transportation

Location: The project site is the IH 10 bridge, Greens Bayou, Harris County, Texas.

Latitude and Longitude: 29.77148, -95.19713

Project Description: The proposed project would repair the IH 10 bridge and timber fender system and extend the bridge 0.41 miles. Roadway improvements would take place within the existing right of way.

Type of Application: U.S. Coast Guard bridge permit exemption.

CMP Project No: 26-1063-F2

Applicant: U.S. Environmental Protection Agency

Location: The project would affect the Western and Central Portion of the Outer Continental Shelf of the Gulf of America.

Project Description: EPA is proposing a narrow modification to its 2023 National Pollutant Discharge Elimination System (NPDES) General Permit for New and Existing Sources and New Discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category for The Western and Central Portion of the Outer Continental Shelf (OCS) of The Gulf of Mexico (GMG290000), to change the compliance date for acute Whole Effluent Toxicity (WET) limitations for Well Treatment Fluids, Completion Fluids, and Workover Fluids (TCW) discharges; change the name "Gulf of Mexico" to "Gulf of America"; and adds discharge duration reporting requirements for TCW fluids.

Type of Application: Proposed modification of the NPDES Permit No. GMG290000 for Oil and Gas Extraction to the Gulf of America

CMP Project No: 26-1068-F2

Federal License and Permit Activities:

Applicant: Cameron County

Location: The project is located on northern end of South Padre Island (SPI) from Beach Access Road 4 on the south end, approximately five miles north of the entrance onto SPI from the Queen Isabella Causeway and extending approximately 12 miles north.

Latitude and Longitude:

Beach Template

South End: 26.156678, -97.171763

North End: 26.331997, -97.205130

Center (approx.): 26.258194, -97.189054

Borrow Area A: 26.065931, -97.155413

Borrow Area B: 26.066175, -97.116923

Borrow Area C: 26.064607, -97.166457

Project Description: The applicant is proposing to conduct beach nourishment activities to widen the beach and improve storm protection measures for SPI and Laguna Atascosa National Wildlife Refuge (LANWR). The applicant proposes to widen the shoreline located at the northern end of SPI to provide protection for Park Road 100 and federally designated critical habitats along the beach and behind the dunes within Cameron County and within LANWR from ongoing erosional effects. The applicant proposes to place beach-quality sand in volumes ranging from 250,000 to 1,000,000 cubic yards per event within approximately 12 miles of the beach, totaling approximately 970 acres. The entire project would not be constructed at one time. Nourishment events and areas (linear feet) depend on available sediment quantity at the time of dredging events within the Brazos Santiago Pass for channel maintenance as beneficial use material (Borrow Areas A, B, and C) for the proposed beach nourishment project. The construction width includes a 200-foot berm crest at an elevation of +4.0 feet NAVD88, a variable slope to the toe of fill, and a variable fill density. The resulting placement density (volume per linear foot of nourished beach) along the project length will vary due to the varying quantities needed to construct the design beach and advance nourishment.

Hopper dredges would deliver sand from Borrow Areas A, B, and C to a singular pump-out station located directly offshore of the beach of the designated pipeline corridor. From the pump-out station, a dredge pipeline would place slurried dredge material directly onto the beach. Front-end loaders would then grade sand placed within the construction corridor to create the authorized beach template.

The project would enhance and increase the amount of essential beach habitat for nesting sea turtles and shorebirds and would reduce erosion of protected critical habitats located behind the dunes. Effects on the shoreline environment would be localized and temporary during beach nourishment activities.

The proposed project will widen the beach template along 12 miles of shoreline located at the northern end of SPI. The applicant proposes placing suitable sand material in volumes ranging from 250,000 to 1,000,000 cubic yards per event.

The construction includes utilizing dredge pipelines to create a 200-foot berm crest at an elevation of +4.0 feet NAVD, a variable slope to the toe of fill ranging, and a variable fill density. The dredge pipeline would include delivering dredged sand from suitable beneficial use borrow areas by hopper dredge or cutterhead dredge.

