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 2. TEXAS ETHICS COMMISSION

CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission (the TEC) adopts the repeal of all existing rules in Texas Ethics Commission Chapter 20, regarding Reporting Political Contributions and Expenditures. These repeals are adopted without changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8426). The rules will not be republished.

Specifically, the Commission adopts the repeal of all rules in Subchapter A of Chapter 20 (relating to General Rules), including §20.1 regarding Definitions, §20.3 regarding Reports Filed with the Commission, §20.5 regarding Reports Filed with a County Filing Authority, §20.7 regarding Reports Filed with Other Local Filing Authority, §20.9 regarding Filing Option for Certain Specific-Purpose Committees, §20.11 regarding Federal Candidates and Officeholders, §20.13 regarding Out-of-State Committees, §20.15 regarding Change of Address, §20.16 regarding Notices by Electronic Mail, §20.18 regarding Recordkeeping Required, §20.19 regarding Reports Must Be Filed on Official Forms, §20.20 regarding Timeliness of Action by Electronic Filing, §20.21 regarding Due Dates on Holidays and Weekends, §20.23 regarding Timeliness of Action by Mail, §20.29 regarding Information About Out-of-State Committees, §20.33 regarding Termination of Campaign Treasurer Appointment By Commission, and §20.35 regarding Notice of Proposed Termination of Campaign Treasurer Appointment.

The TEC also adopts the repeal of all rules in Subchapter B of Chapter 20 (relating to General Reporting Rules), including §20.50 regarding Total Political Contributions Maintained, §20.51 regarding Value of In-Kind Contribution, §20.52 regarding Description of In-Kind Contribution for Travel, §20.53 regarding Disclosure of True Source of Contribution or Expenditure, §20.54 regarding Reporting a Pledge of a Contribution, §20.55 regarding Time of Accepting Contribution, §20.56 regarding Expenditures to Vendors, §20.57 regarding Time of Making Expenditure, §20.58 regarding Disclosure of Political Expenditure, §20.59 regarding Reporting Expenditure by Credit Card, §20.60 regarding Reporting Political Expenditures for Processing Fees, §20.61 regarding Purpose of Expenditure, §20.62 regarding Reporting Staff Reimbursement, §20.63 regarding Reporting the Use and Reimbursement of Personal Funds, §20.64 regarding Reporting the Forgiveness of a Loan or Settlement of a Debt, §20.65 regarding Reporting No Activity, §20.66 regarding Discounts, and §20.67 regarding Reporting after the Death or Incapacity of a Filer.

The TEC also adopts the repeal of all rules in Subchapter C of Chapter 20 (relating to Reporting Requirements for a Candidate), including §20.201 regarding Required Appointment of Campaign Treasurer, §20.203 regarding Candidates for State Party Chair, §20.205 regarding Contents of Candidate's Campaign Treasurer Appointment, §20.206 regarding Transfer of Campaign Treasurer Appointment, §20.207 regarding Termination of Campaign Treasurer Appointment, §20.209 regarding Reporting Obligations Imposed on Candidate, Not Campaign Treasurer, §20.211 regarding Semiannual Reports, §20.213 regarding Pre-election Reports, §20.215 regarding Runoff Report, §20.217 regarding Modified Reporting, §20.219 regarding Content of Candidate's Sworn Report of Contributions and Expenditures, §20.220 regarding Additional Disclosure for the Texas Comptroller of Public Accounts, §20.221 regarding Special Pre-Election Report by Certain Candidates, §20.223 regarding Form and Contents of Special Pre-Election Report, §20.225 regarding Special Session Reports, §20.227 regarding Contents of Special Session Report, §20.229 regarding Final Report, §20.231 regarding Contents of Final Report, §20.233 regarding Annual Report of Unexpended Contributions, §20.235 regarding Contents of Annual Report, §20.237 regarding Final Disposition of Unexpended Contributions, §20.239 regarding Report of Final Disposition of Unexpended Contributions, §20.241 regarding Contents of Report of Final Disposition of Unexpended Contributions, and §20.243 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also adopts the repeal of all rules in Subchapter D of Chapter 20 (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File), including §20.271 regarding Officeholders Covered, §20.273 regarding Semiannual Reports of Contributions and Expenditures, §20.275 regarding Exception from Filing Requirement for Certain Local Officeholders, §20.277 regarding Appointment by Officeholder of Campaign Treasurer, §20.279 regarding Contents of Officeholder's Sworn Report of Contributions and Expenditures, §20.281 regarding Special Session Report by Certain Officeholders, §20.283 regarding Contents of Special Session Report, §20.285 regarding Annual Report of Unexpended Contributions by Former Officeholder, §20.287 regarding Contents of Annual Report, §20.289 regarding Disposition of Unexpended Contributions, §20.291 regarding Report of Final Disposition of Unexpended Contributions, §20.293 regarding Contents of Report of Final Disposition of Unexpended Contributions, and §20.295 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also adopts the repeal of all rules in Subchapter E of Chapter 20 (relating to Reports by a Specific-Purpose Committee), including §20.301 regarding Thresholds for Campaign Treasurer Appointment, §20.303 regarding Appointment

of Campaign Treasurer, §20.305 regarding Appointing an Assistant Campaign Treasurer., §20.307 regarding Name of Specific-Purpose Committee, §20.309 regarding Contents of Specific-Purpose Committee Campaign Treasurer Appointment, §20.311 regarding Updating Certain Information on the Campaign Treasurer Appointment, §20.313 regarding Converting to a General-Purpose Committee, §20.315 regarding Termination of Campaign Treasurer Appointment, §20.317 regarding Termination Report, §20.319 regarding Notice to Candidate or Officeholder, §20.321 regarding Involvement in More Than One Election by Certain Specific-Purpose Committees, §20.323 regarding Semiannual Reports, §20.325 regarding Pre-election Reports, §20.327 regarding Runoff Report, §20.329 regarding Modified Reporting, §20.331 regarding Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures, §20.333 regarding Special Pre-Election Report by Certain Specific-Purpose Committees, §20.335 regarding Form and Contents of Special Pre-Election Report by a Specific-Purpose Committee Supporting or Opposing Certain Candidates, §20.337 regarding Special Session Reports by Specific-Purpose Committees, §20.339 regarding Contents of the Special Session Report, §20.341 regarding Dissolution Report, and §20.343 regarding Contents of Dissolution Report.

The TEC also adopts the repeal of all rules in Subchapter F of Chapter 20 (relating to Reporting Requirement for a General Purpose Committee), including §20.401 regarding Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee, §20.403 regarding Reporting Requirements for Certain General-Purpose Committees, §20.405 regarding Campaign Treasurer Appointment for a General-Purpose Political Committee, §20.407 regarding Appointing an Assistant Campaign Treasurer, §20.409 regarding Name of General-Purpose Committee, §20.411 regarding Contents of General-Purpose Committee Campaign Treasurer Appointment, §20.413 regarding Updating Information on the Campaign Treasurer Appointment, §20.415 regarding Termination of Campaign Treasurer Appointment, §20.417 regarding Termination Report, §20.419 regarding Converting to a Specific-Purpose Committee, §20.421 regarding Notice to Candidate or Officeholder, §20.423 regarding Semiannual Reports, §20.425 regarding Pre-election Reports, §20.427 regarding Runoff Report, §20.429 regarding Option To File Monthly, §20.431 regarding Monthly Reporting, §20.433 regarding Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures, §20.434 regarding Alternate Reporting Requirements for General-Purpose Committees, §20.435 regarding Special Pre-Election Reports by Certain General-Purpose Committees, §20.437 regarding Form and Contents of Special Pre-Election Report, §20.439 regarding Dissolution Report, and §20.441 regarding Contents of Dissolution Report.

The TEC also adopts the repeal of all rules in Subchapter G of Chapter 20 (relating to Rules Applicable to a Principal Political Committee of a Political Party), including §20.501 regarding Designation of Principal Political Committee, and §20.503. Exceptions from Certain Notice Requirements.

The TEC also adopts the repeal of all rules in Subchapter H of Chapter 20 (relating to Rules Applicable to a Political Party Accepting Contributions from Corporations or Labor Organizations), including §20.521 regarding Restrictions on Use of Contributions from Corporations or Labor Organizations, §20.523 regarding Separate Account Required, §20.525 regarding Record of Contributions and Expenditures and Contents of Report, §20.527 regarding Form of Report, §20.529 regarding Reporting Schedule for Political Party Accepting Corporate or Labor Organization Contributions, and §20.531 regarding Restrictions on Contributions before General Election.

The TEC also adopts the repeal of all rules in Subchapter I of Chapter 20 (relating to Rules Applicable to a Political Party's County Executive Committee), including §20.551 regarding Obligation To Maintain Records, §20.553. Campaign Treasurer Appointment Not Required for County Executive Committee Accepting Contributions or Making Expenditures Under Certain Amount, §20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount, §20.557 regarding Exceptions from Certain Restrictions, §20.559 regarding Exception from Notice Requirement, and §20.561 regarding County Executive Committee Accepting Contributions from Corporations and/or Labor Organizations.

The TEC also adopts the repeal of all rules in Subchapter J of Chapter 20 (relating to Reports by a Candidate for State or County Party Chair), including §20.571 regarding Definitions, §20.573 regarding Rules Applicable to Candidate for State Chair of a Political Party, §20.575 regarding Contributions to and Expenditures by Candidate for State Chair of a Political Party, §20.577 regarding Reporting Schedule for a Candidate for State Chair, and §20.579 regarding Candidates for County Chair in Certain Counties.

The TEC also adopts the repeal of all rules in Subchapter K of Chapter 20 (relating to Reports by Political Committees Supporting or Opposing a Candidate for State or County Chair of a Political Party), including §20.591 regarding Appointment of Campaign Treasurer by Political Committee Supporting or Opposing Candidate for State Chair of a Political Party, §20.593. Contributions and Expenditures by Political Committee Supporting or Opposing Candidate for State Chair of a Political Party, §20.595. Reporting Schedule for a Political Committee Supporting or Opposing Candidate for State Chair of a Political Party, and §20.597. Political Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

These repeals, along with the contemporaneous adoption of the new rules in Chapter 20, amend the rules used in reporting contributions and expenditures in campaign finance reports.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding reporting political contributions and expenditures, which are codified in Chapter 20. The repeal of these rules and adoption of new rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these reporting requirements.

The TEC did not receive any public comments on these repeals.

SUBCHAPTER A. GENERAL RULES

1 TAC §§20.1, 20.3, 20.5, 20.7, 20.9, 20.11, 20.13, 20.15, 20.16, 20.18 - 20.21, 20.23, 20.29, 20.33, 20.35

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to

administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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 February 24, 2026.

TRD-202600878
Amanda Arriaga
General Counsel
Texas Ethics Commission
Effective date: March 16, 2026
Proposal publication date: December 26, 2025
For further information, please call: (512) 463-5800

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SUBCHAPTER B. GENERAL REPORTING RULES

1 TAC §§20.50 - 20.67

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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

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SUBCHAPTER C. REPORTING REQUIREMENTS FOR A CANDIDATE

1 TAC §§20.201, 20.203, 20.205 - 20.207, 20.209, 20.211, 20.213, 20.215, 20.217, 20.219 - 20.221, 20.223, 20.225, 20.227, 20.229, 20.231, 20.233, 20.235, 20.237, 20.239, 20.241, 20.243

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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 D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE

1 TAC §§20.271, 20.273, 20.275, 20.277, 20.279, 20.281, 20.283, 20.285, 20.287, 20.289, 20.291, 20.293, 20.295

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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 E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

1 TAC §§20.301, 20.303, 20.305, 20.307, 20.309, 20.311, 20.313, 20.315, 20.317, 20.319, 20.321, 20.323, 20.325, 20.327, 20.329, 20.331, 20.333, 20.335, 20.337, 20.339, 20.341, 20.343

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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. REPORTING REQUIREMENT FOR A GENERAL PURPOSE COMMITTEE

1 TAC §§20.401, 20.403, 20.405, 20.407, 20.409, 20.411, 20.413, 20.415, 20.417, 20.419, 20.421, 20.423, 20.425, 20.427, 20.429, 20.431, 20.433 - 20.435, 20.437, 20.439, 20.441

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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 G. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF A POLITICAL PARTY

1 TAC §20.501, §20.503

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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 H. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING CONTRIBUTIONS FROM CORPORATIONS OR LABOR ORGANIZATIONS

1 TAC §§20.521, 20.523, 20.525, 20.527, 20.529, 20.531

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE

1 TAC §§20.551, 20.553, 20.555, 20.557, 20.559, 20.561

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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. REPORTS BY A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR

1 TAC §§20.571, 20.573, 20.575, 20.577, 20.579

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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. REPORTS BY POLITICAL COMMITTEES SUPPORTING OR OPPOSING A CANDIDATE FOR STATE OR COUNTY CHAIR OF A POLITICAL PARTY

1 TAC §§20.591, 20.593, 20.595, 20.597

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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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Amanda Arriaga
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Texas Ethics Commission
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For further information, please call: (512) 463-5800

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CHAPTER 20. REPORTING CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission (the TEC) adopts new Chapter 20 in TEC Rules, regarding Reporting Contributions and Expenditures, consisting of §§20.1, 20.7, 20.13, 20.14, 20.16, 20.21, 20.33, 20.35, 20.50 - 20.52, 20.54 - 20.56, 20.58 - 20.67, 20.201, 20.203, 20.205, 20.207, 20.209, 20.211, 20.213, 20.215, 20.220, 20.221, 20.223, 20.225, 20.227, 20.235, 20.243, 20.271, 20.295, 20.303, 20.305, 20.307, 20.308, 20.311, 20.313, 20.319, 20.333, 20.343, 20.403, 20.503, 20.523, 20.527, 20.529, 20.555, 20.557, 20.559, 20.561, 20.571, 20.577, 20.579, 20.601, and 20.602. Sections 20.1, 20.529, and 20.557 are adopted with changes (as specified below) to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8433) and will be republished. All other sections are adopted without changes to the proposed text and will not be republished.

Specifically, the TEC adopts new rules in Subchapter A of Chapter 20 (relating to General Rules), including §§20.1 regarding Definitions, 20.7 regarding Reports filed with Other Local Filing Authority, 20.13 regarding Out-of-State Committees, 20.14 regarding Information About Out-of-State Committees, 20.16 regarding Notices by Electronic Mail, 20.21 regarding Due Date on Holidays and Weekends, 20.33 regarding Termination of Campaign Treasurer Appointment by Commission, and 20.35 regarding Notice of Proposed Termination of Campaign Treasurer Appointment.

The TEC also adopts new rules in Subchapter B of Chapter 20 (relating to General Reporting Rules), including §§20.50 regarding Total Political Contributions Maintained, 20.51 regarding Value of In-Kind Contribution, 20.52 regarding Description of In-Kind Contribution for Travel, 20.54 regarding Reporting a Pledge of a Contribution, 20.55 regarding Time of Accepting Contribution, 20.56 regarding Expenditures to Vendors, 20.58 regarding Disclosure of Political Expenditure, 20.59 regarding Reporting Expenditure by Credit Card, 20.60 regarding Reporting Political Expenditures for Processing Fees, 20.61 regarding Purpose of Expenditure, 20.62 regarding Reporting Staff Reimbursement, 20.63 regarding Reporting the Use and Reimbursement of Personal Funds, 20.64 regarding Reporting the Forgiveness of a Loan or Settlement of a Debt, 20.65 regarding Reporting No Activity, 20.66 regarding Discounts, and 20.67 regarding Reporting after the Death or Incapacity of a Filer.

The TEC also adopts new rules in Subchapter C of Chapter 20 (relating to Reporting Requirements), including §§20.201 regarding Definitions, 20.203 regarding Required Appointment of Campaign Treasurer, 20.205 regarding Modified Reporting, 20.207 regarding Reporting Political Contributions to a Business in Which the Candidate or Officeholder Has a Participating Interest, 20.209 regarding Reporting Contributions, 20.211 regarding Reporting Pledges, 20.213 regarding Reporting Loans, 20.215 regarding Reporting Expenditures of Personal Funds, 20.220 regarding Additional Disclosure for the Texas Comptroller of

Public Accounts, 20.221 regarding Special Pre-Election Report by Certain Candidates, 20.223 regarding Form and Contents of Special Pre-election Report, 20.225 regarding Special Session Reports for Candidates and Certain Officeholders, 20.227 regarding Contents of Special Session Report, 20.235 regarding Contents of Annual Report, and 20.243 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also adopts new rules in Subchapter D of Chapter 20 (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File), including §§20.271 regarding Officeholders Covered, and 20.295 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also adopts new rules in Subchapter E of Chapter 20 (relating to Reports by a General-Purpose or Specific-Purpose Committee), including §§20.303 regarding Appointment of Campaign Treasurer, 20.305 regarding Appointing an Assistant Campaign Treasurer, 20.307 regarding Name of Specific-Purpose Committee, 20.308 regarding Name of General-Purpose Committee, 20.311 regarding Updating Certain Information on the Campaign Treasurer Appointment, 20.313 regarding Converting to a Different Committee Type, 20.319 regarding Notice to Candidate of Officeholder, 20.333 regarding Special Pre-Election Report by Certain Specific-Purpose Committees, 20.343 regarding Contents of Dissolution Report, and 20.403 regarding Reporting Requirements for Certain General-Purpose Committees.

The TEC also adopts a new rule in Subchapter F of Chapter 20 (relating to Rules Applicable to a Principal Political Committee of a Political Party), including §20.503 regarding Exceptions from Certain Notice Requirements.

The TEC also adopts new rules in Subchapter G of Chapter 20 (relating to Rules Applicable to a Political Party Accepting Contributions From Corporations and/or Labor Organizations), including §§20.523 regarding Separate Account Required, 20.527 regarding Form of Report, and 20.529 regarding Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.

The TEC also adopts new rules in Subchapter H of Chapter 20 (relating to Rules Applicable to a Political Party's County Executive Committee), including §§20.555 regarding County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount, 20.557 regarding Exceptions from Certain Restrictions, 20.559 regarding Exception from Notice Requirement, and 20.561 regarding County Executive Committee Accepting Contributions From Corporations and/or Labor Organizations.

The TEC also adopts new rules in Subchapter I of Chapter 20 (relating to Reports by a Candidate or a Committee Supporting or Opposing a Candidate for State or County Party Chair), including §§20.571 regarding Definitions, 20.577 regarding Reporting Schedule for a Candidate for State Chair, and 20.579 regarding Candidates and Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

The TEC also adopts new rules in Subchapter J of Chapter 20 (relating to Reports by a Legislative Caucus), including §§20.601 regarding Reporting Obligations Imposed on Caucus Chair, and 20.602 regarding Reporting Schedule for a Legislative Caucus.

This adoption, along with the contemporaneous adoption of the repeal of all existing rules in Chapter 20, amends the rules used in reporting contributions and expenditures in campaign finance reports.

The TEC did not receive any public comments on these new rules.

The changes from the proposed rules to the adopted rules are only to correct minor errors:

20.1(15)(E): added a missing period at the end; no text was changed

20.529: a space was added between "that[-]begins"

20.557: Removed extra ")" at the end; no text was changed

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code § 2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding reporting contributions and expenditures, which are codified in Chapter 20. The repeal of existing rules and adoption of new rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on procedures for reporting contributions and expenditures in campaign finance reports.

SUBCHAPTER A. GENERAL RULES

1 TAC §§20.1, 20.7, 20.13, 20.14, 20.16, 20.21, 20.33, 20.35

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

§20.1. Definitions.

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

(1) Campaign communication--The term does not include a communication made by e-mail.

(2) Campaign treasurer--Either the individual appointed by a candidate to be the campaign treasurer, or the individual responsible for filing campaign finance reports of a political committee under Texas law or the law of any other state.

(3) Contribution--The term does not include a transfer for consideration of anything of value pursuant to a contract that reflects the usual and normal business practice of the vendor.

(4) Corporation--The term does not include professional corporations or professional associations.

(5) Election cycle--A single election and any related primary or runoff election.