Dredging within the borrow areas within the existing Brazos Santiago Pass (Borrow Areas A, B, and C) for maintenance and Channel Improvement (deepening) project will be performed by a private group, under a separate authorization. The dredged material borrow source is similar in nature to the existing native sand on SPI. The project would be phased and not be performed over the entire project length. Shorter segments would be constructed during dredging events at the proposed borrow areas, which would limit impacts and not render large portions of the beach unusable.

Beach nourishment activities will be conducted, whenever possible, outside of sea turtle nesting season (March 15 through October 1). When beach nourishment activities must occur within the sea turtle nesting season, the applicant will implement onshore conservation measures outlined in the Biological Assessment, as well as additional conservation measures provided by U.S. Fish and Wildlife Service.

The applicant has provided the following explanation why compensatory mitigation should not be required: No compensatory mitigation is proposed based on the minimal adverse impacts to the aquatic environment. The proposed project would result in the creation and enhancement of beach and beach/dune complex along 12 miles of SPI. The project would have no impact on wetlands or other special aquatic sites and would have a net gain in coastal beach habitat. As such, no compensatory mitigation is required.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2022-00454. This application will be reviewed pursuant Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 26-1064-F1

Applicant: Golden Triangle Storage, LLC

Location: The project site is located in unnamed wetlands and streams approximately 0.25 miles northeast of 7076 West Port Arthur Road, in Beaumont, Jefferson County, Texas.

Latitude and Longitude: 30.0197954, -94.0779037

Project Description: The applicant proposes to permanently impact 3.219 acres of palustrine emergent wetlands (PEM), 0.031 acre of palustrine shrub-scrub wetlands (PSS), 0.057 acre of palustrine forested wetland (PFO), 0.043 acre of ephemeral stream, and 0.693 acre of intermittent stream in association with the construction of a new natural gas storage facility. In addition, the proposed project includes temporary impacts to 16.056 acres of PEM, 1.749 acres of PSS, 0.116 acre of PFO, 0.006 acre of open water, 0.208 acre of ephemeral stream, and 0.041 acre of intermittent stream. The permanently filled intermittent stream, which was originally a man-made drainage feature, will be rerouted to the southwest of the original feature as mitigation for the permanently filled feature. The proposed facility consists of temporary drilling and permanent well pad sites, gas pipelines, water, air, and electrical utilities, compressor housing, services corridors, and access roads.

The applicant proposed to mitigate for the proposed permanent loss of wetland acreage by purchasing mitigation bank credits from an approved bank prior to beginning work within Corps jurisdictional areas. To mitigate for the permanently filled drainage feature stream, the applicant proposes to reroute the feature to the southwest of the original feature.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2007-01943. This application will be reviewed pursuant Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by Railroad Commission of Texas as part of its certification under §401 of the Clean Water Act. The U.S. Army Corps of Engineers Galveston District has found that this permit request meets the terms of Executive Order 14156 and is therefore subject to special emergency permitting procedures and an expedited review process.

CMP Project No: 26-1066-F1

Applicant: Ed Rachel Foundation

Location: The project would affect waters of the United States and navigable waters of the United States associated with Tres Palacios Bay and is located in wetlands adjacent to Tres Palacios Bay, south of the intersection of Main Street and Margerum Boulevard, Palacios, Matagorda County, Texas.

Latitude and Longitude: 28.697706, -96.2359216

Project Description: To improve drainage within and promote intertidal water exchange within the estuarine marshland habitats in Palacios, Texas. The applicant requests authorization to excavate 19,053 cubic yards (CY) of material from within a wetland complex to improve drainage within and near wetlands associated with Tres Palacios Bay. This includes excavating 18,333 CY of material from 2.423 acres of wetland complex associated with widening a drainage channel from a surface width of 15-foot to 60-foot and a bottom width of 15-foot to 30-foot with a 3:1 slope along its edges and deepening it from 1-foot to 5-foot for its full 2,200-foot length. A side channel connecting to the main channel will have 472 CY of material excavated from a 0.293-acre area. Existing runnels will have 53 CY of material excavated from 0.033-acre and new runnels created by excavating 195 CY from 0.121-acre within the wetland complex. Excavation will occur using a hydraulic dredge utilizing a 10-inch cutter head.

The applicant also proposes to discharge 9,058 CY of the excavated material into 4.491 acres of neighboring wetlands to increase platform height and vegetative cover. This includes the discharge of 5,087 CY into 2.522 acres for Panne area enhancement and the discharge of 3,971 CY into 1.969-acre for the enhancement of *Spartina alterniflora* habitat. All discharge for wetland complex enhancement will be spread throughout a thin layer as to not inhibit or damage any existing vegetation and allow for the establishment of native species within the discharge areas.

The remaining 9,995 CY of excavated material will be discharged in a 4.842-acre upland area owned by the applicant.

The applicant has provided the following explanation why compensatory mitigation should not be required: Compensatory mitigation is not required because the entire project is restorative in nature.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2024-00684. This application will be reviewed pursuant Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 26-1067-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202600505

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: February 3, 2026

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Office of the Governor

Notice of Available Funding Opportunities

The Public Safety Office is announcing the following funding opportunities for State Fiscal Year 2027. Details for these opportunities, including the open and close date for the solicitation, can be found on the eGrants Calendar (<https://egrants.gov.texas.gov/fundingopp>).

State Homeland Security Program: Competitive National Priority Area Projects (SHSP-NPA) - The purpose of this announcement is to solicit applications for projects that support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of Texas citizens. The Office of the Governor (OOG), Public Safety Office (PSO) provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving a secure and resilient state. Funding under this announcement will be awarded on a competitive basis for projects supporting FEMA designated SHSP National Priority Area.

State Homeland Security Program: LETPA Projects (SHSP-L) - The purpose of this announcement is to solicit applications for projects that support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of Texas citizens. The Office of the Governor (OOG), Public Safety Office (PSO) provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving a secure and resilient state.

State Homeland Security Program: Regular Projects (SHSP-R) - The purpose of this announcement is to solicit applications for projects that support state and local efforts to prevent terrorism and targeted violence and prepare for the threats and hazards that pose the greatest risk to the security of Texas citizens. The Office of the Governor (OOG), Public Safety Office (PSO) provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving a secure and resilient state.

TRD-202600515

Angie Martin

Director, Grants Administration Division

Office of the Governor

Filed: February 4, 2026



Department of State Health Services

Certification Limited Liability Report

The Hospital Survey Program in the Center for Health Statistics, Texas Department of State Health Services, has completed its analysis of hospital data for the purpose of certifying nonprofit hospitals or hospital systems for limited liability under Texas Health and Safety Code, §311.0456. Twenty-eight hospitals requested certification. Each of the requesting hospitals will be notified, by mail, on the determination of whether the statutory certification requirements were met. The certification issued under Texas Health and Safety Code §311.0456 to a nonprofit hospital or hospital system took effect on December 31, 2025, and expires on the anniversary of that date.

Certified:

One nonprofit hospital system, comprised of six hospitals, and ten nonprofit hospitals were found to be eligible for certification of limited liability based on information they provided via survey to the Hospital Survey Program. These entities met the statutory requirements for certification by providing charity care in an amount equal to or greater than 8% of their net patient revenue and providing 40% or more of the charity care in their counties.

1. Seton Healthcare System (Travis County only)

- a. Ascension Seton Medical Center in Travis County

- b. Ascension Seton Northwest in Travis County
c. Ascension Seton Shoal Creek in Travis County
d. Ascension Seton Southwest in Travis County
e. Dell Children's Medical Center in Travis County
f. Dell Seton Medical Center at the University of Texas in Travis County
2. Ascension Seton Bastrop in Bastrop County
3. Ascension Seton Smithville in Bastrop County
4. CHRISTUS Spohn Hospital Beeville in Bee County
5. Ascension Seton Edgar B. Davis in Caldwell County
6. Ascension Seton Hays in Hays County
7. CHRISTUS Southeast Texas - Jasper Memorial in Jasper County
8. CHRISTUS Southeast Texas - St Elizabeth in Jefferson County
9. CHRISTUS Spohn Hospital Alice in Jim Wells County
10. CHRISTUS Spohn Hospital Kleberg in Kleberg County
11. CHRISTUS Spohn Hospital Corpus Christi Shoreline in Nueces County

Not Certified:

Twelve nonprofit hospitals were not certified for limited liability based on their survey data. They were unable to meet the statutory requirements to provide charity care in an amount equal to or greater than 8% of their net patient revenue and did not provide 40% of the charity care in their counties.