(6) Identified measure--A question or proposal submitted in an election for an expression of the voters' will and includes the cir-

culation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.

(7) Non-political expenditure--An expenditure from political contributions that is not an officeholder expenditure or a campaign expenditure.

(8) Opposed candidate--A candidate who has an opponent whose name is to appear on the ballot. The name of a write-in candidate does not appear on the ballot.

(9) Pledge--A contribution in the form of an unfulfilled promise or unfulfilled agreement, whether enforceable or not, to provide a specified amount of money or specific goods or services. The term does not include a contribution made in the form of a check.

(10) Political advertising:

(A) A communication that supports or opposes a political party, a public officer, a measure, or a candidate for nomination or election to a public office or office of a political party, and:

(i) is published in a newspaper, magazine, or other periodical in return for consideration;

(ii) is broadcast by radio or television in return for consideration;

(iii) appears in a pamphlet, circular, flyer, billboard, or other sign, bumper sticker, or similar form of written communication; or

(iv) appears on an Internet website.

(B) The term does not include an individual communication made by e-mail but does include mass e-mails involving an expenditure of funds beyond the basic cost of hardware messaging software and bandwidth.

(11) Political subdivision--A county, city, or school district or any other governmental entity that:

(A) embraces a geographic area with a defined boundary;

(B) exists for the purpose of discharging functions of government; and

(C) possesses authority for subordinate self-government through officers selected by it.

(12) Report--Any document required to be filed by this title, including an appointment of campaign treasurer, any type of report of contributions and expenditures, and any notice.

(13) Special pre-election report--A shorthand term for a report filed in accordance with the requirements of §20.221 and §20.333 of this chapter (relating to Special Pre-Election Report by Certain Candidates; and Special Pre-Election Report by Certain Specific-Purpose Committees) and §254.038 and §254.039 of the Election Code.

(14) Unidentified measure--A question or proposal that is intended to be submitted in an election for an expression of the voters' will and that is not yet legally required to be submitted in an election, except that the term does not include the circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will. The circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will is considered to be an identified measure.

(15) Principal purpose--A group has as a principal purpose of accepting political contributions or making political expenditures, including direct campaign expenditures, when that activity is an important or a main function of the group.

(A) A group may have more than one principal purpose. When determining whether a group has a principal purpose of accepting political contributions or making political expenditures, the Commission may consider any available evidence regarding the activities by the group and its members, including, but not limited to:

(i) public statements,

(ii) fundraising appeals,

(iii) government filings,

(iv) organizational documents; and

(v) the amount of political expenditures made and political contributions accepted by the group and its members.

(B) A group does not have a principal purpose of making political expenditures if it can demonstrate that not more than 49% of its overall expenditures are political expenditures.

(C) The following shall be included for purposes of calculating the proportion of the group's political expenditures to all other spending:

(i) the amount of money paid in compensation and benefits to the group's employees for work related to making political expenditures;

(ii) the amount of money spent on political expenditures; and

(iii) the amount of money attributable to the proportional share of administrative expenses related to political expenditures. The proportional share of administrative expenses is calculated by comparing the political expenditures in clause (ii) of this subparagraph with non-political expenditures. (For example, if the group sends three mailings a year and each costs $10,000, if the first two are issue-based newsletters and the third is a direct advocacy sample ballot, and there were no other expenditures, then the proportion of the administrative expenses attributable to political expenditures would be 33%.) Administrative expenses include:

(I) fees for services to non-employees;

(II) advertising and promotion;

(III) office expenses;

(IV) information technology;

(V) occupancy;

(VI) travel expenses;

(VII) interest; and

(VIII) insurance.

(D) The group may maintain specific evidence of administrative expenses related only to political expenditures or only to non-political expenditures. Specifically identified administrative expenses shall not be included in the proportion established by subparagraph (C)(iii) but allocated by the actual amount of the expense.

(E) In this section, the term "political expenditures" includes direct campaign expenditures.

(16) In connection with a campaign:

(A) An expenditure is made in connection with a campaign for an elective office if it is:

(i) made for a communication that expressly advocates the election or defeat of a clearly identified candidate by:

(I) using such words as "vote for," "elect," "support," "vote against," "defeat," "reject," "cast your ballot for," or "Smith for city council;" or

(II) using such phrases as "elect the incumbent" or "reject the challenger," or such phrases as "vote pro-life" or "vote pro-choice" accompanied by a listing of candidates described as "pro-life" or "pro-choice;"

(ii) made for a communication broadcast by radio, television, cable, or satellite or distributed by print or electronic media, including any print publication, mailing, Internet website, electronic mail, or automated phone bank, that:

(I) refers to a clearly identified candidate;

(II) is distributed within 30 days before a contested election for the office sought by the candidate;

(III) targets a mass audience or group in the geographical area the candidate seeks to represent; and

(IV) includes words, whether displayed, written, or spoken; images of the candidate or candidate's opponent; or sounds of the voice of the candidate or candidate's opponent that, without consideration of the intent of the person making the communication, are susceptible of no other reasonable interpretation than to urge the election or defeat of the candidate;

(iii) made by a candidate or political committee to support or oppose a candidate; or

(iv) a campaign contribution to:

(I) a candidate; or

(II) a group that, at the time of the contribution, already qualifies as a political committee.

(B) An expenditure is made in connection with a campaign on a measure if it is:

(i) made for a communication that expressly advocates the passage or defeat of a clearly identified measure by using such words as "vote for," "support," "vote against," "defeat," "reject," or "cast your ballot for;"

(ii) made for a communication broadcast by radio, television, cable, or satellite or distributed by print or electronic media, including any print publication, mailing, Internet website, electronic mail, or automated phone bank, that:

(I) refers to a clearly identified measure;

(II) is distributed within 30 days before the election in which the measure is to appear on the ballot;

(III) targets a mass audience or group in the geographical area in which the measure is to appear on the ballot; and

(IV) includes words, whether displayed, written, or spoken, that, without consideration of the intent of the person making the communication, are susceptible of no other reasonable interpretation than to urge the passage or defeat of the measure;

(iii) made by a political committee to support or oppose a measure; or

(iv) a campaign contribution to a group that, at the time of the contribution, already qualifies as a political committee.

(C) Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station or cable television operator, Internet website, or newspaper, magazine, or other periodical publication, including an Internet or other electronic publication, is not a campaign expenditure if the cost for the news story, commentary, or editorial is not paid for by, and the medium is not owned or controlled by, a candidate or political committee.

(D) For purposes of this section:

(i) a candidate is clearly identified by a communication that includes the candidate's name, office sought, office held, likeness, photograph, or other apparent and unambiguous reference; and

(ii) a measure is clearly identified by a communication that includes the measure's name or ballot designation (such as "Proposition 1"), purposes, election date, or other apparent and unambiguous reference.

(17) Discount--The provision of any goods or services without charge or at a charge which is less than fair market value. A discount is an in-kind political contribution unless the terms of the transaction reflect the usual and normal practice of the industry and are typical of the terms that are offered to political and non-political persons alike, or unless the discount is given solely to comply with §253.041 of the Election Code. The value of an in-kind contribution in the form of a discount is the difference between the fair market value of the goods or services at the time of the contribution and the amount charged.

(18) School district--For purposes of §254.130 of the Election Code and §20.7 of this chapter (relating to Reports Filed with Other Local Filing Authority), the term includes a junior college district or community college district.

(19) Vendor--Any person providing goods or services to a candidate, officeholder, political committee, or other filer under this chapter. The term does not include an employee of the candidate, officeholder, political committee, or other filer.

(20) Hybrid committee--A political committee that, as provided by §252.003(a)(4) or §252.0031(a)(2) of the Election Code, as applicable, has filed a campaign treasurer appointment that includes an affidavit stating that:

(A) the committee is not established or controlled by a candidate or an officeholder; and

(B) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to:

(i) a candidate for elective office;

(ii) an officeholder; or

(iii) a political committee that has not filed an affidavit in accordance with this section.

(21) Direct campaign expenditure-only committee--A political committee, as authorized by §253.105 of the Election Code to accept political contributions from corporations and/or labor organizations, that:

(A) is not established or controlled by a candidate or an officeholder;

(B) makes or intends to make direct campaign expenditures;

(C) does not make or intend to make political contributions to:

(i) a candidate;

(ii) an officeholder;

(iii) a specific-purpose committee established or controlled by a candidate or an officeholder; or

(iv) a political committee that makes or intends to make political contributions to a candidate, an officeholder, or a specific-purpose committee established or controlled by a candidate or an officeholder; and

(D) has filed an affidavit with the Commission stating the committee's intention to operate as described by subparagraphs (B) and (C).

(22) Reportable Activity--For the purposes of filing a final report, this term includes an expenditure to pay a campaign debt.

(23) Statewide Measure--A measure to be voted on by all eligible voters in the state.

(24) District Measure--A measure to be voted on by the voters of a district.

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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Amanda Arriaga
General Counsel
Texas Ethics Commission
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For further information, please call: (512) 463-5800

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SUBCHAPTER B. GENERAL REPORTING RULES

1 TAC §§20.50 - 20.52, 20.54 - 20.56, 20.58 - 20.67

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

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

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SUBCHAPTER C. REPORTING REQUIREMENTS

1 TAC §§20.201, 20.203, 20.205, 20.207, 20.209, 20.211, 20.213, 20.215, 20.220, 20.221, 20.223, 20.225, 20.227, 20.235, 20.243

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

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SUBCHAPTER D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE

1 TAC §20.271, §20.295

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

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SUBCHAPTER E. REPORTS BY A GENERAL-PURPOSE OR SPECIFIC-PURPOSE COMMITTEE

1 TAC §§20.303, 20.305, 20.307, 20.308, 20.311, 20.313, 20.319, 20.333, 20.343, 20.403

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

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SUBCHAPTER F. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF A POLITICAL PARTY

1 TAC §20.503

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

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SUBCHAPTER G. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING CONTRIBUTIONS FROM CORPORATIONS AND/OR LABOR ORGANIZATIONS

1 TAC §§20.523, 20.527, 20.529

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

§20.529. Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.

A political party that has accepted a contribution from a corporation and/or labor organization shall file the following reports until the political party is no longer accepting corporate and/or labor organization contributions and the acceptance and expenditure of all such funds has been reported.

(1) A report shall be filed not earlier than July 1 and not later than July 15, covering the period that begins on either January 1 or the day after the last day included in a primary election report filed under paragraph (3) of this section, as applicable, and ends on June 30.

(2) A report shall be filed not earlier than January 1 and not later than January 15, covering the period that begins on either July 1 or the day after the last day included in a general election report filed under paragraph (4) of this section, as applicable, and ends on December 31.

(3) A report shall be filed for each primary election held by the political party. The report shall be filed not later than the eighth day before the primary election, covering the period that begins on January 1 and ends on the 10th day before the primary election.

(4) A report shall be filed for the general election for state and county officers. The report shall be filed not later than the 50th day before the general election, covering the period that begins on July 1 and ends on the 61st day before the general election for state and county officers.

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 H. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE

1 TAC §§20.555, 20.557, 20.559, 20.561

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

§20.557. Exceptions from Certain Restrictions.

A county executive committee is excepted from complying with §253.031(b)-(c) of the Election Code.

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. REPORTS BY A CANDIDATE OR A COMMITTEE SUPPORTING OR OPPOSING A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR

1 TAC §§20.571, 20.577, 20.579

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

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. REPORTS BY A LEGISLATIVE CAUCUS

1 TAC §20.601, §20.602

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted rules affect Title 15 of the Election Code.

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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PART 10. DEPARTMENT OF INFORMATION RESOURCES

CHAPTER 218. DATA GOVERNANCE AND MANAGEMENT

The Texas Department of Information Resources (department) adopts 1 Texas Administrative Code (TAC) Chapter 218, Subchapter B, §218.10, and Subchapter C, §218.20, without changes to the proposal as published in the November 7, 2025, edition of the *Texas Register* (50 TexReg 7165). These will not be republished.

The adopted rules apply to state agencies and institutions of higher education.

Comments Received by the Department

The department received one comment from HITRUST in response to the proposed rule.

HITRUST recommended that the department recognize their certification as an acceptable way for agencies to meet portions of the data maturity assessment. The department declined to make this change as, due to the biennial submission of these reports to the department and state leadership and the potential for analysis of the data when the department prepares statutorily required reports, it is necessary for the information to be collected in a uniform fashion identified by the department.

In its comment responding to the publication of the proposed 1 TAC Chapter 219, Authorship recommended the department cross reference AI governance in the data maturity tool established by 1 Texas Administrative Code Chapter 218 and combine the data maturity assessment required by Texas Government Code § 2054.515 and regulated by 1 Texas Administrative Code Chapter 218 with the AI impact assessment required by 1 TAC §219.23. The department declined to make a change as the

data maturity assessment is a statutorily required evaluation that a state agency must complete each biennium whereas the impact assessment must be completed only when a state agency deploys or uses a heightened scrutiny AI system.

Description of Adopted Changes

The department adopts Subchapter B, §218.10, for state agencies, and Subchapter C, §218.20, for institutions of higher education, which align the reporting requirements and deadlines for the data governance assessment with those found at Texas Government Code § 2054.515, standardize the assessment tool used by state agencies to ensure the department's ability to collect and report upon the data as contemplated by Texas Government Code Chapter 2054, establishes the data governance assessment as a discrete report separate from the information security assessment.

Within Subchapter C, the department adopts amendments to §218.20 removing the clarification that the data maturity assessment is considered an information security standard, and, as such, the requirement for public junior colleges to comply with this requirement subject to Texas Government Code § 2054.0075.

SUBCHAPTER B. DATA GOVERNANCE AND MANAGEMENT FOR STATE AGENCIES

1 TAC §218.10

The amendments are adopted pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, and Texas Government Code § 2054.515(c) which requires the department to establish the data maturity assessment requirements by rule.

No other code, article, or statute is affected by this 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.

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TRD-202600997
Joshua Godbey
General Counsel
Department of Information Resources
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Proposal publication date: November 7, 2025
For further information, please call: (512) 475-4531

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SUBCHAPTER C. DATA GOVERNANCE AND MANAGEMENT FOR INSTITUTIONS OF HIGHER EDUCATION

1 TAC §218.20

The amendments are adopted pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, and Texas Government Code § 2054.515(c) which requires the department to establish the data maturity assessment requirements by rule.

No other code, article, or statute is affected by this 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.

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Joshua Godbey
General Counsel
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CHAPTER 219. ARTIFICIAL INTELLIGENCE

The Texas Department of Information Resources (department) adopts 1 Texas Administrative Code (TAC) Chapter 219, Subchapter A, §219.1, and Subchapter B, §219.20 and §219.23, without changes to the proposal as published in the November 7, 2025, edition of the *Texas Register* (50 TexReg 7167). These will not be republished.

The department adopts 1 Texas Administrative Code Chapter 219, Subchapter A, §219.11, and Subchapter B, §§219.21, 219.22 and 219.24, with nonsubstantive changes to the rules as published in the November 7, 2025, edition of the *Texas Register* (50 TexReg 7167) in response to comments received from the public. These sections will be republished.

The adopted rules apply to state agencies, institutions of higher education, and, in limited scope as required by Senate Bill 1964 [89th Session (Regular)], local governments, a term which may include approximately 1,100 rural communities as defined by Texas Government Code § 2006.001(1-a).

Comments Received by the Department

The department received public comments from a department employee; Workday; Authorship; Teaching Hospitals of Texas; Parkland Health; Information Technology Industry Council (Council); TechNet; and the Texas Workforce Commission (Commission) in response to the proposed rule.

The department employee recommended that the department amend the proposed rules to require assessments of all artificial intelligence (AI) systems rather than only heightened scrutiny AI systems because research reflects that humans may accept an AI system's output without analysis. The department declined to make a change as a result of this comment because Senate Bill 1964 [89th Session (Regular)] requires the department to address requirements for heightened scrutiny AI systems but does not extend the same requirements to non-heightened scrutiny AI systems.

The department employee recommended the department clarify whether a system's rejection filter is considered a heightened scrutiny AI system. The department declined to make a change as the term heightened scrutiny AI system is defined by statute and examples of what constitutes a heightened scrutiny AI system is better suited for non-regulatory guidelines.

Authorship recommended that the department affirmatively state that the standard AI risk assessment and heightened scrutiny AI impact assessment forms the department creates will be structured, machine-readable, and aligned with nationally recognized frameworks. The department declined to make this change as neither the rule nor statute requires the department to create a form or template for this purpose or governmental entities to use such a form or template.

Authorship recommended that the department establish by rule a statewide AI Governance Repository. The department declined to make this comment as a repository of this type exceeds the authorized scope of the rules.

Authorship recommended the department provide by rule for a managed, shared platform option for small entities and local governments. The department declined to make this change as it exceeds the agency's authority under statute and is not an initiative authorized or funded by the legislature.

Authorship recommended that the department establish by rule a continuous technical review channel for AI matters. The department declined to make this change as Texas Government Code § 2054.705 creates the Public Sector AI Advisory Board, which provides the department with structured feedback on its AI initiatives, forms, and usages.

Teaching Hospitals of Texas (Teaching Hospitals) recommended that the department establish by rule an additional 90-day period to allow governmental entities time to implement and comply with the adopted rule. The department declined to make this change as implementation is a part of the rulemaking process; governmental entities have several months between the department's proposal of the rule and its adoption to implement the changes.

Teaching Hospitals and Parkland Health recommended that the department create consistent reporting requirements for all hospital and health systems to align the more stringent requirements imposed on public and state hospitals by Senate Bill 1964 [89th Legislative Session (Regular)] with the more relaxed standards imposed upon public healthcare by House Bill 149 [89th Legislative Session (Regular)]. The department declined to make this change as the department does not have the statutory authority to do this.

Parkland Health recommended that the department establish health care-specific AI rules reflecting the existing health care regulatory landscape and prioritizing patient access to care over statutory requirements. The department declined to make this change as it does not have statutory authorization to do this.

The Council recommended that the department limit the scope of the AI Code of Ethics to only heightened scrutiny AI systems. The department declined to make this change as Senate Bill 1964 [89th Legislative Session (Regular)] directed the department to create an AI Code of Ethics for adoption by governmental entities that procure, develop, deploy, or use for AI systems generally and does not limit this code to only heightened scrutiny systems.

The Commission recommended that the department incorporate a specific exemption to disclosure under Texas Government Code Chapter 552 stating that disclosure requirements do not apply to information about AI systems related to fraud detection, deterrence, or investigation when that information is protected by state or federal law. The department declined to make this change as the department is not authorized to circumvent the Public Information Act by creating exemptions to disclosure. Public Information Act provisions may exempt from disclosure certain information about AI systems, but it is the agency's responsibility to make that assertion to the Office of the Attorney General.

The Commission recommended that the department amend 1 Texas Administrative Code Chapter 219 to specifically address the use of AI in code development. The department declined to make this change as the requirements articulated by the rules apply to all uses of AI, including AI for code development.

The Council recommended that the department define by rule the phrase "material change" as used by 1 Texas Administrative Code Chapter 219. The department declined to make this change as the phrase is lifted directly from statute where it is undefined, indicating the Texas Legislature intended it to have the common meaning.

The department employee recommended the department amend §219.1 to add definitions for either or both "real human review" or "careful thought." The department declined to add these definitions to rule as the department cannot regulate human error, and it is a governmental entity's responsibility to appoint responsible and competent staff.

The department employee recommended the department amend the proposed §219.1 definition for AI system to "any software inside a Business Intelligence or Data Analytics thing that uses machine learning or guesses to make predictions or sort data, even if the whole thing isn't called an AI product." The department declined to make this change as AI system is a term defined by statute.

The Council recommended that the department tie the definition of consequential decision found at §219.1(3) to whether an AI system was a controlling factor in making a decision. The department declined to make this change as both "consequential decision" and "controlling factor" are terms defined by statute, which the department does not have authority to change.

TechNet recommended that the department amend §219.11(a) to change from requiring a state agency to conduct a written assessment at the time of a material change to the time of a substantial modification. The department declined to make this change as this language mirrors the statute.

The Council recommended that the department amend §219.11(b)(2) to remove language regarding privacy concerns and the challenges that AI poses to implement safely. The department declined to make the change as recommended as privacy and safety in implementation are legitimate concerns of which agencies need to be aware.

TechNet recommended that the department clarify the rule to reflect distinctions between enterprise- and non-enterprise grade products. The department considered this comment and made a nonsubstantive change to the code of ethics preamble found at §219.11(b)(2) from "To the extent that AI systems are trained on or used to process PII, they raise significant privacy concerns" to "To the extent that AI systems are trained on or used to process PII, they may raise significant privacy concerns, particularly when the systems are deployed outside of a secure government environment." The department also made a nonsubstantive clarification to §219.11(h)(3) from "Many AI systems rely on vast amounts of PII to make predictions and decisions. Sharing PII with an AI tool may violate privacy laws and obligations the entity has to the individual" to "Many AI systems rely on vast amounts of PII to make predictions and decisions. Sharing PII

with an AI tool may violate privacy laws and obligations the entity has to the individual, particularly when using a tool outside the governmental entity's secure environment." This clarifies existing language to emphasize that privacy concerns may be greater when using a tool outside of a secure environment.

The Council recommended that the department amend §219.11(c)(1) to incorporate language about how human oversight should be proportional to the level of risk associated with an AI system. The department declined to make this change as this concern is already addressed by §219.11(c)(2)(B).

The Council and TechNet recommended that the department amend §219.11(c)(2)(C) to allow governmental entities to pause or restrict, rather than disable, AI systems that have made a harmful or inaccurate decision as the current language requires AI systems to have a disable feature, which is not always possible. The department considered these comments and made the following nonsubstantive change to allow more expansive means to reduce harm from the AI system issue: "(C) Must ensure AI systems can be paused, restricted, or disabled until harmful or inaccurate decision making can be remedied."

The Council recommended that the department amend §219.11(d)(1) from "The data used to develop AI systems must adequately represent the subjects or people about which AI systems make judgments, decisions, or predictions. Incomplete or inaccurate data can result in unlawful harm" to "(1) The data used to develop AI systems must, to the greatest extent possible, represent the subjects or people about which AI systems make judgments, decisions, or predictions. Incomplete or inaccurate data can result in unlawful harm." The department declined to make this change as adequately is an appropriate level of alignment between the data used to develop the AI system and the AI system itself.

TechNet recommended that the department amend §219.11(e) to add a subsection (D) requiring IT administrators to understand the tools offered to organizations to allow them to control their deployments and ensure outputs are in line with expectation. The department declined to make this change as this requires the department to administer individual entity employee responsibilities in a way the department does not have authority to do.

The Council recommended that the department amend §219.11(f)(2)(A) to limit the redress application to heightened scrutiny AI systems that make consequential decisions "about rights or access to governmental services." The department considered this comment and made the following nonsubstantive change from "(A) Must provide a mechanism to seek redress for those impacted when an AI system makes a consequential decision that unfairly impacts an individual or group in a material way" to "(A) Must provide a mechanism to seek redress for those impacted when an AI system makes a consequential decision that results in unlawful harm about their rights or access to governmental services."

Workday and the Commission identified concerns about the use of the phrase "unfair impact" in §219.11(f)(2)(A) and recommended amending this section to tie redress when an AI system makes a consequential decision impacting an individual or group to "a consequential decision that results in unlawful harm." The department considered this comment and made the following nonsubstantive change that clarifies the intent of this subparagraph: "must provide a mechanism to seek redress for those impacted when an AI system makes a consequential decision that results in unlawful harm."

TechNet recommended that the department amend §219.11(f)(2)(B) to revise the contact requirements to reflect a standard method rather than a point of contact as the contact may change frequently. The department declined to make this change as a designated point of contact does not tie the requirement to a singular person. An entity may fulfill this requirement by directing to a generic inbox or contact form.

TechNet recommended that the department amend §219.11(g) from requiring governmental entities to demand transparency from developers of AI systems to expecting this transparency. The department declined to make this change as governmental entities must demand transparency for the systems they use to ensure public trust.

Workday and the Council recommended amending §219.11(g)(2)(C) to replace the phrase "material decisions," which is undefined by statute, with "consequential decisions," which is. The department considered this comment and accepted the recommended nonsubstantive change as the term material arose from the definition of consequential decision.

Teaching Hospitals and the Commission recommended that the department clarify §219.11(g)(2)(C) to reflect this subsection of the Code of Ethics applies only to public-facing AI systems. After consideration, the department accepted this change as it pertains to §219.11(g)(2)(C) and amended the language from "(C) Must disclose when individuals interact with an AI system and when an AI system is used to make consequential decisions about their rights or access to governmental services; and" to "(C) Must disclose when individuals interact with a public-facing AI system and when an AI system is used to make consequential decisions about their rights or access to governmental services; and."

Teaching Hospitals recommended that the department amend §219.11(g)(2)(C) to reflect that hospital districts, academic medical centers, and state and public hospitals can satisfy disclosure requirements by including a generalized statement in the patient consent forms as authorized by Texas Government Code § 2054.711(c). The department declined to make this change as the rule neither specifies disclosure methods nor references the standardized notice required by Texas Government Code § 2054.711.

The Council recommended that the department amend §219.11(g)(2)(D) to change "never" to "not." The department declined to make this change as the current language relays its intent.

The Council recommended that the department amend §219.11(h)(3) to distinguish between AI systems deployed within secure governmental environments and those designed for broader public use. The department considered this comment and made the following nonsubstantive change to this section from "(3) Many AI systems rely on vast amounts of PII to make predictions and decisions. Sharing PII with an AI tool may violate privacy laws and obligations the entity has to the individual" to "(3) Many AI systems rely on vast amounts of PII to make predictions and decisions. Sharing PII with an AI tool may violate privacy laws and obligations the entity has to the individual, particularly when using a tool outside the governmental entity's secure environment."

TechNet recommended that the department amend §219.11(i) to add "All governmental entities must utilize enterprise-grade AI systems designed such that these secure AI systems will maintain the confidentiality and integrity of the AI system as well as

the data it contains even when unexpected events or changes in their environment occur." The department declined to make this change as this is too restrictive a requirement to include in rule.

The Council recommended that the department amend §219.11(i)(1) from "common security concerns in the AI context involve data poisoning or malicious code injection, exfiltration of models or data within the AI system, and improper access controls that result in unauthorized access to the AI system itself" to "common security concerns in the AI context may include data poisoning or malicious code injection, exfiltration of models or data within the AI system, and improper access controls that result in unauthorized access to the AI system itself." The department considered this comment and accepted the nonsubstantive change for clarity.

The Council recommended that the department amend §219.11(i)(2)(A)-(B) from "(2) Governmental entities: (A) Must monitor, secure, and test AI systems to prevent or limit security attacks; and (B) Must demand that AI system providers disclose known vulnerabilities and resolutions in a timely manner to the governmental entities deploying those systems" to "(2) Governmental entities: (A) Must monitor, secure, and test AI systems to prevent or limit security attacks including assessing and mitigating them for cybersecurity vulnerabilities; and (B) Must develop and implement a framework for reporting, assessing, and managing vulnerability disclosures for AI systems. Establishing a vulnerability disclosure process is critical to mitigating risk, establishing a robust security posture, and maintaining transparency and trust with the public." The department declined to make this change.

Workday recommended the department amend §219.11(j)(2)(B) to read "(B) Must ensure any vendors contracted to deploy or use AI systems on behalf of governmental entities are contractually bound to these AI ethical principles and any relevant laws or regulations governing the use of AI systems" so that AI developers are not required to comply with statewide AI ethical principles by virtue of their supply chain role. The department declined to make this change as AI developers who contract with state agencies are not exempt from the ethical principles.

The Council recommended that the department amend §219.11(j)(2)(B) to require governmental entities to only ensure their vendors are contractually bound to "relevant Texas State laws or regulations" rather than any relevant laws or regulations. The department declined to make this change as governmental entities are required to comply with all applicable laws, which may require entities to contract vendors to comply with other laws and regulations.

TechNet recommended that the department amend §219.11(j)(2)(B) to require governmental entities to allow contracted vendors to be bound to either the AI code of ethics or comparable vendor AI ethical principles. The department declined to make this change as governmental entities are required by law to adopt the AI code of ethics, which is the regulatory structure for AI ethics in Texas. This binds the state agency and, by extension, any contracting vendors to comply with the AI code of ethics.

The Council recommended that the department amend §219.22 to include language referencing the Texas Legislature's intent as specified by Texas Government Code § 2054.078. The department declined to make this change as statute controls without being cited by rule for the same purpose as its inclusion in law.

The Council recommended that the department amend §219.22 to remove the requirement for assessments to be written. The department declined to make this change as the statute requires state agencies to make a copy of the impact assessment available to DIR upon request, which indicates the Texas Legislature intended for the impact assessments to be both written and retained.

Parkland Health recommended that the department amend §219.22(b) to make the list of requirements for heightened scrutiny AI system impact assessments permissive rather than mandatory to allow public health systems to customize their risk assessments to exclude certain internal-facing AI systems from the definition of heightened scrutiny AI system. The department declined to make this change as Senate Bill 1964 [89th Legislative Session (Regular)] requires the department to establish by rule a required risk assessment for heightened scrutiny AI systems that evaluate "security risk, performance metrics, and transparency measures."

The Council recommended that the department amend §219.22(b)(1) to remove the requirement that risk assessments include known security risks. The department declined to make this change as Texas Government Code § 2054.703(b)(2) specifically requires the minimum risk management and governance standards to include the assessment and documentation of known security risks.

Workday recommended clarifying the performance metric required of governmental entity risk assessments enumerated at §219.22(b)(2) to either reflect that this requirement only applies to risk assessments conducted for state-agency developed AI systems or adjusting the performance metrics required as detailed technical information may not be available to a state agency if they procured the system from a third-party developer. The department considered this comment and made the following nonsubstantive change to the proposed language to clarify the initial intent: remove the initial subsections requiring "(A) measurements of the accuracy and relevance of the system's outputs; and (B) measurements of the operational aspects of the system, including model latency, uptime, and error rate" and instead require "AI system's performance metrics related to accuracy."

Authorship recommended the department cross reference AI governance in the data maturity tool established by 1 Texas Administrative Code Chapter 218 and combine the data maturity assessment required by Texas Government Code § 2054.515 and regulated by 1 Texas Administrative Code Chapter 218 with the AI impact assessment required by §219.23. The department declined to make a change as the data maturity assessment is a statutorily required evaluation that a state agency must complete each biennium whereas the impact assessment must be completed only when a state agency deploys or uses a heightened scrutiny AI system.

The Council recommended that the department amend §219.23(d)(1) to give vendors more flexibility in how the vendor demonstrates compliance with the minimum risk management standards. The department declined to make this change as the requirement for a vendor to conduct an impact assessment is permissive rather than mandatory and does not prescribe the requirements of such an impact assessment.

TechNet recommended that the department amend §219.23(d)(1) to indicate that impact assessments provided by a vendor to a state agency "will be treated as vendor confidential

and proprietary and not subject to FOIA." The department declined to make this change as Texas Government Code § 2054.708 already exempts impact assessments conducted on a heightened scrutiny AI system from release under the Public Information Act. Furthermore, as the Freedom of Information Act does not apply to state agencies, it would be inappropriate to incorporate this language.

The Council recommended that the department amend §219.24(d) to encourage vendors to implement approaches within the AI risk management framework rather than contractually requiring them to implement it. The department declined to make this change as recommended because Texas Government Code § 2054.703 requires the minimum standards to specifically mitigate the risk of unlawful harm by contractually requiring vendors to implement risk management frameworks when deploying heightened scrutiny AI systems on behalf of state agencies or local governments.

TechNet recommended that the department requesting that the department amend §219.24(d) to allow vendors to implement risk management frameworks that are materially equivalent to the National Institute of Standards and Technology AI risk management framework currently allowed. After considering this comment, the department made a nonsubstantive change to clarify §219.24(d) to allow for vendors to implement either an AI risk management framework such as that published by the National Institute of Standards and Technology or a comparable standard.

Description of Adopted Changes

Within Subchapter A, the department adopts §219.1 and §219.11, which introduce specialized definitions required by the rule, including the terms "AI--Artificial Intelligence", "Artificial Intelligence System", "Consequential Decision", Controlling Factor", "Department", "Executive Head", Governmental Entities", Heightened Scrutiny Artificial Intelligence System", "Information Resources", "Information Resources Technologies", "Local Government", "Personal Identifying Information (PII)", "Principal Basis", "Unlawful Harm." This subchapter also establishes a code of ethics and the ethical principles of artificial intelligence.

The department adopts subchapter B, §§219.20 - 219.24, which establish the minimum standards required by Texas Government Code § 2054.703 as enacted pursuant to Senate Bill 1964 of the Eighty-ninth Regular Session. In §219.21, the department establishes governmental entity's responsibility to AI Risk Management by designating an AI Risk Officer. In §219.22, the department establishes the requirements for the AI risk assessment for heightened scrutiny AI Systems in which the state agency or local government shall conduct a written AI risk assessment to consider the probability and severity of harm that could occur as the result of implementation of the AI system. In §219.23, the department establishes a vendor's responsibility of conducting an impact assessment of a heightened scrutiny AI system. In §219.24, the department establishes the guidelines for AI framework, policies, and trainings required by Texas Government Code § 2054.703(b)(4) as enacted pursuant to Senate Bill 1964 in the Eighty-ninth Regular Session.

SUBCHAPTER A. CODE OF ETHICS AND GENERAL INFORMATION

1 TAC §219.1, §219.11

The amendments are adopted pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, Texas Government Code § 2054.702, which requires the department to establish by rule an AI code of ethics for use by governmental entities, and Texas Government Code § 2054.703, which requires the department to establish minimum risk management and governance standards for the development, procurement, deployment, and use of heightened scrutiny artificial intelligence systems by a state agency or local government.

§219.11. Code of Ethics and the Ethical Principles of Artificial Intelligence.

(a) As required by Texas Government Code § 2054.702, state agencies and local governments shall adopt the AI Code of Ethics established by this section and follow the ethical principles included herein as they procure, develop, deploy, or use artificial intelligence systems.

(b) Preamble

(1) AI systems have the potential to transform the way our state and local governments serve Texans. AI systems can create efficiencies, support economic and scientific advancement, and improve the safety and well-being of our communities. The State of Texas supports the use of AI systems by governmental entities to improve the services they deliver to Texans and to lead in innovative AI adoption in the public sector.

(2) While they have significant potential value, AI systems also pose substantial risks if not implemented ethically and responsibly. AI risks vary based on the system involved, how it is used, and who uses it. AI systems are often trained on large amounts of data from a variety of sources, which can lead to inaccurate outputs. To the extent that AI systems are trained on or used to process PII, they may raise significant privacy concerns, particularly when the systems are deployed outside of a secure government environment. Malicious actors can utilize AI to develop more advanced cyberattacks, bypass security measures, and exploit vulnerabilities in systems. These and other AI risks make it a uniquely challenging technology for governmental entities to use safely, but with appropriate guardrails, governmental entities can limit the risks of AI and secure its many benefits for Texans.

(3) Governmental entities must limit the potential harm of AI systems by managing risk and prioritizing trustworthy and responsible development and deployment of AI consistent with the National Institute of Standards and Technology AI Risk Management Framework. Creating trustworthy AI requires balancing each of these principles based on the identified risks of an AI system and the context in which it is used.

(4) This section articulates the principles of ethical AI implementation that governmental entities must strive for when procuring, developing, designing, or using AI systems.

(c) Human Oversight and Control

(1) Human oversight plays a crucial role in ensuring that AI systems operate ethically. While AI can analyze vast amounts of data much faster--and sometimes more accurately--than humans, it lacks the human judgment necessary to ensure that its decisions align with societal values and the rights granted to individuals under the law. Ensuring human control over AI systems mitigates risks of inaccurate or undesirable outputs and allows for revision of the rules established during development of the system and to the data that supports the system's decision-making.

(2) Governmental entities:

(A) Must deploy AI systems in ways that enable humans to review and analyze inputs and outputs at appropriate intervals throughout the AI lifecycle;

(B) May incorporate a level of human oversight reasonably commensurate to the risks associated with a particular AI system, with heightened scrutiny AI systems requiring increased human oversight relative to lower risk systems; and

(C) Must ensure AI systems can be paused, restricted, or disabled until harmful or inaccurate decision making can be remedied.

(d) Fairness

(1) The data used to develop AI systems must adequately represent the subjects or people about which AI systems make judgments, decisions, or predictions. Incomplete or inaccurate data can result in unlawful harm.

(2) Governmental entities:

(A) Must ensure their use of AI systems does not infringe upon the legally protected rights and liberties of the individuals they serve or result in unlawful harm; and

(B) Must implement data governance practices for AI systems throughout the AI system's lifecycle to ensure fairness.

(e) Accuracy

(1) While AI systems are overall improving in their ability to deliver more accurate results, inaccurate outputs remain a significant risk when using AI systems.

(2) Governmental entities:

(A) Must train their employees to understand the importance of verifying AI outcomes for accuracy;

(B) Must formalize processes for monitoring system accuracy before the deployment of an AI system and throughout its life cycle, as a system's accuracy may change over time; and

(C) Shall, when feasible, implement processes to improve the accuracy of AI systems by training the systems using human feedback or improving retrieval-augmented generation by ensuring the accuracy and relevance of the underlying data used by the tool to develop answers.

(f) Redress

(1) Providing a method for redress will promote public trust in both the AI system and in the entity that deploys it.

(2) Governmental entities:

(A) Must provide a mechanism to seek redress for those impacted when an AI system makes a consequential decision that results in unlawful harm about their rights or access to governmental services;

(B) Must have a designated point of contact for individuals to address when seeking information about an unfair consequential decision; and

(C) Must develop internal procedures to allow employees to identify and remedy negative impacts caused by the use of AI systems.

(g) Transparency

(1) Establishing transparency for AI systems means providing information about the data, models, and outputs of an AI system to both the individuals interacting with the system and those deploying it. Strong transparency practices will build public trust in the AI systems governmental entities use.

(2) Governmental entities:

(A) Must collaborate with developers of AI systems and demand transparency to understand how a system operates, the source of the data the system was trained on, and its intended use cases;

(B) Must strive to understand the capabilities of the system and how it makes decisions;

(C) Must disclose when individuals interact with a public-facing AI system and when an AI system is used to make consequential decisions about their rights or access to governmental services; and

(D) Must never represent AI systems as human when interacting with the public.

(h) Data Privacy

(1) Governmental entities have a responsibility to protect the PII they collect and process about individuals, and both legal and ethical restrictions exist on what PII entities share with third parties. Data privacy principles likewise apply to the PII governmental entities process in and share with AI systems.

(2) The most effective method for protecting PII is through data minimization.

(3) Many AI systems rely on vast amounts of PII to make predictions and decisions. Sharing PII with an AI tool may violate privacy laws and obligations the entity has to the individual, particularly when using a tool outside the governmental entity's secure environment.

(4) Governmental entities:

(A) May collect and maintain only that PII needed for operations and must establish a process to delete PII consistent with records retention schedules and other legal requirements.

(B) Must strive to understand what PII the AI system uses, how that PII has been and will be collected, and how the tool uses, stores, and shares PII with third parties prior to using any government-held PII in an AI system;

(C) Must train employees about the risk of inputting sensitive or PII into publicly available AI systems that use inputs to train the model and share those inputs with other users of the AI system outside of the governmental entity; and

(D) Must strive to practice data minimization and ensure they abide by any purpose limitations granted when the PII was first collected, or as expressly allowed by law.

(i) Security

(1) AI systems are subject to security vulnerabilities. Common security concerns in the AI context may include data poisoning or malicious code injection, exfiltration of models or data within the AI system, and improper access controls that result in unauthorized access to the AI system itself. Secure AI systems will maintain the confidentiality and integrity of the AI system as well as the data it contains even when unexpected events or changes in their environment or use occur.