1. CHRISTUS Childrens in Bexar County
2. CHRISTUS Santa Rosa Hospital - Medical Center in Bexar County
3. CHRISTUS St. Michael Health System in Bowie County
4. Ascension Seton Highland Lakes in Burnet County
5. CHRISTUS Mother Frances Hospital- Jacksonville in Cherokee County
6. CHRISTUS Santa Rosa Hospital - New Braunfels in Comal County
7. CHRISTUS Good Shepherd Medical Center - Marshall in Harrison County
8. CHRISTUS Mother Frances Hospital - Sulphur Springs in Hopkins County
9. Ascension Providence in McLennan County
10. CHRISTUS Mother Frances Hospital- Tyler in Smith County
11. Ascension Seton Williamson in Williamson County
12. CHRISTUS Mother Frances Hospital- Winnsboro, in Wood County

For further information about this report, please contact Dwayne Collins or Andria Orbach in the Center for Health Statistics via email at HSU@dshs.texas.gov.

TRD-202600394

Cynthia Hernandez

General Counsel

Department of State Health Services

Filed: January 30, 2026



Texas Department of Insurance

Company Licensing

Application for The Gray Casualty and Surety Company, a foreign fire and/or casualty company, to change its name to Palomar Casualty and Surety Company. The home office is in Mandeville, Louisiana.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Andrew Guerrero, 1601 Congress Ave., Suite 6.900, Austin, Texas 78701.

TRD-202600516

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: February 4, 2026



Texas Department of Licensing and Regulation

Scratch Ticket Game Number 2725 "POWER 20s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2725 is "POWER 20s". The play style is "find symbol".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2725 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2725.

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

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

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: CAR SYMBOL, BANK SYMBOL, BILL SYMBOL, SAILBOAT SYMBOL, CLOVER SYMBOL, CONFETTI SYMBOL, DIAMOND SYMBOL, FIREWORKS SYMBOL, FLAG SYMBOL, GIFT SYMBOL, GOLD BAR SYMBOL, HOUSE SYMBOL, JOKER SYMBOL, LAMP SYMBOL, MUSIC SYMBOL, POT OF GOLD SYMBOL, REGISTER SYMBOL, VAULT SYMBOL, WALLET SYMBOL, WATCH SYMBOL, ARMORED CAR SYMBOL, BAR SYMBOL, BELL SYMBOL, ATM CARD SYMBOL, CHECK SYMBOL, CHERRY SYMBOL, CHEST SYMBOL, CHIP SYMBOL, CLUB SYMBOL, COINS SYMBOL, CROWN SYMBOL, DICE SYMBOL, DOLLAR SIGN SYMBOL, EMERALD SYMBOL, HEART SYMBOL, KEY SYMBOL, LEMON SYMBOL, LUGGAGE SYMBOL, WATERMELON SYMBOL, MOON SYMBOL, NECKLACE SYMBOL, AIRPLANE SYMBOL, RAINBOW SYMBOL, RING SYMBOL, SEVEN SYMBOL, HORSESHOE SYMBOL, SPADE SYMBOL, STAR SYMBOL, SUN SYMBOL, WISHBONE SYMBOL, MONEY BAG SYMBOL, \$20.00, \$40.00, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$1,000,000.