(2) Governmental entities:

(A) Must monitor, secure, and test AI systems to prevent or limit security attacks; and

(B) Must demand that AI system providers disclose known vulnerabilities and resolutions in a timely manner to the governmental entities deploying those systems.

(j) Accountability and Liability

(1) While governmental entities may delegate tasks and decision making to AI systems, the entities remain accountable for the decisions the AI systems make and the outcomes they produce. Use of AI systems for employment-related tasks or to make consequential decisions poses heightened risks.

(2) Governmental entities:

(A) Must provide training to employees on how to use AI systems in an effective, safe, and ethical way;

(B) Must ensure their vendors are contractually bound to these AI ethical principles and any relevant laws or regulations governing the use of AI systems; and

(C) Must ensure AI systems they deploy comply with the legal obligations they have at both the state and federal level.

(3) When deploying AI systems, governmental entities must establish appropriate retention schedules for the AI system's records and consider the Public Information Act implications related to the storage of data inputs and outputs.

(k) Evaluation

(1) AI systems can change over time, as can the purposes for which they are used.

(2) Governmental entities:

(A) Must establish methods for regular evaluation of AI systems to ensure the systems provide ongoing benefit to the populations they serve; and

(B) Must document such evaluations.

(l) Documentation

(1) Documentation provides a critical element for managing AI risk. Consistent documentation of preliminary assessments, ongoing monitoring and testing, and complaints provides governmental entities insight into the operations and improvements of their AI systems over their lifecycle. Documentation allows entities to evaluate the value of AI systems and determine where best to spend resources in further developing AI solutions.

(2) Governmental entities should maintain records of:

(A) The sources of data used in the AI system; and

(B) How the AI system is modified throughout the system's life cycle.

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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Joshua Godbey
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Department of Information Resources
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For further information, please call: (512) 475-4531

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SUBCHAPTER B. REQUIRED MINIMUM STANDARDS

1 TAC §§219.20 - 219.24

The amendments are adopted pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, and Texas Government Code § 2157.068(f), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2157. This subchapter establishes the minimum standards required by Texas Government Code § 2054.703 as enacted pursuant to Senate Bill 1964 of the Eighty-ninth Regular Session.

§219.21. AI Risk Management.

(a) A state agency or local government shall designate an employee as the AI Risk Officer.

(1) The AI Risk Officer is responsible for promoting ethical AI system procurement, development, deployment, and use within the state agency or local government, consistent with the AI Code of Ethics established by this chapter and the AI Risk Management Framework published by the National Institute of Standards and Technology.

(2) If a state agency or local government deploys a heightened scrutiny AI system, the AI Risk Officer is responsible for ensuring that the risk assessment is completed for that system. The AI Risk Officer shall evaluate the completed risk assessment and ensure that the heightened scrutiny AI system is deployed consistent with the minimum standards established by this chapter.

(3) In filling this role, the state agency or local government may employ an individual solely for this purpose or may add this responsibility to a current employee's existing job duties.

(b) A state agency or local government shall establish a process to identify and inventory all implementations of AI systems that qualify as heightened scrutiny AI systems.

§219.22. AI Risk Assessment for Heightened Scrutiny AI Systems.

(a) Before a state agency or local government develops, procures, deploys, or uses a heightened scrutiny AI system and at the time that a material change is made to the system, the state agency or local government shall conduct a written AI risk assessment to consider the probability and severity of harm that could occur as the result of implementation of the AI system.

(b) The risk assessment shall consider and document:

(1) The AI system's known security risks and mitigation steps available to limit those risks;

(2) The heightened scrutiny AI system's performance metrics relating to accuracy and operational efficiency; and

(3) The heightened scrutiny AI system's transparency, including information about:

(A) The system's algorithms and how the system makes decisions;

(B) The data used to train the system's model; and

(C) The availability of inputs and outputs to monitor the system's decision-making over time.

(c) When a state agency or local government is deploying any heightened scrutiny AI system, the AI Risk Officer shall:

(1) Review the completed written risk assessment prepared for that system prior to system deployment; and

(2) Approve or deny deployment of the system based on the risk and mitigation measures identified by the completed written risk assessment. At a minimum, the AI Risk Officer shall notify the state agency or local government's executive head or their designee of a decision to deploy a heightened scrutiny AI system. A state agency or local government may also establish a process for consultation or final approval by the executive head or their designee, as the state agency or local government determines appropriate.

(d) The state agency or local government shall maintain a record of the completed written risk assessment and all relevant documents for as long as required by the applicable state records retention schedule.

§219.24. Guidelines for Frameworks, Policies, and Trainings.

(a) This section establishes the guidelines required by Texas Government Code § 2054.703(b)(4) as enacted pursuant to Senate Bill 1964 in the Eighty-ninth Regular Session.

(b) When a state agency or local government deploys or uses a heightened scrutiny AI system, they must identify the acceptable use cases for such system, identify its limitations, and adopt an acceptable use policy to prevent uses other than those approved by the agency for the heightened scrutiny artificial intelligence system. All employees must be adequately trained on the acceptable use policy.

(c) A state agency or local government that deploys or uses a heightened scrutiny AI system shall provide employees or contractors who access, use, or manage the heightened scrutiny AI system with training regarding identified risks and appropriate methods for mitigating those risks.

(d) A state agency or local government that contracts with vendors to deploy a heightened scrutiny AI system shall mitigate third party risk by contractually requiring those vendors to implement an AI risk management framework such as that published by the National Institute of Standards and Technology or a comparable standard for heightened scrutiny AI 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.

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Joshua Godbey
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TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 28. TEXAS AGRICULTURAL FINANCE AUTHORITY

The Texas Agricultural Finance Authority (TAFA or the Authority), a public authority within the Texas Department of Agriculture (Department), adopts rule amendments to Texas Administrative Code, Title 4, Chapter 28, Subchapter A, §§28.3, 28.5, and 28.7; Subchapter B, §§28.10, 28.12 - 28.19; Subchapter C, §§28.20, 28.23 - 28.30, 28.32, 28.35 - 28.37; Subchapter D, §§28.40 - 28.48; Subchapter E, §§28.50 - 28.55; Subchapter F, §§28.60 - 28.63; and Subchapter G, §§28.70 - 28.72, 28.74 - 28.78, 28.80, 28.83, 28.86 and 28.87 without changes to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796); the rule text will not be republished. The amendment to §28.2 is adopted with a non-substantive change to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796) to clarify a reference consistent within the remainder of the revised definition; the rule text will be republished.

In addition, TAFA adopts new rules within Subchapter E, §28.56 and §28.58 without changes to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796); the rule text will not be republished. The amendment to §28.57 is adopted with a non-substantive change to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796) to reflect the full scope of authorized board actions as contained within corresponding statutory language; the rule text will be republished.

TAFA also adopts repeal of Subchapter G, §28.73 without changes as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796); the repealed rule will not be republished. TAFA further adopts new Subchapter H, comprised of §§28.90 - 28.96, providing rules for the establishment, implementation, and administration of the Pest and Disease Control and Depredation Program, which is designed to implement agriculture-related pest, disease, or depredating animal control efforts and mitigate agriculture losses, without changes to the proposed text as published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796); the rule text will not be republished.

The adopted amendments to the headings of Subchapters D, E and G of this chapter replace the current headings for these subchapters to reflect changes made by HB 43 to corresponding subchapters within Texas Agriculture Code (Code), Chapter 58 for consistency and are non-substantive. Specifically, the heading for Subchapter D is updated from "Young Farmer Interest Rate Reduction Program Rules" to read "Farmer Interest Rate Reduction Program Rules," removing the word, "Young"; the heading for Subchapter E is updated to reflect the change in program name from "Young Farmer Grant Program Rules" to "Agriculture Grant Program Rules," replacing the phrase "Young Farmer" with "Agriculture"; and the heading for Subchapter G is updated to reflect the change in program name from "Rural Economic Development Finance Program" to "Rural Agriculture Economic Development Finance Program" to add the word "Agriculture." Due to an inadvertent administrative error, the revised subchapter headings were not published as part of the proposed rulemaking in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7796) so the revised headings will be republished.

During its Regular Session, the 89th Texas Legislature enacted House Bill (HB) 43, which amended Chapter 58 of the Code relating to the Authority. With the passage of HB 43, several TAFA financial assistance programs were modified, and a new pest and disease control and depredation program was established. The Department identified the need for the amendments, new

rules, and repeal during its rule review conducted pursuant to Texas Government Code §2001.039, primarily to implement HB 43 and improve and update the rules in areas identified during the statutorily-required rule review to clarify and improve readability for the public. The rule review was adopted in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7925) in conjunction with the proposed rulemaking.

SECTION-BY-SECTION SUMMARY

The adopted amendments to §28.2 remove several redundant definitions for terms already defined in TAFA's enabling statutes in the Texas Agriculture Code ("Agricultural business," "Agricultural product," and "Lender"), add definitions for the terms, "Administrator" and "Department," to account for the use of these terms in the chapter, modify some definitions to improve readability, and make conforming formatting changes.

The adopted amendment to §28.3 makes a change to identify a defined term.

The adopted amendments to §28.5 make changes to identify defined terms. In addition, new language is incorporated into §28.5 to recognize that a resolution of the TAFA board pertaining to administration of the Texas Agricultural Fund shall control over the rules in this chapter if a conflict arises.

The adopted amendments to §28.7 make changes to identify defined terms and improve readability. Similarly, the adopted amendments to §28.10 and §28.12 identify defined terms.

The adopted amendments to §28.13 correct a statutory reference to the Texas Agriculture Code; remove a redundant definition ("Linked deposit"), adds a definition for "Lender"; and modify a definition to clarify and improve readability.

The adopted amendments to §28.14 make changes to identify defined terms and improve readability.

The adopted amendments to §28.15 make changes to identify defined terms, to track statutory language for the maximum loan rate a borrower would pay, to allow for additional methods of communication including email, and to update the threshold amount that requires a lender to notify the Authority.

The adopted amendments to §28.16 make changes to identify defined terms.

The adopted amendments to §28.17 make changes to identify defined terms and correct a reference within the chapter.

The adopted amendments to §§28.18 and 28.19 make changes to identify defined terms.

The adopted amendments to §§28.20, 28.23, 28.24, 28.25, 28.26, 28.27, and 28.28 make changes to identify defined terms and improve readability.

The adopted amendments to §28.29 update the maximum loan guarantee amounts under the Agricultural Loan Guarantee Program and adds language to allow the TAFA board to consider loan guarantees in excess of $1 million and approved by resolution of the TAFA board. Additional changes are also incorporated to improve the rule's readability.

The adopted amendments to §§28.30, 28.32, and 28.35 make changes to identify defined terms and improve readability.

The adopted amendments to §28.36 is modified to align with statutory language in the Texas Agriculture Code and incorporate changes to improve readability.

The adopted amendments to §28.37 make changes to identify defined terms and improve readability.

The adopted amendment to the heading for Subchapter D is updated from "Young Farmer Interest Rate Reduction Program Rules" to read "Farmer Interest Rate Reduction Program Rules" to remove the word "Young" and reflect changes made by HB 43 to Texas Agriculture Code, Chapter 58.

The adopted amendments to §§28.40 and 28.41 remove the word "young" when necessary to conform with HB 43 and make changes to improve the rules' readability.

The adopted amendments to §28.42 removes an unnecessary definition, modifies the definition of "Lender" and reflects changes made to improve the section's readability.

The adopted amendments to §28.43 make changes to identify defined terms and correct a reference within the chapter.

The adopted amendments to §28.44 update language to reference statute for the maximum loan rate a borrower would pay, to allow for additional methods of communication including email, and update the threshold amount that requires a lender to notify the Authority.

The adopted amendments to §§28.45, 28.46, and 28.47 make changes to identify defined terms and correct a typographical error.

The adopted amendments to §28.48 increase the maximum loan amount to conform with changes made by HB 43 and to identify defined terms and improve readability.

The adopted amendment to the heading for Subchapter E is updated to reflect the change in program name from "Young Farmer Grant Program Rules" to "Agriculture Grant Program Rules" to reflect changes made by HB 43 to Texas Agriculture Code, Chapter 58.

The adopted amendments to §28.50 update the purpose of the program to conform with changes made by HB 43 to Texas Agriculture Code, Chapter 58 and make changes to improve readability.

The adopted amendments to §28.51 identify defined terms and replace the phrase, "young farmer," with "agriculture" when necessary to conform with changes made by HB 43 to Texas Agriculture Code, Chapter 58.

The adopted amendments to §28.52 remove an unnecessary definition, modify another definitions, and improve readability.

The adopted amendments to §28.53 update the program name, remove the age requirements and modify the eligible project types to conform with changes made by HB 43 to Texas Agriculture Code, Chapter 58.

The adopted amendments to §28.54 clarify permissible uses of certain grant funds and improve readability.

The adopted amendments to §28.55 provide the TAFA board with greater flexibility in its administration of the grant program by creating multiple grant opportunities, clarifying application details and allowing the TAFA board to determine grant cycles each year and not limit it to two periods.

Adopted new rule, §28.56 (Use of Grant), describes basic information required to be published for each grant opportunity and states the manner in which grant funds will be disbursed.

Adopted new rule, §28.57 (Filing Requirements; Consideration of Project Requests; Grant Awards), requires an applicant to submit an application in the format prescribed by TAFA, requires TAFA to publish the maximum award amount and allows TAFA to decline all applications in its sole discretion.

Adopted new rule, §28.58 (Reporting Requirements) requires grant recipients to comply with reporting requirements that will be included in the grant agreement.

The adopted amendment to §28.60 identifies a defined term.

The adopted amendments to §28.61 identify defined terms and correct a statutory reference.

The adopted amendments to §28.62 identify defined terms and correct an internal reference within the chapter.

The adopted amendments to §28.63 identify a defined term.

Adopted amendment to the heading for Subchapter G is updated to reflect the change in program name from "Rural Economic Development Finance Program" to "Rural Agriculture Economic Development Finance Program" to reflect changes made by HB 43 to Texas Agriculture Code, Chapter 58.

The adopted amendments to §§28.70 and 28.71 add the term, "Agriculture," to references to the grant program and the phrase, "agriculture-related" to references to the types of grant projects allowed under the program ("rural agriculture-related economic development"), as modified by HB 43, and make non-substantive edits to identify defined terms and improve readability.

The adopted amendments to §28.72 remove definitions no longer necessary based on HB 43 ("Economic Development Corporations" and "Special Purpose District"), add a definition for "Rural agriculture-related economic development" to account for the use of this phrase in the subchapter, and modifies definitions, such as "Applicant" and "Political Subdivision" to provide additional clarification and improve readability.

The adopted amendments to §§28.74, 28.75, 28.76, 28.77, and 28.78 add the phrase, "agriculture-related," to the phrase, "rural economic development," and make changes to provide additional clarification and improve readability.

The adopted amendments to §28.80 remove references to "sales tax" and "tax" from list of options to secure commitments.

The adopted amendments to §28.83 identify defined terms and provide additional clarification and improve readability.

The adopted amendments to §§28.86 and 28.87 add the term, "Agriculture," to references to the grant program reflect changes made by HB 43 to Texas Agriculture Code, Chapter 58.

Adopted new Subchapter H is proposed to reflect the establishment of a new pest and disease control and depredation program in Texas Agriculture Code, Chapter 58 by enactment of HB 43.

Adopted new rule, §28.90 (Statement of Purpose), identifies the purposes of the new grant program as control efforts and to mitigate agriculture losses.

Adopted new rule, §28.91 (Definitions) adds the definition of "Program" for purposes of this subchapter.

Adopted new rule, §28.92 (Administration) outlines staffing, ability of the TAFA board to create multiple programs, and requirement for board to adopt selection criteria.

Adopted new proposed rule, §28.93 (Eligibility), limits participation in the program to those entities identified in statute including Texas Animal Health Commission, Texas A&M AgriLife Extension Service, and Texas A&M AgriLife Research.

Adopted new proposed rule, §28.94 (Use of Grant), describes basic information required to be published for each grant opportunity and states the manner in which funds will be disbursed.

Adopted new proposed rule, §28.95 (Filing Requirements; Consideration of Project Requests; Grant Awards), requires an applicant to submit an application in the format prescribed by the Authority, requires the Authority to publish the maximum award amount, and allows the Authority to decline all applications in its sole discretion.

Adopted new proposed rule, §28.96 (Reporting Requirements), requires grant recipients to comply with reporting requirements that will be included in the grant agreement.

Adopted repeal of §28.73 relating to the Texas Rural Community Loan is appropriate to reflect changes made by HB 43 to Texas Agriculture Code, Chapter 58.

The Authority did not receive any public comments in response to its proposed amendments, proposed new rules, and proposed repeal.

SUBCHAPTER A. FINANCIAL ASSISTANCE RULES

4 TAC §§28.2, 28.3, 28.5, 28.7

The amendments are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

§28.2. Definitions.

In addition to the definitions set forth in Texas Agriculture Code, §58.002, as amended, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Definitions applicable to specific programs may be included within the applicable subchapter.

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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Susan Maldonado
General Counsel
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SUBCHAPTER B. INTEREST RATE REDUCTION PROGRAM

4 TAC §§28.10, 28.12 - 28.19

The amendments are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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SUBCHAPTER C. AGRICULTURAL LOAN GUARANTEE PROGRAM

4 TAC §§28.20, 28.23 - 28.30, 28.32, 28.35 - 28.37

The rule amendments are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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SUBCHAPTER D. FARMER INTEREST RATE REDUCTION PROGRAM RULES

4 TAC §§28.40 - 28.48

The rule amendments are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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SUBCHAPTER E. AGRICULTURE GRANT PROGRAM RULES

4 TAC §§28.50 - 28.58

The rule amendments and new rules are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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. RULES FOR DEPOSITION AND REFUND OF ASSESSMENT FEES

4 TAC §§28.60 - 28.63

The amendments are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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SUBCHAPTER G. RURAL AGRICULTURAL ECONOMIC DEVELOPMENT FINANCE PROGRAM

4 TAC §§28.70 - 28.72, 28.74 - 28.78, 28.80, 28.83, 28.86, 28.87

The rule amendments rules are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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4 TAC §28.73

The repeal is adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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SUBCHAPTER H. PEST AND DISEASE CONTROL AND DEPREDATION PROGRAM

4 TAC §§28.90 - 28.96

The new rules are adopted pursuant to Section 12.016 of the Texas Agriculture Code (Code), which authorizes the Department to adopt rules as necessary for the administration of its powers and duties under the Code, and Sections 58.022(1) and 58.023 of the Code, which further authorizes the Authority to adopt and enforce bylaws, rules, and procedures in order to carry out its functions under Chapter 58.

The statutory provisions affected by this adoption are those within Texas Agriculture Code, Chapter 58.

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PART 2. TEXAS ANIMAL HEALTH COMMISSION

CHAPTER 51. ENTRY REQUIREMENTS

4 TAC §51.1

The Texas Animal Health Commission (Commission) in a duly noticed meeting on February 24, 2026, adopted amendments to Title 4, Texas Administrative Code, Chapter 51 titled "Entry Requirements." Specifically, the Commission adopted amendments to §51.1 regarding Definitions without changes to the proposed text published in the December 5, 2025 issue of the *Texas Register* (50 TexReg 7811) and will not be republished.

JUSTIFICATION FOR RULE ACTION

The Texas Animal Health Commission adopts amendments to §51.1, concerning Definitions. The purpose of the amendments is to clarify requirements for dairy cattle and dairy crosses entering the state.

Commission rules set forth testing requirements for cattle entering Texas. Specific tuberculosis testing requirements apply for dairy cattle. Commission staff responsible for permitting movement have noticed confusion surrounding the definition of dairy cattle and whether certain dairy crosses must be tested prior to entry.

Previously, Commission rules did not define dairy cattle. Staff relied on the USDA's definition when applying and explaining Commission rules. The USDA's definition states that all cattle, regardless of age or sex or current use, that are of a breed(s) or offspring of a breed used to produce milk or other dairy products for human consumption, including, but not limited to, Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, Milking Shorthorn, and Red and Whites.