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

Figure 1: GAME NO. 2725 - 1.2D

| PLAY SYMBOL | CAPTION |
|--------------------|----------|
| CAR SYMBOL | AUTO |
| BANK SYMBOL | BANK |
| BILL SYMBOL | BILL |
| SAILBOAT SYMBOL | BOAT |
| CLOVER SYMBOL | CLOVER |
| CONFETTI SYMBOL | CONFETI |
| DIAMOND SYMBOL | DIAMOND |
| FIREWORKS SYMBOL | FIREWKS |
| FLAG SYMBOL | FLAG |
| GIFT SYMBOL | GIFT |
| GOLD BAR SYMBOL | GOLD |
| HOUSE SYMBOL | HOUSE |
| JOKER SYMBOL | JOKER |
| LAMP SYMBOL | LAMP |
| MUSIC SYMBOL | MUSIC |
| POT OF GOLD SYMBOL | POTGLD |
| REGISTER SYMBOL | REGISTER |
| VAULT SYMBOL | VAULT |
| WALLET SYMBOL | WALLET |
| WATCH SYMBOL | WATCH |
| ARMORED CAR SYMBOL | ARMCAR |
| BAR SYMBOL | BAR |
| BELL SYMBOL | BELL |
| ATM CARD SYMBOL | CARD |
| CHECK SYMBOL | CHECK |
| CHERRY SYMBOL | CHERRY |
| CHEST SYMBOL | CHEST |
| CHIP SYMBOL | CHIP |
| CLUB SYMBOL | CLUB |

| | |
|--------------------|----------|
| COINS SYMBOL | COINS |
| CROWN SYMBOL | CROWN |
| DICE SYMBOL | DICE |
| DOLLAR SIGN SYMBOL | DOLLAR |
| EMERALD SYMBOL | EMRLD |
| HEART SYMBOL | HEART |
| KEY SYMBOL | KEY |
| LEMON SYMBOL | LEMON |
| LUGGAGE SYMBOL | LUGGAGE |
| WATERMELON SYMBOL | MELON |
| MOON SYMBOL | MOON |
| NECKLACE SYMBOL | NECKLACE |
| AIRPLANE SYMBOL | PLANE |
| RAINBOW SYMBOL | RAINBOW |
| RING SYMBOL | RING |
| SEVEN SYMBOL | SEVEN |
| HORSESHOE SYMBOL | SHOE |
| SPADE SYMBOL | SPADE |
| STAR SYMBOL | STAR |
| SUN SYMBOL | SUN |
| WISHBONE SYMBOL | WISHBONE |
| MONEY BAG SYMBOL | WIN\$ |
| \$20.00 | TWY\$ |
| \$40.00 | FRTY\$ |
| \$50.00 | FFTY\$ |
| \$100 | ONHN |
| \$200 | TOHN |
| \$500 | FVHN |
| \$1,000 | ONTH |
| \$10,000 | 10TH |
| \$1,000,000 | TPPZ |

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

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2725), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2725-0000001-001.

H. Pack - A Pack of the "POWER 20s" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 025 while the other fold will show the back of Ticket 001 and front of 025.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery and Charitable Bingo Division of the Texas Department of Licensing and Regulation ("Texas Lottery") pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "POWER 20s" Scratch Ticket Game No. 2725.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 140.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "POWER 20s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy (70) Play Symbols. POWER 20s: If a player reveals a "MONEY BAG" Play Symbol, the player wins the PRIZE for that symbol. POWER SPOT \$50: If the player reveals 2 matching Play Symbols in the same POWER SPOT \$50, the player wins \$50. POWER SPOT \$100: If the player reveals 2 matching Play Symbols in the same POWER SPOT \$100, the player wins \$100. POWER SPOT \$200: If the player reveals 2 matching Play Symbols in the same POWER SPOT \$200, the player wins \$200. POWER SPOT \$500: If the player reveals 2 matching Play Symbols in the same POWER SPOT \$500, the player wins \$500. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly seventy (70) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy (70) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy (70) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy (70) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director of the Texas Lottery ("Executive Director") may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game)

or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to thirty-five (35) times in accordance with the prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. MAIN PLAY AREA: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. MAIN PLAY AREA: The "MONEY BAG" (WIN\$) Play Symbol may appear multiple times on winning Tickets, unless restricted by other parameters, play action or prize structure.

E. MAIN PLAY AREA: Non-winning Play Symbols will all be different.

F. MAIN PLAY AREA: The "MONEY BAG" (WIN\$) Play Symbol will only appear on winning Tickets as dictated by the prize structure.