The amendments incorporate the USDA's definition into Commission rules to clarify the meaning of dairy cattle and ease confusion as to what testing requirements must be met prior to entry.

HOW THE RULE WILL FUNCTION

Section 51.1 includes definitions. The amendments add a definition for "dairy cattle," adjust numbering, and make minor formatting changes.

SUMMARY OF COMMENTS RECEIVED AND COMMISSION RESPONSE

The 30-day comment period ended January 4, 2026.

During this period, the Commission received one comment. A summary of the comment relating to the rule and the Commission's response follows.

Comment: The Livestock Marketing Association expressed its appreciation for TAHC's effort to create a specific definition for dairy cattle but shared its concern that the proposed definition includes "or offspring of a breed." LMA believes that this definition may increase the number of animals covered by state dairy rules and have a potentially significant impact on costs. LMA asks that the final rule balance clarity with practicality and be supported by available data.

Response: The Commission thanks the commenters for the feedback. No changes were made as a result of these comments. Adoption of USDA's definition does not represent a change in the Commission's current interpretation and application of which animals are included in the meaning of "dairy cattle."

STATUTORY AUTHORITY

The amendments are adopted under the following statutory authority as found in Chapter 161 of the Texas Agriculture Code. The Commission is vested by statute, §161.041(a), with the requirement to protect all livestock, domestic animals, and domestic fowl from disease. The Commission is authorized, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock.

Pursuant to §161.006, entitled "Documents to Accompany Shipment", if required that a certificate or permit accompany animals or commodities moved in this state, the document must be in the possession of the person in charge of the animals or commodities, if the movement is made by any other means.

Pursuant to §161.046, entitled "Rules", the Commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.048, entitled "Inspection of Shipment of Animals or Animal Products", the Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the Commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease.

Pursuant to §161.054, titled "Regulation of Movement of Animals; Exception", the Commission, by rule, may regulate the movement of animals. The Commission may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. The Commission is authorized, through §161.054(b), to prohibit or regulate the movement of animals into a quarantined herd, premises, or area. The executive director of the Commission is authorized, through §161.054(d), to modify a restriction on animal movement, and may consider economic hardship.

Pursuant to §161.113, entitled "Testing or Treatment of Livestock", if the Commission requires testing or vaccination under this subchapter, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The state may not be required to pay the cost of fees charged for the testing or vaccination. The Commission may require the owner or operator of a livestock market to furnish adequate equipment or facilities or have access to essential equipment or facilities within the immediate vicinity of the livestock market.

Pursuant to §161.114, entitled "Inspection of Livestock", an authorized inspector may examine livestock consigned to and delivered on the premises of a livestock market before the livestock are offered for sale. If the inspector considers it necessary, the inspector may have an animal tested or vaccinated. Any testing or vaccination must occur before the animal is removed from the livestock market.

No other statutes, articles, or codes are affected by this 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.

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TITLE 10. COMMUNITY DEVELOPMENT

PART 9. TEXAS ADVANCED NUCLEAR ENERGY OFFICE

CHAPTER 331. GRANTS

The Office of the Governor, the Texas Advanced Nuclear Energy Office (TANEO) adopts 10 Texas Administrative Code §§331.1 - 331.9, 331.20, 331.21, and 331.30 - 331.32. Section 331.32 is adopted with changes to the proposed text as published in the January 2, 2026, issue of the *Texas Register* (51 TexReg 9). This rule will be republished. Sections 331.1 - 331.9, 331.20, 331.21, 331.30 and 331.31 are adopted without changes and will not be republished.

REASONED JUSTIFICATION OF ADOPTED RULES

TANEO adopts 10 Texas Administrative Code (TAC) §§331.1 - 331.9, 331.20, 331.21, and 331.30 - 331.32 relating to the Texas Advanced Nuclear Development Fund, the Project Development and Supply Chain Reimbursement Program, and the Advanced Nuclear Construction Reimbursement Program. This adopted rulemaking implements Texas Government Code, Chapter 483 as enacted by House Bill (HB) 14 during the Texas 89th Regular Legislative Session. The adopted rulemaking establishes the policies and procedures governing the reimbursement programs, including the application process, eligibility requirements, and details related to the program's grant agreements. The adopted rules also establish the framework TANEO will use to award grants, enter into grant agreements, and distribute the proceeds of a grant award on a rolling basis, as required by Section 483.204(g), Texas Government Code.

SUMMARY OF COMMENTS AND AGENCY RESPONSE

TANEO received public comments on the proposed rules from The Dow Chemical Company, Fermi America, Last Energy Inc., Pacific Square, and X-energy. Some of the comments were general in nature, while others addressed concerns or questions about specific rule sections. The general comments are addressed as follows:

Comment: One commenter states that they support the intent behind the proposed rules.

Response: TANEO appreciates the support for the rules.

Comment: Two commenters state that they support TANEO's proposed rules and commend TANEO for establishing a clear framework to implement House Bill 14. One commenter states that the proposed rules appropriately balance program transparency with the flexibility necessary to accommodate the range of advanced nuclear technologies and regulatory pathways represented in Texas's emerging nuclear industry. The other commenter states that they recognize TANEO's intention to establish a competitive funding process and tailor milestone-based payments to each awarded project.

Response: TANEO appreciates the support for the rules and agrees with the commenters' assessments.

Comment: One commenter notes that the proposed rules do not address how TANEO will coordinate with other government agencies, whether federal, state, or local. The commenter recommends that TANEO establish a process for applicants to disclose other government funding sources and better coordinate reporting in order to streamline reporting and compliance.

Response: TANEO declines to modify the adopted rules to address how TANEO will coordinate with other government agencies, including federal, state, or local because this information will be addressed in Requests for Applications and the grant agreement.

Comment: One commenter recommends that TANEO clarify that workforce development investments are an important and eligible component of projects supported under proposed Sections 331.2, 331.4, and 331.5, Texas Administrative Code. Specifically, the commenter recommends that the following workforce development investments be identified as eligible components of projects under these rules: apprenticeships and on-the-job training; workforce certification and credentialing; partnerships with Texas community colleges and universities; nuclear-specific safety, quality assurance, and regulatory training; and workforce development tied to in-state manufacturing and supply chains. The commenter suggests that clear documentation standards for workforce-related expenses would improve compliance and reduce administrative burden while protecting taxpayer funds. The commenter also recommends that TANEO explicitly recognize workforce development commitments as a positive evaluation factor for projects supported under these rules, including demonstrated education partnerships, long-term operations staffing plans, and veteran or skilled-trades hiring initiatives.

Response: TANEO declines to modify the adopted rules in response to the recommended modifications. Adopted Section 331.2 follows applicable statute in Section 483.201(b)(1), Texas Government Code, which explains that grant recipients may be eligible businesses, nonprofit organizations, and governmental entities, including institutions of higher educations. Adopted Section 331.4 describes application requirements, including what an application must include as well as the possibility of requiring an applicant to submit a Notice of Intent to apply to TANEO. Adopted Section 331.5(a) and (b) explain that TANEO may establish and specify any selection criteria it considers relevant to the grant and lists non-exhaustive factors that TANEO shall use to evaluate each application. Although TANEO may use workforce development investments in evaluating grant applications and a project's potential benefits to the State, TANEO declines to include a comprehensive list of what constitutes a project's benefits to the State in the adopted rules. TANEO does not believe these components fit in Section 331.2 or Section 331.4. These components may fit in Section 331.5(d), but TANEO declines to include them in the adopted rule. Each project will have different characteristics that need to be evaluated based on different factors to avoid excluding the full range of benefits to the State. Accordingly, it is inappropriate to include a list of workforce development investments in the rule.

In addition to these general comments, TANEO received comments on specific rules, summarized as follows:

Comments on Subchapter A, General Provisions, §331.5, Grant Evaluation and Review Process.

Comment: One commenter encourages TANEO to interpret "the project's potential benefit to this state" in proposed Section 331.5(b)(2) to include in-state manufacturing and supply chain development, in addition to the creation of project-specific jobs. The commenter states that projects that commit to engaging Texas workers and supporting the State's manufacturing capacity can provide economic benefits that extend beyond electricity generation. The commenter encourages TANEO to include these considerations in TANEO's interpretive framework but does not recommend any changes to the proposed rule.

Response: The purposes for which the Legislature established TANEO are set forth in Section 483.101(b), Texas Government Code. That provision includes TANEO's purposes of "creating high-wage advanced manufacturing jobs in this state" and "support[ing] the development of an advanced nuclear energy supply chain . . . in this state." Tex. Gov't Code § 483.101(b)(3), (8). The aspirations described by the commenter directly align with TANEO's purposes, and, as such, TANEO agrees a project's potential benefit to this State may include increases in in-state manufacturing, supply chain development, and job creation--and all other benefits that align with TANEO's purposes. Because the benefits discussed align with statutory directives, TANEO declines to re-memorialize them in rule.

Comments on Subchapter A, General Provisions, §331.6, Amount of Grant Award Recommendations and Decisions.

Comment: Two commenters suggest that TANEO clarify the intent of the portion of proposed Section 331.6(c), which states "[n]either this chapter nor a grant agreement creates any entitlement or right to grant funds by a grant applicant." One commenter states that they understand that all grants will be subject to the availability of funds and the State's biennial budget process; however, the commenter states, a signed grant agreement by both parties will result in a properly executed contract and should result in funds for the project. Another commenter recommends that TANEO establish language around the reasons that grant funding may not be available to a selected applicant.

Response: TANEO is constitutionally prohibited from assuming obligations in excess of funds the Legislature has appropriated to TANEO to accomplish its duties and purposes. Tex. Const. art. III, § 49a; *id.* art. VIII, § 6. Additionally, TANEO is constitutionally prohibited from making a grant to a private party unless TANEO "has placed sufficient controls on the transaction to ensure that the public purpose is accomplished." Tex. Att'y Gen. Op. No. JC-0484 (2002); *see* Tex. Const. art. III, § 51. Accordingly, a grantee can have no entitlement or right to grant funds and may receive funds only if it has satisfied the controls TANEO has set forth in the application and contracting processes, including the Request for Applications and grant agreements. Further, TANEO will ensure the grant agreement sets forth conditions under which grant funding may not be available to a selected applicant.

Comments on Subchapter A, General Provisions, §331.8, Grant Agreement.

Comment: One commenter states that they appreciate TANEO's approach to establish milestones for each selected project to manage risk and steward funds. The commenter believes that these funds will be instrumental in advancing projects and attracting private sector capital, facilitating commercial decisions that advance nuclear projects for the benefit of Texas.

Response: TANEO appreciates the support for the rules and agrees with the commenter's assessments.

Comment: One commenter notes that proposed Section 331.8 indicates that a written grant agreement must specify benchmarks and milestones for the completion of the project for which the grant is provided. The commenter believes this is reasonable and appropriate.

Response: TANEO appreciates the support for the rules and agrees with the commenter's assessment. The adopted rule remains unchanged from the proposed rule.

Comment: Two commenters note that proposed Section 331.8(2) does not define "fail[ure]…to reach the specified benchmarks." The commenters suggest that TANEO clarify or define what constitutes such failure, even though the proposed rules state that they will be defined in the grant agreement.

Response: TANEO declines to modify the rule to further define failure to reach the specified benchmarks. Under the adopted rule and applicable statute, benchmarks and milestones will be agreed upon in an arm's length discussion between TANEO and a potential grantee and will be specified in the grant agreement. Accordingly, what constitutes a failure to meet benchmarks may vary from project to project.

Comment: One commenter recommends that TANEO establish a process for no-cost extensions if projects continue to make progress despite failing to reach specific benchmarks. The commenter states that this practice is commonplace among federal grants and provides an avenue to accommodate the complexity of large-scale infrastructure projects.

Response: TANEO declines to modify the rule to include a process for no-cost extensions. Specific benchmarks will vary between entities and will be determined in the grant agreement. TANEO can access the appropriateness of no-cost extensions on a case-by-case basis using the framework outlined in the Texas Grant Management Standards.

Comment: Two commenters note that proposed Section 331.8 suggests that repayment is tied to the specific benchmarks and milestones outlined in the grant agreement, rather than to the whole grant amount. The commenters suggest that if TANEO intends to clawback or seek repayment of the entire grant amount if a recipient fails to reach a particular benchmark or milestone, then TANEO should clearly state such in the rule.

Response: TANEO declines to adopt the recommended modification. TANEO must retain its discretion in this scenario to carry out this program in the best interests of the State of Texas. The benchmark, milestones, and repayment provisions in a grant agreement may vary among various grantees, as projects among the grantees will vary. Benchmarks, milestones, and repayment procedures will be set out in the grant agreement based on each individual grantee and the grantee's project.

Comment: Two commenters state that proposed Section 331.8 does not address a timeframe for when repayment must be made to the State if a grantee fails to reach specified benchmarks. One commenter suggests that TANEO make clear the expectation on timeline for repayment, and the other commenter recommends that TANEO add two provisions to this rule that require, in addition to the proposed rules, a grant agreement to also "address the implications of failing to meet any milestone that is not achieved; and provide clear mechanisms for repayment of grant funds under specified conditions; including the allowance of repayment in no less than 180 days."

Response: TANEO declines to adopt the recommended modification. Circumstances surrounding failure to reach specified benchmarks and repayment will vary among grantees. In the event a grantee fails to reach specified benchmarks and must repay grant funds, the details setting forth that repayment process will be laid out in the grant agreement, through discussions with TANEO, written notices of deficiencies, if applicable, and other applicable law.

Comments on Subchapter A, General Provisions, §331.9, Waiver of Rules.

Comment: One commenter states that proposed Section 331.9 does not provide guidance on its intended application, and that large, advanced nuclear projects may require tailored treatment to reflect scale, maturity, and grid impact. The commenter suggests that TANEO specify that waiver authority may be exercised for multi-unit projects, the United States Nuclear Regulatory Commission (NRC)-certified reactor designs, or projects with demonstrable system-level reliability and economic benefits to Texas.

Response: TANEO declines to adopt the recommended modification. The waiver provision relates to administrative rules found in 10 Texas Administrative Code Chapter 331 and is available only in extraordinary circumstances. Section 331.9 allows for a waiver of any rule for which a waiver (1) would further the public interest; and (2) would be consistent with applicable statutory law.

Comment: One commenter notes that they have concerns with granting TANEO unrestricted authority to override rules that are vital for grantees and stakeholders. The commenter states that the absence of clear criteria or limitations for such waivers creates the potential for inconsistent application. The commenter recommends that any waiver process be narrowly defined, with specific criteria and procedural safeguards to ensure an equitable application. The commenter states that the proposed rule should require TANEO to provide detailed justification for any waiver, including a public explanation of how the waiver serves the public interest, and should establish a formal appeals process for grantees affected by such decisions. The commenter recommends that TANEO add the following language to proposed Section 331.9: "TANEO will provide detailed justification for any waiver, including an explanation of how the waiver serves the public interest."

Response: TANEO declines to adopt the recommended modification. The waiver provision relates to administrative rules found in 10 Texas Administrative Code Chapter 331 and is available only in extraordinary circumstances. The provision has appropriate guardrails set forth within the text of the rule, as well as within the requirements set forth in the Texas Administrative Code.

Comments on Subchapter C, Advanced Nuclear Construction Reimbursement Program, §331.31, Limitations on Maximum Grant Amount: Prerequisites to Grant Funding.

Comment: One commenter notes that the $120 million cap on construction reimbursement grants does not scale to the capital requirements of a four-unit AP1000 project. The commenter states that, at this scale, the cap is insufficient to meaningfully reduce financial risk, influence investment decisions, or incentivize accelerated deployment. The commenter also notes that the proposed structure does not recognize the system-level benefits of multi-unit sites, including shared infrastructure, workforce continuity, and long-term grid reliability. The commenter suggests that TANEO establish per-unit caps, tiered caps, or alternative scaling mechanisms that recognize the magnitude and grid value of multi-unit nuclear deployments.

Response: TANEO declines to adopt the recommended modification because it is contrary to statute. Section 483.204(d) states that a "grant provided under this section may not exceed the lesser of: (1) 50 percent of the amount of qualifying expenses associated with the project; or (2) $120 million" for construction of an advanced nuclear project as defined by Section 483.001(1), Texas Government Code. Chapter 483, Texas Government Code, does not contemplate per-unit caps, tiered caps, or alternative scaling mechanisms, but TANEO may take into account long-term grid reliability impacts in the grant selection process.

Comment: One commenter notes that proposed Section 331.31(b) requires docketing of a construction permit or license application from the NRC before TANEO may provide construction reimbursement funding, but states that for a multi-unit AP1000 project using an NRC-certified reactor design, the most capital-intensive and risk-bearing activities occur prior to docketing, including site-specific engineering, long-lead procurement, and supply chain commitments. The commenter notes that by the time docketing occurs, state reimbursement support is unlikely to materially influence project viability, financing, or execution risk. The commenter suggests that TANEO modify the proposed rules to allow condition or phased construction reimbursement eligibility tied to defined pre-docket milestones for NRC-certified reactor designs, such as completion of site-specific engineering or Combined Operating License preparation.

Response: TANEO declines to adopt the recommended modification because it would be contrary to statute. Section 483.204(f), Texas Government Code, states "[TANEO] may not provide a reimbursement grant for a project under this section until the regulatory commission has docketed a construction permit or license application for the project."

Comment: One commenter seeks clarification on proposed Section 331.31(b)'s requirement that TANEO may not provide a reimbursement grant for a project until the NRC has docketed a construction permit or license application for the project. The commenter recommends that TANEO specify when a construction permit or license application must be docketed; specifically, the commenter requests clarification on whether the construction permit or license application must be docketed before TANEO awards the grant, before funds are disbursed, or by a specific date.

Response: TANEO declines to adopt the recommended modification. The adopted rule and applicable statute do specify when a construction permit or license application must be docketed. Adopted Section 331.31(b), Texas Administrative Code, and Section 483.204(f), Texas Government Code, state that TANEO may not provide a reimbursement grant under the Advanced Nuclear Construction Reimbursement Program until the Nuclear Regulatory Commission has docketed a construction permit or license application for the project. To clarify, this means that TANEO may not enter a grant agreement or disburse funds to a grantee until the NRC has docketed a construction permit or license application for the project. TANEO's request for application will provide details on the specific date by which a construction permit or license application for the project must be docketed before TANEO awards the grant.

Comment: One commenter explains that because of lengthy NRC review periods and the current reform effort initiated by

President Trump's Executive Order 14300, the official docketing of viable Texas projects may not align with the timing of the grant application window. The commenter states that to ensure the grant programs encompass favorable Texas projects, the commenter encourages TANEO to consider applications for projects that are in the process of being docketed or at a similar stage of oversight by another agency, such as the Department of Energy, and reimburse costs once docketing or similar oversight requirements have been met.

Response: TANEO declines to adopt the recommended modification because it is contrary to statute. Section 483.204(f), Texas Government Code, states that TANEO may not provide a reimbursement grant under the Advanced Nuclear Construction Reimbursement Program until the NRC has docketed a construction permit or license application for the project. TANEO may consider applications for projects that are in the process of being docketed, but TANEO may not enter a grant agreement or provide a reimbursement grant to a grantee until the NRC has docketed a construction permit or license application for the project. TANEO's request for application will provide details regarding the specific date by which a construction permit or license application for the project must be docketed before TANEO awards a grant.

Comments on Subchapter C, Advanced Nuclear Construction Reimbursement Program, §331.32, Grant Agreement.

Comment: One commenter recommends that TANEO retain the proposed rule provision allowing TANEO to accept approvals from federal agencies other than the NRC in Section 331.32(c). The commenter explains that, for example, the Department of Energy's (DOE) Reactor Pilot Program, established following President Trump's Executive Order 14301, is a fast-track initiative designed to accelerate the development and commercial licensing of advanced nuclear reactors. The commenter explains that the DOE's authorization process under 10 C.F.R. 830 mirrors NRC licensing stages in key respects. The commenter states that given the structural similarities between DOE authorization and NRC licensing, and the October 2025 Addendum No. 9 to the Memorandum of Understanding between the DOE and the NRC committing both agencies to leverage DOE-approved safety documentation for future NRC reviews, this proposed provision reflects sound policy. The commenter explains how the proposed provision allows TANEO to evaluate project milestones based on the regulatory framework most applicable to each project while ensuring safety standards remain vigorous.

Response: TANEO agrees that Section 331.32(c) should be adopted as proposed.

Comment: One commenter states that TANEO retains broad discretion to define milestones, evaluate progress, and withhold reimbursement, even for potentially eligible expenses. The commenter states that for large-scale projects that rely on project finance and long-term contracting, uncertainty around milestone verification increases cost of capital and complicates engineering, procurement, and construction (EPC) and vendor negotiations. The commenter also states that financing institutions require predictable, objective reimbursement criteria aligned with established regulatory and construction frameworks. The commenter recommends TANEO align the proposed rules milestone definitions more explicitly with NRC regulatory stages and standard AP1000 construction phases, and commit to objective, transparent milestone verification procedures.

Response: TANEO declines to adopt the recommended modification. The adopted rule follows the applicable statute in Section 483.204, Texas Government Code, and it applies to more than just AP1000 reactors. The Advanced Nuclear Construction Reimbursement program applies to "an advanced nuclear project" in this State, as defined by Section 483.001(1), Texas Government Code. Additionally, Section 331.8(1) states that benchmarks and milestones for the completion of the project for which a grant is provided shall be specified in a grant agreement.

Comment: Two commenters explain that it is important that a grantee be able to work together with TANEO to develop a mutually-agreed upon milestone-based plan, with one commenter stating that each grantee's plan will be different and must be specific for each project, aligning to the project's internal management process, as well as the timing and project financial expenditures. The commenters recommend the inclusion of additional language into proposed Section 331.32 to bring the grantee into the decision-making process for the milestone-based plan.

Response: TANEO declines to adopt the recommended modification. While TANEO agrees that it is important that a grantee be able to work together with TANEO to develop the appropriate milestone-based plan, and that each grantee's plan may be different, TANEO believes that this is something that is appropriately accomplished through a grant agreement and does not require additional administrative memorialization in the rulemaking process.

Comment: Two commenters recommend that TANEO replace "completion" with "incompletion" in proposed Section 331.32(d) for clarity, with one commenter stating that it seems to be a typographical error.

Response: TANEO agrees with these recommendations. Therefore, TANEO agrees to modify proposed Section 331.32(d) in response to comments. Adopted Section 331.32(d) reads as follows: "TANEO may withhold reimbursements of grant funds based on an applicant's failure to complete specified milestones described in the grant agreement." TANEO agrees with one of the commenters that this was a typographical error in the proposed rule and will correct this error in the adopted rule.

TAKINGS IMPACT ASSESSMENT

Mr. Shaffer has determined that there are no private real property interests affected by the adopted rules, and the 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. Thus, the adopted rules do not constitute a taking or require a takings impact assessment pursuant to Section 2007.043, Texas Government Code.

SUBCHAPTER A. GENERAL PROVISIONS

10 TAC §§331.1 - 331.9

STATUTORY AUTHORITY

Section 483.101, Texas Government Code, authorizes TANEO to adopt and enforce rules necessary to carry out the programs established in Chapter 483, Texas Government Code. Section 483.203, Texas Government Code, authorizes TANEO to establish by rule procedures for the application for and provision of a grant under the Project Development and Supply Chain Reimbursement Program. Section 483.204, Texas Government Code, authorizes TANEO to establish by rule procedures for the application for and provision of a grant under the Advanced Nuclear Construction Reimbursement Program.

CROSS REFERENCE TO STATUTE

Chapter 483, Texas Government Code. No other statutes, articles, or codes are affected by the adopted rules.

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

Filed with the Office of the Secretary of State on February 27, 2026.

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Jarred Shaffer
Director
Texas Advanced Nuclear Energy Office
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Proposal publication date: January 2, 2026
For further information, please call: (512) 463-2000

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SUBCHAPTER B. PROJECT DEVELOPMENT AND SUPPLY CHAIN REIMBURSEMENT PROGRAM

10 TAC §331.20, §331.21

STATUTORY AUTHORITY

Section 483.101, Texas Government Code, authorizes TANEO to adopt and enforce rules necessary to carry out the programs established in Chapter 483, Texas Government Code. Section 483.203, Texas Government Code, authorizes TANEO to establish by rule procedures for the application for and provision of a grant under the Project Development and Supply Chain Reimbursement Program. Section 483.204, Texas Government Code, authorizes TANEO to establish by rule procedures for the application for and provision of a grant under the Advanced Nuclear Construction Reimbursement Program.

CROSS REFERENCE TO STATUTE

Chapter 483, Texas Government Code. No other statutes, articles, or codes are affected by the adopted rules.

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

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SUBCHAPTER C. ADVANCED NUCLEAR CONSTRUCTION REIMBURSEMENT PROGRAM

10 TAC §§331.30 - 331.32

STATUTORY AUTHORITY

Section 483.101, Texas Government Code, authorizes TANEO to adopt and enforce rules necessary to carry out the programs established in Chapter 483, Texas Government Code. Section 483.203, Texas Government Code, authorizes TANEO to establish by rule procedures for the application for and provision of a grant under the Project Development and Supply Chain Reimbursement Program. Section 483.204, Texas Government Code, authorizes TANEO to establish by rule procedures for the application for and provision of a grant under the Advanced Nuclear Construction Reimbursement Program.

CROSS REFERENCE TO STATUTE

Chapter 483, Texas Government Code. No other statutes, articles, or codes are affected by the adopted rules.

§331.32. Grant Agreement.

(a) Before entering a grant agreement for a grant under this subchapter, TANEO will establish a milestone-based plan to distribute grant funds on a rolling basis in accordance with:

(1) a project's respective regulatory commission license or permit regulatory pathway; and

(2) the grant recipient's financial investment decisions as it relates to the project.

(b) To determine the milestones included in a grant agreement, TANEO may consider, but is not limited to, the following considerations:

(1) the applicant's progress and completion of the regulatory commission's regulatory stages and other requirements related to a license or permit, including the:

(A) application schedule and resource letter published;

(B) application safety review;

(C) application environmental review; and

(D) issuance of license or permit; and

(2) the recipient's financial investment decisions related to a project, including:

(A) a comprehensive description of the entire project management process;

(B) anticipated timing of decisions and associated prerequisites for a project to proceed through a gating process; and

(C) a comprehensive financing and capital expenditure plan for the project, including details relating to sources of funding and project-specific investment decisions and timelines.

(c) Notwithstanding subsection (b)(1) of this section, TANEO may, in its sole discretion, accept approvals that applicants receive from other federal agencies.

(d) TANEO may withhold reimbursements of grant funds based on an applicant's failure to complete specified milestones described in the grant agreement.

(e) TANEO may require a grant recipient to submit any documentation or information TANEO determines is necessary to assess whether a grantee has met a milestone in whole or in part for the purpose of distributing grant funds.

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 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 7. GAS SERVICES
SUBCHAPTER H. INTERIM RATE ADJUSTMENTS

16 TAC §7.7102

The Railroad Commission of Texas (Commission) adopts new §7.7102, relating to Regulatory Asset for Certain Costs Associated with Gross Plant, with changes from the proposed text as published in the October 17, 2025, issue of the *Texas Register* (50 TexReg 6749); therefore, the rule text will be republished. The Commission adopts the new rule pursuant to House Bill 4384, 89th Legislative Session (2025), which creates a new §104.302 in Subchapter G, Interim Cost Recovery and Rate Adjustment, of the Texas Utilities Code. House Bill 4384 became effective on June 20, 2025.

The Commission received four comments on the proposal; no comments were received from any associations. Comments were submitted by the following: (1) Atmos Cities Steering Committee (ACSC); (2) Atmos Energy Corporation on behalf of its Atmos Pipeline-Texas Division, Mid-Tex Division, and West Texas Division, CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex, and Texas Gas Service, a Division of ONE Gas, Inc. (Atmos); (3) City of Houston (Houston); and (4) SiEnergy Gas, LLC, Pines Gas, Inc., and Pines Gas Development, Inc. (SiEnergy).

General Comments

Atmos expressed general support for §7.7102. ACSC expressed concerns that the value of regulatory lag could be diminished and noted that overuse of interim rate recovery mechanisms could undermine review of invested capital in comprehensive rate proceedings. The Commission appreciates these comments.

Atmos stated certain proposed language could be interpreted as conditioning recovery on an interim rate filing with the Commission and noted recovery may also occur through a Statement of Intent filing. SiEnergy requested revisions to make clear the deferred accounting provisions are not conditioned on use of the GRIP statute and recommended corresponding revisions to the preamble and subsections (b)(2), (b)(3), and (c)(1). The Commission adopts revisions clarifying that a regulatory asset under this section may be included in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 of this title (relating to Interim Rate Adjustments) or in a rate case filed by the gas utility or initiated by the regulatory authority.

Atmos commented that the preamble should be revised to consistently use the term "gas utility." The Commission agrees and makes this change for consistency.

Subsection (a)

Regarding subsection (a)(1), Atmos and SiEnergy requested clarification that the initial deferred balance used for qualifying unrecovered gross plant is the balance recorded on or after June 20, 2025. The Commission declines to make changes to the rule in response to these comments but notes the bill's effective date in the preamble for clarity.

ACSC requested modifications to the definition of gross plant to explicitly account for plant retirements consistent with the FERC Uniform System of Accounts. The Commission declines to add retirements because doing so would expand the term beyond its intended purpose.

Houston also recommended several changes to the definition. The Commission agrees in part and adopts changes to clarify that gross plant is the original cost of a gas utility's investment in plant, facilities, or equipment. The Commission declines to add "new" because gross plant may include acquired plant, not just new investment.

Regarding subsection (a)(2), Atmos proposed revising the definition to include a formula for calculating post in-service carrying costs and to specify monthly interest accrual until recovery in rates. Houston requested specifying a daily or monthly interest rate and clarification regarding the applicable calculation period. The Commission adopts changes to specify a monthly interest rate and clarify recovery in rates but declines to include the suggested formula. Calculation mechanics, including the applicable period, will be addressed in the Commission-approved workpaper.

Regarding the proposed definition of recovery, Atmos and SiEnergy requested it be revised or deleted because it is unclear and could be interpreted as limiting recovery under this section to the Commission's interim rate adjustment mechanism. Houston also requested clarifying revisions. The Commission agrees the definition is unclear and deletes the proposed definition for clarity. As a result, the Commission renumbers the remaining definitions accordingly.

Regarding subsection (a)(3), Houston commented that it is unclear whether "unrecovered gross plant" is intended to treat gross plant as net of amounts deferred to a regulatory asset for purposes of calculating post in-service carrying costs and recommended clarifying revisions. The Commission declines to adopt the requested revision because the definition already excludes amounts being deferred to a regulatory asset; calculation mechanics will be addressed in the Commission-approved workpaper.

The Commission adopts subsection (a)(4) with conforming renumbering changes.

Subsection (b)

The Commission adopts subsection (b) with changes as discussed below.

A gas utility shall only defer for future recovery in rates the costs specified in subsection (b)(1). The Commission revises subsection (b)(1) for clarity and consistency, including adding "in rates" in the introductory sentence and revises subsection (b)(1)(B) to include a clarifying parenthetical regarding treatment of depreciation to account for accumulated depreciation resulting from depreciation expense included in the regulatory asset.

Atmos requested revising subsection (b)(1)(C) to allow for the recovery of all ad valorem taxes associated with unrecovered gross plant. The Commission agrees and revises subsection (b)(1)(C) to remove the interim rate adjustment calendar year-end limitation.

In subsection (b)(2), SiEnergy recommended adding "if applicable" following the reference to §7.7101. The Commission declines to adopt the suggested changes but revises subsection (b)(2) to clarify that an unrecovered gross plant regulatory asset shall be included in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 or in a rate case filed by the gas utility or initiated by the regulatory authority.

ACSC requested clarification regarding how the regulatory asset will be treated once the plant is reflected in rates established in an IRA or in a subsequent general rate case and recommended inserting clarifying language to specify that the regulatory asset should only accumulate incremental return, depreciation, and taxes between IRA filings and not beyond the effective date of rates set in an IRA or in a subsequent general rate case. The Commission declines to adopt the suggested changes but revises subsection (b)(2) to specify the calculation period begins at the in-service date of the unrecovered gross plant. Subsection (d) specifies how necessary accounting adjustments are to be made once plant amounts are recovered in rates. Calculation mechanics, including the applicable period, will be addressed in the Commission-approved workpaper.

SiEnergy recommended adding "if applicable" in subsection (b)(3). The Commission declines to adopt the suggested revisions but adopts conforming revisions for consistency with subsection (b)(2).

ACSC recommended requiring documentation to support the in-service date of the plant in subsection (b)(3). The Commission declines to add an additional documentation requirement in the rule text. The Commission will review a representative sample of projects, including documentation to verify in-service dates of the investment.

Subsection (c)

The Commission revises the subsection title for clarity.

Houston recommended revising subsection (c)(1) to allow review by regulatory authorities other than the Commission. The Commission declines to make the requested change because the statute assigns review authority to the Commission.

SiEnergy suggested adding a reference to clarify what costs are subject to review in subsection (c)(1). The Commission declines to adopt the suggested language and revises subsection (c)(1) to clarify that any costs included in a regulatory asset authorized under this section shall be fully subject to review for reasonableness and prudence by the Commission.

The Commission adopts subsection (c)(2) with conforming changes for clarity and consistency with §7.7101 terminology used elsewhere in the rule.

Subsection (d)

The Commission adopts subsection (d) with conforming changes for clarity and consistency, including clarifying that accounting adjustments apply upon inclusion of an unrecovered gross plant regulatory asset in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 or in a rate case and must be made in accordance with §7.310 of this title (relating to System of Accounts).

The Commission appreciates the input from all those who submitted comments.

The adopted rule language is summarized below.

New §7.7102 establishes definitions and requirements governing a gas utility's deferral, for future recovery in rates, of post in-service carrying costs, depreciation associated with unrecovered gross plant, and ad valorem taxes associated with unrecovered gross plant in an unrecovered gross plant regulatory asset.

Subsection (a) defines gross plant, post in-service carrying costs, unrecovered gross plant, and unrecovered gross plant regulatory asset.

Subsection (b) specifies the costs that may be deferred in an unrecovered gross plant regulatory asset and provides that the regulatory asset is included in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 (relating to Interim Rate Adjustments) or in a rate case filed by the gas utility or initiated by the regulatory authority. Subsection (b) also requires a workpaper, with formulas intact, on a Commission-approved form, and specifies the period and components that must be included in the calculation of the unrecovered gross plant regulatory asset balance to be recovered in rates.

Subsection (c) provides that any costs included in a regulatory asset authorized under this section are fully subject to Commission review for reasonableness and prudence and provides that if the Commission disallows regulatory asset costs previously recovered through rates established in the Commission's interim rate adjustment cost recovery mechanism under §7.7101, the disallowed costs are subject to refund with interest calculated at the gas utility's pre-tax weighted average cost of capital.

Subsection (d) requires appropriate accounting adjustments to reflect recovery in rates upon inclusion of an unrecovered gross plant regulatory asset in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 or in a rate case and provides that the accounting adjustments must be made in accordance with §7.310 (relating to System of Accounts).

The Commission adopts the new rule pursuant to Texas Utilities Code §104.302. Section 104.302 also mandates that the Commission adopt a rule no later than 270 days after the effective date of HB 4384.

Statutory authority: Texas Utilities Code §104.302.

Cross-reference to statute: Texas Utilities Code, Chapters 101-104.

§7.7102. Regulatory Asset for Certain Costs Associated with Gross Plant.

(a) Definitions.

(1) Gross plant--The original cost of a gas utility's investment in plant, facilities, or equipment that has been placed in service and is used and useful.

(2) Post in-service carrying costs--The product of unrecovered gross plant multiplied by a monthly interest rate equal to one-twelfth of a gas utility's pretax weighted average cost of capital estab-

lished in the Commission's final order in the gas utility's most recent rate case until recovery in rates.

(3) Unrecovered gross plant--Gross plant whose cost is not yet being recovered in a gas utility's rates and not already being deferred to a regulatory asset.

(4) Unrecovered gross plant regulatory asset--A regulatory asset as authorized by §104.302, Utilities Code and this section.

(b) Deferral of certain costs associated with gross plant.

(1) A gas utility shall only defer for future recovery in rates the following costs in an unrecovered gross plant regulatory asset:

(A) post in-service carrying costs;

(B) depreciation associated with the unrecovered gross plant (if depreciation expense associated with the unrecovered gross plant is included in the unrecovered gross plant regulatory asset, the unrecovered gross plant used for purposes of calculating post in-service carrying costs shall be reduced by the associated accumulated depreciation that is deferred); and

(C) ad valorem taxes associated with the unrecovered gross plant.

(2) An unrecovered gross plant regulatory asset shall be included in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 of this title (relating to Interim Rate Adjustments) or in a rate case filed by the gas utility or initiated by the regulatory authority and calculated for the period from the in-service date of the unrecovered gross plant.

(3) A gas utility that defers for recovery an unrecovered gross plant regulatory asset shall include in its interim rate adjustment filing made pursuant to §7.7101 of this title or in a rate case filed by the gas utility or initiated by the regulatory authority a workpaper, with formulas intact, on a form approved by the Commission and found in the Gas Services' section of the Commission's website. The workpaper shall include the gas utility's calculation of the unrecovered gross plant regulatory asset balance to be recovered in rates calculated through the end of the interim rate adjustment calendar year or test year in a rate case. The calculation shall include depreciation expense, associated accumulated depreciation, ad valorem tax, and post in-service carrying costs.

(c) Review by the Commission in a general rate proceeding.

(1) Any costs included in a regulatory asset authorized under this section shall be fully subject to review for reasonableness and prudence by the Commission.

(2) If the Commission by order disallows unrecovered gross plant regulatory asset costs that were previously recovered through rates established in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 of this title, the disallowed costs are subject to refund with interest. Interest shall be calculated at the gas utility's pre-tax weighted average cost of capital.

(d) Accounting adjustments. Upon inclusion of an unrecovered gross plant regulatory asset in the Commission's interim rate adjustment cost recovery mechanism under §7.7101 of this title or in a rate case filed by the gas utility or initiated by the regulatory authority, the gas utility shall make appropriate accounting adjustments to its books and records, in accordance with §7.310 (relating to System of Accounts), to reflect the recovery in rates.

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 February 24, 2026.

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Olivia Alland
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Railroad Commission of Texas
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Proposal publication date: October 17, 2025
For further information, please call: 512) 475-1295

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PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 22. PROCEDURAL RULES

The Public Utility Commission of Texas (commission) adopts amendments to 13 rules and one new rule in 16 Texas Administrative Code (TAC) Chapter 22. The commission adopts the following rules with changes to the proposed text as published in the September 5, 2025 issue of the *Texas Register* (50 TexReg 5815): §22.123, relating to Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission; §22.127, relating to Certification of an Issue to the Commission; §22.141, relating to Form and Scope of Discovery; §22.142, relating to Limitations on Discovery and Protective Orders; §22.143, relating to Depositions; §22.144, relating to Requests for Information and Requests for Admission of Fact; §22.161, relating to Sanctions; §22.181, relating to Dismissal of a Proceeding; and §22.182, relating to Summary Decision. These rules will be republished.

The commission adopts the following rules with no changes to the proposed text as published in the September 5, 2025 issue of the *Texas Register* (50 TexReg 5815): §22.124, relating to Statements of Position; §22.125, relating to Interim Relief; §22.126, relating to Bonded Rates; new §22.162, relating to Enforcement of Subpoenas or Commissions for Deposition; and §22.183, relating to Disposition by Default. These rules will not be republished.