G. MAIN PLAY AREA: Identical non-winning Prize Symbols will never appear more than four (4) times.

H. MAIN PLAY AREA: Non-winning Prize Symbols will never be the same as winning Prize Symbol(s).

I. POWER SPOT \$50/POWER SPOT \$100/POWER SPOT \$200/POWER SPOT \$500: Matching Play Symbols will only appear as dictated by the prize structure in winning POWER SPOT \$50, POWER SPOT \$100, POWER SPOT \$200 and POWER SPOT \$500 play areas.

J. POWER SPOT \$50/POWER SPOT \$100/POWER SPOT \$200/POWER SPOT \$500: A Play Symbol will not be used more than one (1) time per Ticket across the POWER SPOT \$50, POWER SPOT \$100, POWER SPOT \$200 and POWER SPOT \$500 play areas, unless used in a winning combination.

K. POWER SPOT \$50/POWER SPOT \$100/POWER SPOT \$200/POWER SPOT \$500: The POWER SPOT \$50, POWER SPOT \$100, POWER SPOT \$200 and POWER SPOT \$500 Play Symbols will never appear in the MAIN PLAY AREA.

L. POWER SPOT \$50/POWER SPOT \$100/POWER SPOT \$200/POWER SPOT \$500: In the POWER SPOT \$50, POWER SPOT \$100, POWER SPOT \$200 and POWER SPOT \$500 play areas, non-winning Play Symbols will never be the same as winning Play Symbols.

M. POWER SPOT \$50/POWER SPOT \$100/POWER SPOT \$200/POWER SPOT \$500: The POWER SPOT \$50, POWER SPOT \$100, POWER SPOT \$200 and POWER SPOT \$500 play areas will each be played separately.

2.3 Procedure for Claiming Prizes.

A. To claim a "POWER 20s" Scratch Ticket Game prize of \$20.00, \$40.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$40.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas

Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "POWER 20s" Scratch Ticket Game prize of \$1,000, \$10,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "POWER 20s" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

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

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

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

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

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

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

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "POWER 20s" Scratch Ticket Game, the Texas Lottery shall deliver to an adult

member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "POWER 20s" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

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

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2725. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2725 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$20.00 | 720,000 | 8.33 |
| \$40.00 | 180,000 | 33.33 |
| \$50.00 | 480,000 | 12.50 |
| \$100 | 190,000 | 31.58 |
| \$200 | 82,500 | 72.73 |
| \$500 | 9,000 | 666.67 |
| \$1,000 | 200 | 30,000.00 |
| \$10,000 | 25 | 240,000.00 |
| \$1,000,000 | 4 | 1,500,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.61. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2725 without advance notice, at which point no further

Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §140.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2725, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 140, and all final decisions of the Executive Director.

TRD-202600514

Deanne Rienstra

Interim General Counsel Lottery and Charitable Bingo

Texas Department of Licensing and Regulation

Filed: February 4, 2026



North Central Texas Council of Governments

Notice of Contract Award for the Federal Railroad Administration's Corridor Identification and Development Program

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the October 25, 2024 issue of

the *Texas Register* (49 TexReg 8617). The selected entities will perform technical and professional work for the Federal Railroad Administration's Corridor Identification and Development Program.

The entity selected for this project is HNTB Corporation, 2001 Bryan Street, Suite 1500, Dallas, Texas 75201 for a contract amount not to exceed \$400,000.

Issued in Arlington, Texas on February 2, 2026.