The commission received comments on the proposed rule from AEP Texas Inc., Electric Transmission Texas, LLC, and Southwestern Electric Power Company (collectively AEP); Entergy Texas, Inc. (ETI); Lower Colorado River Authority (LCRA); Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company, LLC (Oncor); Texas Association of Water Companies (TAWC); Texas Industrial Energy Consumers (TIEC).

General Changes

The adopted rules include various clerical and grammatical changes, as well as changes to outdated rules, statutes, or certain terms. Changes are also made to conform rules, where applicable, to the updated electronic filing requirements specified under §22.71, relating to Commission Filing Requirements and Procedures, and §22.72, relating to Form Standards for Documents Filed with the Commission, of this title.

Appeals of Interim Orders and Motions for Reconsideration

Adopted §22.123 is revised to require service of appeals and motions for reconsideration to comply with §22.74 of this title, relating to Service of Pleadings and Documents and authorizes

the presiding officer to grant a stay of an interim order if good cause is shown.

Statements of Position

Adopted §22.124 is revised to require a party that has not prefiled direct testimony to file a statement of position no later than three working days before the start of a hearing unless the presiding officer determines that doing so would be an unjustified burden or that a different deadline should be imposed.

Interim Relief

Adopted §22.125 is revised to clarify the requirement that an applicant, in any proceeding involving a proposed interim change in rates, to bear the burden of proof to show that the proposed interim relief is just and reasonable.

Certification of an Issue to the Commission

Adopted §22.127 is revised to authorize a party to request the presiding officer certify an issue to the commission or the presiding officer to certify an issue at his or her discretion. Adopted §22.127 also requires the presiding officer to certify an issue through the issuance of a written order. Adopted §22.127 further replaces the deadline for party briefs on the certified issue is replaced with "the timeframe set by OPDM." Adopted §22.127 is also revised to extend the commission deadline to decide a certified issue within 60 days of submission of the certified issue to the commission and requires OPDM to place the certified issue on the commission's agenda for consideration "at the earliest time practicable" consistent with the 60 day deadline for a commission decision.

Forms and Scope of Discovery

Adopted §22.141 is revised to authorize the parties, by written agreement, to take depositions in accordance with the Texas Rules of Civil Procedure, subject to any other ruling or procedure established by the presiding officer.

Limitations on Discovery and Protective Orders

Adopted §22.142 is revised to revert the change on proposal that would permissively authorize the presiding officer to consider the factors specified under §22.127(d). The adopted version preserves existing language requiring the presiding officer to consider all factors under §22.127(d) before setting limits on requests for information.

Depositions

Adopted §22.143 is revised to require the taking and use of depositions in any proceeding to comply with §22.141 of this title. Adopted §22.143 is also revised to require the party conducting the deposition to provide a copy of the transcript to commission staff and upon request, OPUC, without cost to the commission or OPUC.

Requests for Information and Requests for Admission of Facts

Adopted §22.144 is revised to require copies of each request for information to be served upon all parties to the proceeding in accordance with §22.74 of this title and extends objections founded upon a claim of privilege or exemption to those found under the Texas Rules of Evidence. Adopted §22.144 is also revised to clarify the procedures for motions to compel in the event an incomplete response or no response is filed and refines the requirements for the production and organization of documents, including voluminous documents.

Sanctions

Adopted §22.161 is revised to clarify the causes for imposition of sanctions and the requirement for one or more commissioners or a SOAH administrative law judge to hold a hearing on a motion for sanctions if one is requested. Adopted §22.161 is also revised to omit the sanction of punishing an offending party or its representative for contempt to the same extent as a district court. Adopted §22.161 is further revised to extend the sanctions available to an administrative law judge to the same sanctions available to the commission. Adopted §22.161 is also revised to omit the requirement for a hearing to be held on a motion for sanctions upon receipt of the motion.

Enforcement of Subpoenas or Commissions for Deposition

Adopted §22.162 is revised to authorize the commission or the party requesting a subpoena or commission for deposition to seek enforcement in accordance with the APA if a person fails to comply with a subpoena or commission for deposition issued by a presiding officer.

Dismissal of a Proceeding

Adopted §22.181 is revised to revert language regarding gross abuse of discovery as a reason for dismissal. Specifically, the adopted version preserves existing language requiring abuse of discovery to be "gross" before being a basis of dismissal of a proceeding.

Summary Decision

Adopted §22.182 is revised to require any response to a motion for summary decision to be filed within 20 days, unless otherwise ordered by the presiding officer. Adopted §22.182 is also revised to authorize the presiding officer to set a hearing on the motion for summary decision despite a hearing not being required.

Disposition by Default

Adopted §22.183 is revised to authorize the presiding officer to issue a proposal for decision granting default and further authorizes the presiding officer to deem the factual matters asserted in the notice of the opportunity for a hearing to be admitted in the proposal for decision

General Comments

Internal cross-references to commission rules

OPUC recommended that internal cross-references to other commission rules refer to the applicable chapter of the Texas Administrative Code, rather than the overall title (i.e., "§ 22.74 of this title" should be revised to "§ 22.74 of this chapter." OPUC stated the applicable title for commission rules would be "Title 16, Economic Regulation" and therefore include rules of at least six different State of Texas agencies. OPUC noted that "of this chapter" is the correct reference in most instances, as that would refer to Chapter 22, under Part 2 of Title 16 which is the appropriate reference.

Commission response

The commission declines to implement the recommended change. Across the Texas Administrative Code there may be several instances of a specific chapter. For instance, "Chapter 22" appears in Title 1, Title 4, Tile 13, Title 16, Title 19, Title 28, and Title 43. The reference to "Title 16" is intended to ensure the Chapter 22 that is applicable to the commission rules. For this reason, the usage of "of this title" is common practice among Texas state agencies (e.g., Title 16, Part 1, Chapter 3 of the Texas Railroad Commission's rules and Title 30, Part 1, Chapter 290 of the Texas Commission on Environmental Quality's rules

both use the phrase "of this title" over 200 times and "of this chapter" less than five times).

Usage of the terms "shall" vs. "must"

OPUC recommended that the term "shall" be preserved across the Chapter 22 rules, rather than be replaced with specific instances of "must" or "will," unless otherwise appropriate to do so in accordance with the Texas Code Construction Act. OPUC maintained that the Legislature intentionally used the term "shall" when drafting the statutes that underpin the commission's rules, even as recently as the last legislative session. Accordingly, if the Legislature had meant to use a different term, then it would have done so explicitly. OPUC further contended that the Texas Code Construction Act provides clear, separate definitions of "shall" and "must" and therefore the terms are not interchangeable. OPUC noted, had the Legislature intended the terms to be interchangeable, then it would have clearly stated that in the same manner notes that "may not" and "shall not" are. OPUC also commented that "shall" is not an antiquated term, given that other current bodies of law, such as "The Texas Rules of Civil Procedure, Texas Disciplinary Rules of Professional Conduct, and Texas Code of Judicial Conduct" all refer to the term "shall."

Commission response

The commission declines to implement the recommended change. The commission acknowledges the general applicability of the TCCA to the commission's rules. See Texas Government Code §311.002(4) (applying the TCCA to "each rule adopted under a code"). However, forgoing use of the term "shall" or replacing the term with "may," "must," or another contextually relevant term is appropriate and not inconsistent with the TCCA. As indicated by OPUC, the TCCA does separately indicate a specific construction for the terms "may," "shall," "must," and "may not" under Texas Government §311.016(1)-(3) and (5). However, the statute also establishes that: "[t]he following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute" (emphasis added). This provision indicates a general level of flexibility in usage and interpretation of various modal verbs. More importantly, the TCCA does not require the usage of "shall" as opposed to "must" or "may" when implementing statutes in agency rules. Therefore, the commission is not prohibited by law from utilizing other modal verbs to replace "shall." Lastly, commenters have not identified instances where the usage of a different modal verb has resulted in ambiguity as to the intended meaning.

Clerical and Grammatical Revisions

Several commenters noted clerical and grammatical errors in the proposed rules. The commission implements these changes where appropriate.

Proposed §22.123 - Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission.

Proposed §22.123 establishes the requirements associated with appeals and motions for reconsiderations of interim orders issued by the commission.

Proposed §§22.123(a), 22.123(a)(1), 22.123(b), 22.123(b)(1) - Appeal of an Interim Order and motion for reconsideration of interim order issued by the commission.

Proposed §22.123(a) establishes the availability, procedures, and form and content requirements associated with appeals of interim orders issued by the commission. Proposed §22.123(a)(1) establishes the availability of appeal for any interim order of the presiding office that immediately prejudices a substantial or material right of a party or materially affects the course of a proceeding.

Proposed §22.123(b) establishes the availability, procedures, and form and content requirements associated with motions for reconsideration of interim orders issued by the commission. Proposed §22.123(a)(1) establishes the availability of a motion for reconsideration for any interim order of the presiding officer that immediately prejudices a substantial or material right of a party or materially affects the course of a proceeding. The provisions also establish certain limitations associated with appeals and motions for reconsideration, respectively.

TIEC, Oncor, ETI, AEP, and OPUC recommended the commission not eliminate a party's right to appeal commission rulings on evidence or discovery under proposed §22.123(a)(1). TIEC, Oncor, OPUC also recommended the commission not eliminate a party's right to file a motion for reconsideration in response to commission rulings on evidence or discovery under proposed §22.123(b)(1). In contrast, LCRA supported the proposed changes, stating the revisions will promote more efficient management of contested cases and "avoid inserting Commissioners into discovery disputes."

TIEC emphasized that discovery is a "fundamental question" in commission proceedings and that the commission should be the ultimate arbiter of discovery disputes, particularly in cases that are referred to the State Office of Administrative Hearings (SOAH). TIEC noted that the commission is best positioned to evaluate the appropriate scope of discovery on a case-by-case basis. TIEC accordingly indicated that if the commission determines that certain discovery is unnecessary, the commission's order on the appeal or reconsideration "will prevent the party from whom that discovery is being sought from needlessly wasting resources responding to the requests." TIEC therefore recommended existing §22.123(a)(1) and §22.123(b)(1) be preserved and continue to authorize interlocutory appeals of discovery rulings. TIEC stated that a party's opportunity to appeal or request reconsideration of discovery rulings is a rare but essential option to ensure efficient and thorough proceedings. Specifically, the ability to appeal or request reconsideration of discovery rulings helps facilitate the prompt issuance of commission final orders, particularly in cases that have short statutory deadlines such as rate cases or sale, transfer, merger cases. TIEC commented that removing these options will "inevitably result in scenarios where cases must be remanded for further litigation based on an incomplete record." TIEC noted that, if these options are removed, the commission's only remedy would be to remand the proceeding for additional discovery and fact finding, which would inevitably introduce significant delays.

Oncor commented that in its most recent base rate proceeding, it received almost 2,000 requests for information including subparts and provided more than 2,000 responses, including supplemental responses. Oncor stated that some discovery requests raise significant concerns because of either (1) the burden involved to gather and provide the requested information; (2) the sensitivity of the requested information (i.e. critical infrastructure or confidential financial information); or (3) the requirement to disseminate third party confidential information. ETI similarly noted that discovery requests would frequently entail disclosure of privileged, confidential, or highly sensitive information that could cause substantial harm to the party from whom discov-

ery is sought as well as customers and the general public. Oncor indicated that, while it does object to such requests, in some instances the presiding officer rules against Oncor and compels Oncor to respond to the request. Oncor emphasized that, due to this potential for a litigant to be compelled to respond to a discovery request to which it objects, a litigant needs the option to appeal such a ruling under §22.123(a)(1). Specifically, to either avoid the provision of confidential information which would cause irreversible harm to either the litigant or a third party, or to minimize or eliminate the significant burden that some discovery requests represent to the litigant. Oncor commented that the same rationale applies to preserving the option for a party to file a motion for reconsideration under §22.123(b)(1). Oncor noted that the Texas Railroad Commission permits parties to appeal discovery rulings under 16 TAC §1.55.(e). Oncor and AEP also noted that appeals of discovery rulings under §22.123(a)(1) are infrequent and therefore should remain available. AEP provided draft language consistent with its recommendation. Oncor stated that preserving the ability for a party to appeal discovery ruling will not unduly burden commission resources, as the commissioners may always decline to hear an issue on appeal under existing §22.123(a)(7)(A) or hear a motion for reconsideration under §22.123(b)(6)(A). Moreover, the commission can address any frivolous appeals or motions through sanctions under §22.161(b)(2) or the dismissal of a proceeding under §22.181(d)(9). Oncor noted that the commissions revisions of both §22.161 and §22.181 in this rulemaking would either not affect or enhance the commission's authority to act under those provisions in the event frivolous appeals are filed. Oncor provided draft language consistent with its recommendation.

OPUC commented that the proposed rule change prohibiting a party from appealing a presiding officer's discovery ruling on "substantive and material evidence" denies parties to a contested case their right to due process. OPUC recommended adding an exception to permit "appeals for discovery or evidentiary rulings that immediately prejudice a party's substantial or material right or materially affect the proceeding's course." OPUC stated its proposed revision would preclude appeals for minor and nonsubstantive discovery while protecting parties' due process rights. OPUC explained that the Texas Supreme Court has held that due process in administrative proceeding requires a full and fair hearing on disputed fact issues, which includes the right to present and rebut evidence. OPUC stated that, under §2001.051 of the Texas Administrative Procedure Act (APA), parties in a contested case are entitled to both the opportunity for a hearing after reasonable notice of not less than 10 days and the opportunity to respond and present evidence and argument on each issue involved in the case. OPUC further stated that the removal of a party's right to appeal a discovery ruling or file a motion for reconsideration "prevents the Commission from later considering that evidence when reaching a decision." OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with TIEC, Oncor, ETI, AEP, and OPUC that appeals and motions for reconsideration should be available for discovery rulings. While appeals of discovery rulings should be rare, extraordinary circumstances may exist where a party believes that compliance with a discovery order would cause irreparable harm, including through the disclosure of confidential information. The commission accordingly omits that language from §22.123(a)(1) and (b)(1) to ensure a process exists for challenging a discovery ruling. However, the commission disagrees with commenters that appeals and motions for reconsideration should be available for evidentiary rulings. Under existing §22.123(a)(1) and (b)(1), appeals and motions for evidentiary rulings are unavailable for evidentiary rulings due to the logistical challenges associated with such procedural actions during a hearing. Moreover, evidentiary objections can be preserved in the record for later review in accordance with §22.221(c) of this title, relating to Rules of Evidence in Contested Cases.

Proposed §22.123(a)(5) - Motion for stay

Upon motion, proposed §22.123(a)(5) authorizes the presiding officer to grant a stay of the interim order pending a ruling by the commissioners if good cause is shown. The provision also establishes that the filing of an appeal does not stay the interim order or any applicable procedural schedule.

OPUC recommended that proposed § 22.123(a)(5) be revised to require the presiding officer to consider public interest factors in determining whether to issue an interim order. Specifically, whether the issuance of an interim order would "immediately prejudice a substantial or material right of a party or materially affect the proceeding's course; the effect on the parties and the public interest;" or any other factors relevant in determining if good cause exists. OPUC noted that these factors are similar to those for appeals under §22.123(a)(1) and that the revision would provide greater clarity to parties and the presiding officer. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. OPUC's proposed changes would only serve to complicate the issuance of interim orders by the presiding officer.

Proposed §22.123(a)(8) - Reconsideration of appeal by presiding officer

Proposed §22.123(a)(8) authorizes the presiding officer to treat an appeal as a motion for reconsideration and may withdraw or modify the order under appeal before the commission decides on the merits of the appeal.

OPUC recommended proposed §22.123(a)(8) be revised to retain the requirement that the presiding officer notify the commission of their decision to treat an appeal as a motion for reconsideration. OPUC also recommended minor grammatical changes. OPUC stated that the existing language should be preserved because it is administratively efficient by avoiding unnecessary action by the commission. OPUC noted that, under §22.123(a)(7)(A), "the Commission is required to place an appeal on the Commission's agenda within 20 days after the appeal is filed, or the appeal will be deemed denied." OPUC indicated that, if the commission is notified during this period that the presiding officer is treating the appeal as a motion for reconsideration, then it will be communicated that commission action on the appeal is unnecessary as the presiding officer will rule on the motion for reconsideration. OPUC provided draft language consistent with its recommendation.

Commission response

The commission implements the grammatical correction but declines to retain the requirement that the presiding officer notify the commission of their decision to treat an appeal as a motion for reconsideration because the sentence is redundant. Any or-

der on reconsideration effectively serves as notice to the commission, therefore the requirement is unnecessary.

Proposed §22.123(b)(2) - Procedure for motion for reconsideration

Proposed §22.123(b)(2) requires a motion for reconsideration of a commission interim order to be filed within five working days of the date the interim order is filed or the date the oral interim ruling is made and to be served on all parties in accordance with §22.74, relating to Service of Pleadings and Documents. The provision also establishes that, if the commission does not intend to reduce an oral ruling to a written order, it will indicate such on the record at the time of the oral ruling.

TAWC identified a typographical error in proposed §22.123(b)(2). Specifically, TAWC recommended that sentence concerning the deadlines for motions for reconsideration of interim orders should be revised to state that such motions must be filed "within five working days of the date the written order is filed…" (i.e. omitting the second unnecessary "of").

Commission response

The commission agrees with TAWC and implements the recommended change.

Proposed §22.124 - Statements of Position

Proposed §22.124 establishes the procedural and content requirements associated with statements of position.

Oncor recommended that proposed §22.124(a)(1) should be revised to require all parties to file a statement of position that includes all issues the party plans to litigate or may litigate unless direct testimony addressing such issues have been filed. Oncor stated that this revision would put other parties on notice of all issues that may be litigated and should be prepared to defend. Oncor provided draft language consistent with its recommendation.

Oncor, as an alternative to its primary recommendation, and LCRA and OPUC recommended retaining the existing version of §22.124(a)(1), which authorizes the option to prefile direct testimony, file a statement, or both. LCRA and OPUC specifically opposed the proposed change to §22.124(a)(1). LCRA stated that the existing provision, which requires a party to prefile a statement of position if the party does not prefile direct testimony on an issue that it plans to litigate. LCRA stated the existing provision appropriately notifies all other parties in a case of contested issues prior to a hearing. LCRA provided draft language consistent with its recommendation.

OPUC commented that the proposed revision to §22.124(a)(1) "directly impairs OPUC's ability to represent residential and small business consumers' rights" in commission proceedings. OPUC stated that, under the existing rule, if five issues were present in a proceeding but OPUC prefiled direct testimony on three of the issues it planned to litigate, OPUC could still file a statement of position on the remaining two issues. However, under the proposed rule language, OPUC would be required to either "either prefile direct testimony on all issues involved in the proceeding or file a statement of position" but not both. OPUC stated that the proposed change limits its strategic options in planning for litigation. OPUC stated that several reasons may exist for wanting OPUC to file a statement of position but not on others. OPUC stated that prefiling direct testimony is preferable when there are heavily disputed fact issues where an expert witness is required. Inversely, where there are issues that are not as fact-intensive, a statement of position would better represent the interests of customers. OPUC noted that splitting prefiling testimony and statements of position in this manner reduces litigation costs associated with cross-examining potentially superfluous witnesses and therefore saves ratepayer money. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement Oncor's recommended changes to §22.124(a)(1) as the revision would create additional obstacles for pro se litigants to participate in a proceeding before the commission. The commission also declines to retain the existing language for §22.124(a)(1) for the same reasons. In response to OPUC, the commission disagrees that the proposed change impairs the Office's ability to represent residential and small commercial customers. The amended rule only prescribes when a statement of position must be filed. It does not otherwise prohibit the filing of a statement of position.

Proposed §§22.124(a), 22.124(a)(1), 22.124(a)(2) - Statements of position required, timeline, and sanctions

Proposed §22.124(a) establishes the procedural requirements for statements of position. Proposed §22.124(a)(1) requires each party that has not prefiled direct testimony to file a statement of position no later than three working days before the start of a hearing unless the presiding officer determines that doing so would add unjustified burden and expense to the proceeding or that a different deadline should be imposed. Proposed §22.124(a)(2) authorizes the presiding officer to, in accordance with §22.161, relating to Sanctions, sanction any party that fails to comply with the requirement to file a statement of position.