TRD-202600497

Todd Little

Executive Director

North Central Texas Council of Governments

Filed: February 3, 2026



Supreme Court of Texas

Preliminary Approval of Amendments to Rule 6 of the Texas Rules of Judicial Administration

Supreme Court of Texas

Misc. Docket No. 26-9008

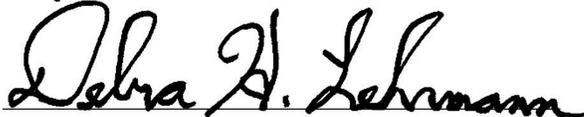
Preliminary Approval of Amendments to Rule 6 of the Texas Rules of Judicial Administration

ORDERED that:

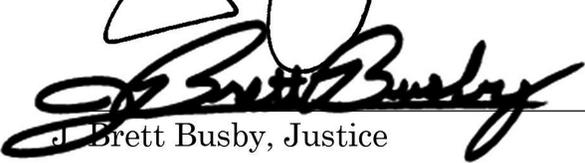
1. In accordance with the Act of June 2, 2025, 89th Leg., R.S., ch. 1130 (S.B. 293), the Court invites public comments on proposed amendments to Texas Rule of Judicial Administration 6. The proposed amendment to Rule 6's title is shown in redline form. New Rule 6.3 is shown in clean form.
2. Comments regarding the amendments should be submitted in writing to rulescomments@txcourts.gov by June 1, 2026.
3. The Court will issue an order finalizing the amendments after the close of the comment period. The Court may change the amendments in response to public comments. The Court expects the amendments to take effect on July 1, 2026.
4. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. send a copy of this order to the Governor, the Lieutenant Governor, and each elected member of the Legislature; and
 - c. submit a copy of this order for publication in the *Texas Register*.
5. The State Bar of Texas is directed to:
 - a. cause a copy of this order to be sent to each registered member of the State Bar of Texas by email; and
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*.

Dated: January 30, 2026.


James D. Blacklock, Chief Justice


Debra H. Lehmann, Justice

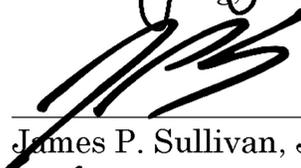

John P. Devine, Justice


J. Brett Busby, Justice


Jane N. Bland, Justice


Rebeca A. Huddle, Justice


Evan A. Young, Justice


James P. Sullivan, Justice


Kyle D. Hawkins, Justice

Rules of Judicial Administration

Rule 6. Time Standards for the Disposition of Cases; Time Reporting

Rule 6.1 District, Statutory County, and Business Courts.

Rule 6.2 Appeals in Certain Cases Involving the Parent-Child Relationship and From Orders Certifying a Juvenile to Stand Trial as an Adult.

Rule 6.3 District Court Time Reporting. (New Rule; Clean Form)

(a) Definitions.

- (1) “Other judicial duties” as used in this rule includes:
 - (A) performing case-related duties, such as reviewing court filings and evidence, conducting legal research, drafting orders and opinions, and presiding over hearings and other court proceedings;
 - (B) performing administrative tasks, such as meeting with other judges regarding court procedures and business, preparing for such meetings, reviewing and drafting local rules, drafting policies, supervising staff and other judges, exercising appointment powers, responding to Rule 12 requests, serving as a judicial mentor, timekeeping and other reporting, and reviewing court metrics and data;
 - (C) completing, preparing for, or presenting continuing education;
 - (D) participating in activities to improve the law, the legal system, or the administration of justice;
 - (E) completing forms required for those who hold judicial office, such as financial disclosure forms and filing forms; and
 - (F) any duties of the judge’s office prescribed by law, rule, or other court order;

(2) “Sworn” means made under penalty of perjury.

(b) Required Statement. A district court judge must electronically submit the following sworn statement to the judge’s Regional Presiding Judge and the Office of Court Administration in a manner specified by the Office:

“I spent approximately ____ hours in the past 6 months presiding over court at the courthouse or another court facility and approximately ____ hours performing other judicial duties.”

(c) Deadline. The judge must submit the statement by:

(1) July 20, for the period from January 1 to June 30; and

(2) January 20, for the period from July 1 to December 31.

(d) Supporting Documentation. This rule does not require submission of supporting documentation. Any supporting documentation is not subject to disclosure under Rule 12.

TRD-202600395
Blake Hawthorne
Clerk of the Court
Supreme Court of Texas
Filed: January 30, 2026

◆ ◆ ◆

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 51 (2026) is cited as follows: 51 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "51 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 51 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <https://www.sos.texas.gov>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION

Part 4. Office of the Secretary of State

Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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