Oncor recommended proposed §22.124(a)(1) be revised to set the deadline for filing statements of position to be no later than seven days before the start of the hearing. Oncor commented that the existing deadline of three working days is insufficient to provide parties with "adequate time to fully review and formulate a strategy for addressing issues raised in the statements of position." Oncor emphasized that this is particularly relevant when there are numerous parties filing statements of position while preparations for an imminent hearing are underway. OPUC stated that a seven day deadline is a more appropriate timeline that ensures all parties are both adequately apprised of and prepared to respond to any issues that are raised in a statement of position. As part of its alternative recommendation, OPUC similarly recommended that the timeline for filing statements of position be increased from three to ten working days before the start of a hearing, unless the presiding officer determines otherwise.

Commission response

The commission declines to implement the recommended change. Extending the deadline to file statements of position to seven or ten days could create conflicts with other deadlines in procedural schedules, particularly in cases with abbreviated timelines required by statute, or otherwise risk further delays in commission proceedings.

OPUC recommended that, if proposed §22.161 is adopted as-is, the commission adopt its alternative recommendations for §22.124(a)(1) and (b)(1) to ensure sufficient procedural guardrails are preserved for filing statements of position. As part of its alternative recommendation, OPUC recommended that proposed §22.124(a)(1) be revised to state that the failure of a party to file a statement of position is not grounds for

automatic disqualification as a party from the proceeding. In contrast, TAWC recommended adding language to proposed §22.124(a)(2) be revised to explicitly include dismissal of a party as a sanction for failing to comply with the requirement to file a statement of position. OPUC stated that dismissal of a party from a proceeding for failing to timely file a statement of position under proposed §22.161(a) and (b)(8) "exceeds the presiding officer's authority," specifically an administrative law judge of the commission or SOAH. OPUC commented that its proposed revision to §22.124(a)(1) is necessary to protect the due process rights of parties before the commission, particularly pro se litigants that may be unfamiliar with the commission's procedural rules.

Commission response

The commission disagrees with OPUC that failure to file a statement of position is grounds for automatic dismissal or disqualification from a commission proceeding and declines to implement the recommended changes. The commission also disagrees with TAWC that §22.161(a)(2) should incorporate express language authorizing party dismissal for failure to file a statement of position. As amended, §22.124(a)(1) provides sufficient latitude for the presiding officer to either extend the deadline for filing a statement of position or eliminate the requirement altogether if it presents an unjustified burden for a party. The implementation of TAWC's recommendation is also unnecessary given the revisions made to §22.161(b), which provide discretion to the presiding officer, but do not mandate any particular sanction for noncompliance with §22.124(a)(1). Sanctions are an extraordinary penalty against a litigant. Therefore, the presiding officer should retain leeway to impose sanctions when appropriate, rather than automatically. Further discussion regarding §22.161 is provided under the appropriate header.

As part of its alternative recommendation, OPUC further recommended that proposed §22.124(a)(2) should be revised to prevent the presiding officer from striking or limiting a party's involvement in a proceeding for failing to file a statement of position until certain criteria are met. Specifically, before such action, the presiding officer must (1) notify the party of the requirement under §22.124(a)(1); (2) grants the party seven working days after the notice to prefile testimony or file a statement of position; and (3) provide the party an opportunity to be heard on any motion to dismiss, strike, or limit the party's participation. OPUC provided draft language consistent with its recommendation. OPUC noted that PURA §14.052(a) requires the commission to adopt and enforce rules governing practice and procedure before the commission and, as applicable, SOAH. OPUC further noted that PURA §14.052(d) requires all rules adopted by the commission "'ensure that each party receives due process.'" OPUC commented that intervenors in commission proceedings frequently have no representation but are directly affected by a utility's action in a particular case. OPUC stated that prefiled direct testimony and statements of position are "the two main ways that unrepresented residential intervenors can meaningfully participate in PUCT proceedings," but that intervenors are often unaware of the existing requirement to file a statement of position three working days prior to the start of a hearing. OPUC indicated that unrepresented intervenors are frequently uncertain as to what may be required during a rate proceeding or may assume it is like proceedings before the Texas Commission on Environmental Quality which affords the public to "to state their position, ask questions, and state a list of issues on the day of the hearing." OPUC emphasized that pro se intervenors are already disadvantaged relative to parties with representation, particularly those that frequently appear before the commission, and therefore should not be so severely sanctioned as to be dismissed from a case where they had no knowledge of certain procedural requirements, like filing a statement of position. OPUC noted that applicants in commission proceedings frequently seek to strike pro se intervenors that fail to file a statement of position. OPUC indicated this failure to file such statements is primarily due to "insufficient communication between the Commission and pro se intervenors unfamiliar with the Commission's rules." OPUC emphasized that the commission is obligated to reduce barriers to public participation in commission proceedings and proceedings referred to SOAH and that its proposed language would provide greater clarity to the public of such requirements. OPUC commented that proposed §22.124 is similar to §194.2 of the Texas Rules of Civil Procedure (TRCP), which governs initial disclosures. OPUC stated that TRCP §215.2(b), which relates to sanctions a court may impose for failing to comply with a court order or discovery request, requires notice and hearing before imposing sanctions on a party for failure to comply with a court order or discovery request. OPUC concluded that the proposed revisions to §22.161, without implementing any of OPUC's proposed safeguards to §22.124, would render the commission's rules more punitive than those under the TRCP. OPUC also commented that its proposed safeguards would help the presiding officer evaluate whether a party is acting in good faith. OPUC indicated that under proposed §22.161(a) and (b), the striking or limiting of a party from a proceeding may only occur if the filing of a motion or pleading was brought in bad faith for the purposes of harassment or other improper purpose such as abusing the discovery process or failure to obey a commission order.

Commission response

The commission declines to implement the recommended change because it is unnecessary. While §22.124 does not independently contemplate notice and hearing, §22.124 does cross-reference §22.161 which provides notice and opportunity for hearing before imposition of sanctions. This means that pro se litigants will receive notice and an opportunity for a hearing before dismissal or any other sanction authorized under §22.161. Providing further procedures under §22.124 would be duplicative and create ambiguity.

Proposed §22.125 - Interim Relief

Proposed §22.125 establishes the availability, procedures, and other requirements associated with interim relief.

Proposed §22.125(d) - Standard and burden of proof

Proposed §22.125(d) establishes that, in any proceeding involving a proposed interim change in rates, the applicant bears the burden of proof to show that the proposed interim relief is just and reasonable.

OPUC recommended that proposed §22.125(d) be revised to establish that interim rates cannot be higher than the rates proposed by the utility in its application. OPUC stated this revision is necessary for consistency with other commission rules, such as under §24.37(d) relating to Interim Rates, which authorizes the commission to authorize interim rates if a proposed increase in rates could result in an unreasonable economic hardship on the utility's customers or result in unjust or unreasonable rates. OPUC also referenced §24.37(e)(1) which states that the commission may, in determining interim rates under §24.37(d), set interim rates no lower than authorized rates prior to the proposed increase nor higher than the requested rates. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary and unduly limits the discretion of the presiding officer. Under the amended rule, contested interim relief can only be granted on a showing of good cause. For that reason, it is unlikely that interim rates would be higher than rates sought in the application because an applicant would carry the burden to show good cause for interim rates that exceed the applied-for rates. However, special circumstances could arise during a proceeding demonstrating that an applicant requires higher rates than originally sought. In such a scenario, the presiding officer's ability to set interim rates should not be limited and the recommended change would be counterproductive.

Proposed §22.126 - Bonded Rates

Proposed §22.126 establishes the procedures and requirements associated with requesting and reviewing bonded rates.

Proposed §22.126(a) - Requests for bonded rates

Proposed §22.126(a) establishes the filing and timing requirements for filing applications for bonded rates. The provision also establishes requirements for the bond itself and for commission review of the bond.

OPUC commented that proposed §22.126(a) should be revised to prohibit bonded rates from exceeding a utility's proposed rates. OPUC stated that PURA §36.110(b) and §53.110(b), as well as Texas Water Code §§13.187(j) and 13.1871(q) prohibit a bonded rate from exceeding a proposed rate and require that "any bonds must be payable to the commission ˜in an amount, in a form, and with a surety approved by the commission' and 'condition on refund.'" OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change for the same reasons stated under the heading for §22.125(d). Additionally, the proposed revisions to §22.126 were purely grammatical, therefore OPUC's recommendation is out of scope.

Proposed §22.127 - Certification of an Issue to the Commission

Proposed §22.127 establishes the requirements and procedures associated with the certification of issues to the commission and commission action on certified issues.

Proposed §§22.127(c), 22.127(c)(1) and 22.127(c)(2) - Procedure for certification in commission proceedings, and requests for certification of an issue and placement of certified issue on commission agenda

Proposed §22.127(c) authorizes a party to request the presiding officer to certify an issue to the commission or, alternatively, authorizes the presiding officer to certify an issue at his or her discretion. The provision also requires certified issue to be submitted to the commission through the issuance of a written order. Proposed §22.127(c)(1) establishes that if a party requests an issue to be certified, the presiding officer will either certify the requested issue or file an order denying the motion at the earliest time practicable. Proposed §22.127(c)(2) requires the Office of Policy and Docket Management (OPDM) to place the certified issue on the commission's agenda to be considered at the earliest time practicable.

OPUC recommended proposed §22.127(c)(1) and (2) be revised to establish a 30-day deadline beginning on the date the request was made. OPUC commented that the proposed language that refers to "the earliest time practicable" is too ambiguous and would therefore significantly delay proceedings and interfere with statutory deadlines. OPUC stated that the commission should consider such statutory deadlines to enable parties to fully litigate their interests. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended changes because they are impracticable. While the commission shares OPUC's concerns for complying with statutory deadlines and seeks to timely secure the commission's responses to certified issues, there are a variety of factors that affect when an item may be placed on the commission's agenda. It may also be impractical to place the certified issue on the immediately upcoming open meeting because of the complexity of the certified issue and the agency resource requirements for the other open meeting agenda items. Additionally, OPUC's proposed language is infeasible as it would establish two deadlines on the same day (i.e., 30 days after a certified issue request is made). Unless the presiding officer acted much sooner than the proposed 30-day deadline under OPUC's version of §22.127(c)(1), then in most cases OPDM's compliance with proposed §22.127(c)(2) could be impossible. This is because the certified issue would not be placed on an open meeting agenda until after the presiding officer issued an order certifying the issue, after which the certified issue would need to be briefed and considered by the commissioners. Open meetings are currently scheduled for an approximate two- to three-week cadence, and the Open Meetings Act requires agendas to be published no later than seven days before the open meeting. However, consistent with the reinstatement and extension of the deadline for commission action under §22.127(d), the commission revises §22.127(c)(2) to require OPDM to place the certified issue on the commission's agenda at the earliest time practicable "in accordance with subsection (d) of this section."

Proposed §22.127(d) - Commission action

Proposed §22.127(d) provides that a commission decision on a certified issue is not subject to a motion for rehearing.

OPUC, Oncor, TAWC, and LCRA opposed the elimination of the deadline for the commission to issue a written decision on a certified issue. OPUC and LCRA recommended the current deadline of thirty days be preserved. LCRA alternatively recommended the rule establish commission discretion to set an appropriate, but specific deadline. Oncor also recommended the deadline for issuance of the commission's written decision on a certified be reinserted into the rule and be set at 45 days. TAWC similarly recommended such a deadline be set at 60 days. OPUC stated that the phrase "earliest practicable time" in proposed §22.127(d) is too ambiguous and will only serve to delay proceedings and present issues in complying with statutory deadlines that must be complied with regardless. OPUC also recommended the commission consider statutory deadlines when scheduling the issuance of written decisions on certified issues to avoid conflict and to permit parties to "fully litigate their interests." OPUC provided draft language consistent with its recommendation. LCRA acknowledged the difficulty in meeting the existing 30-day deadline to issue a written decision on a certified issue due to the prerequisites and filing requirements for items before the commission at an open meeting. LCRA noted, however, that

the presiding officer frequently abates a proceeding while a certified issue is pending and that leaving a proceeding abated indefinitely is not efficient. Oncor stated that it is not opposed to extending the thirty-day deadline for the commission to issue a written decision on a certified issue, but it is opposed to eliminating the deadline entirely. Oncor emphasized that leaving a certified issue unresolved indefinitely could result in other filers that may seek to test or challenge the same issue in other cases during the pendency of the initial certified issue which would contribute to confusion between proceedings and increased, redundant work for staff and stakeholders. Conversely, providing deadline provides certainty to parties that present certified issue will have an expectation as to when it will receive commission guidance on such issues, which are typically of significant importance or consequence to that party. Oncor provided draft language consistent with its recommendation. Similar to Oncor, TAWC emphasized the necessity of such a deadline to ensure proceedings are not postponed indefinitely.

Commission response

The commission reinstates the deadline for the commission to decide a certified issue and adopts TAWC's deadline of 60 days from the date the certified issue is submitted to the commission. A 60 day deadline appropriately balances the aforementioned timing considerations for Open Meetings and the need for regulatory certainty on when to expect commission guidance on certified issues.

Proposed §22.141 - Forms and Scope of Discovery

Proposed §22.141 establishes the scope and methods for discovery in a commission proceeding, including stipulations that may be agreed to regarding discovery procedures.

TAWC recommended that proposed §22.141 be revised to explicitly apply the Texas Rules of Civil Procedure (TRCP) rules for discovery in commission proceedings. TAWC noted the TRCP are established procedure and precedent used in most other legal proceedings in the State of Texas.

Commission response

The commission declines to implement the recommended change because it is out of scope. The implications of applying the TRCP discovery rules wholesale to all commission proceedings, including the costs and benefits of such a revision, would require substantial evaluation that is beyond the scope of a rule review. Moreover, such an analysis has not been provided by commenters.

Proposed §22.141(a) - Scope

Proposed §22.141(a) establishes that parties may obtain discovery regarding any matter not privileged or exempted under the Texas Rules of Evidence, the TRCP or other law or rule that is applicable to the subject matter in the proceeding. The provision also establishes what matters are discoverable and certain requirements associated with the production of documents or tangible things.

ETI and OPUC recommended that the existing language of §22.141(a) that establishes the proper scope of discovery as matters "relevant" to the subject matter in the proceeding, rather than subject matter "applicable" to the subject matter in the proceeding. ETI strongly opposed the revision on the basis that the term "relevance" is "a ubiquitous and well-understood legal concept that benefits from decades, if not centuries, of legal precedent interpreting the meaning of the term," whereas the term "applicable" is ambiguous and unsupported by precedent. ETI noted that it is unclear how the terms are supposed to differ and this lack of clarity would therefore lead to significant litigation and expense by parties in seeking to define the new standard. ETI emphasized that the policy rationale for basing the scope of discovery on "relevant" stems from Rule 403 of the Texas Rules of Evidence - stating that "evidence is relevant if… it has any tendency to make a fact more or less probable than it would be without the evidence; and…the fact is of consequence in determining the action." In contrast, using the term "applicable" risks expanding the scope of discovery in a manner that wastes resources without any commensurate benefit towards achieving a meaningful resolution to a commission proceeding. ETI commented that the term "applicable" would also unnecessarily narrow the scope of discovery in a commission proceeding by excluding important information that is informative for the presiding officer in rendering a decision. OPUC commented that "relevant" is an easier concept to understand for pro se intervenors and therefore should be preserved. OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with ETI and OPUC and reverts the proposed change. Specifically, the commission replaces the term "applicable" with the existing term "relevant" in §22.141(a).

Proposed §22.142 - Limitations on Discovery and Protective Orders

Proposed §22.142 establishes the limitations on discovery requests and requests for information.

TAWC recommended that the discovery and protective order limitations under proposed §22.142 either be replaced with or based on the limitations prescribed by the TRCP. TAWC alternatively recommended that proposed §22.142 be revised to limit discovery requests "such that utilities are not subject to requests for information (RFIs) without end." TAWC stated that the current unlimited discovery practices in commission proceedings represents a significant time and resource commitment to its members, particularly in rate proceedings, and is not beneficial to water and sewer utilities or their ratepayers.

Commission response

The commission declines to implement the recommended change because it is out of scope for the same reasons stated in the commission response under the header for §22.141. Specifically, the implications of applying the TRCP rules concerning discovery and protective order limitations wholesale to all commission proceedings, including the costs and benefits of such a revision, would require substantial evaluation that is beyond the scope of a rule review. Moreover, such an analysis has not been provided by commenters. Regarding TAWC's concerns about abuses of the discovery process, a party may move for sanctions under §22.161(b)(2) for "abusing the discovery process in seeking, making, or resisting discovery."

Proposed §22.142(d) and §22.142(d)(1) - Limitations on requests for information

Proposed §22.142(d) establishes the requirements associated with limitations on requests for information. Proposed §22.142(d)(1) establishes a list of factors the presiding officer must consider before setting limitations on requests for information.

LCRA recommended proposed §22.142(d)(1) be modified to require the presiding officer to consider the factors for limiting discovery under §22.142(d)(1)(A)-(K). LCRA stated that the revised language effectively authorizes the presiding officer to limit discovery in a proceeding without any standards and therefore would invite discovery disputes and appeals. LCRA stated that the broad factors under §22.142(d)(1)(A)-(K) allow the presiding officer to exercise discretion when setting limitations on discovery, therefore revising the provision to make consideration of such factors permissive is unnecessary.

Commission response

The commission agrees with LCRA and implements the recommended change.

New §22.142(e) - Discovery response deadlines in expedited proceedings

OPUC recommended new §22.142(e) be added to the proposed rule to establish standard discovery response filing deadlines in expedited proceedings that would apply if such deadlines are not otherwise addressed in the applicable commission rule. OPUC stated that the filing response deadlines for expedited proceedings are inconsistent across commission rules. Specifically, some rules establish a timeline for a particular expedited proceeding, but some do not. Some rules use the standard 20-day response deadline even though it does not apply in expedited hearings. OPUC stated adding a standard discovery timeline for expedited proceedings that applies unless the applicable commission rule states otherwise would help provide consistency for discovery timelines and benefit pro se litigants and less sophisticated parties in commission proceedings by providing a clear filing deadline. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change at is it out of scope. Any substantive changes that were not included in the proposal are outside of the scope of the rule review and should be undertaken in a rulemaking specifically regarding this topic. Moreover, parties routinely negotiate shorter discovery deadlines in cases with abbreviated timeframes.

Proposed §22.143 - Depositions

Proposed §22.143 establishes the procedural and timing requirements for requesting and holding a deposition in commission proceedings, including the provision of deposition transcripts

Proposed §22.143(c) - Copy to be provided

Proposed §22.143(c) requires the party conducting the deposition to provide a copy of the transcript to commission staff without cost to the commission.

OPUC recommended proposed §22.143(c) be revised to state that copies of depositions should be provided to OPUC at no cost, upon OPUC's request. OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with OPUC and implements the recommended change.

Proposed §22.144 - Requests for Information and Requests for Admission of Facts

Proposed §22.144 establishes the requirements associated with requests for information, requests for admissions of fact, and motions to compel. The provision also establishes timing requirements associated with responding to such requests and motions, including making objections and supplementing responses.

Proposed §22.144(a) - Availability

Proposed §22.144(a) authorizes any party to serve upon any other party written requests for information and requests for admission of fact at any time after an application is filed and is subject to the provisions of §22.141, relating to Forms and Scope of Discovery.

Oncor, AEP, and ETI opposed proposed language to §22.144(a) that would let the presiding officer, with party agreement, keep drafts of testimony, exhibits, and workpapers from disclosure. Oncor commented that parties frequently agree, sometimes in writing in agreed procedural schedules or other documents filed with the commission, that such material is not discoverable. Accordingly, Oncor stated the proposed addition is unnecessary and could be interpreted as otherwise authorizing the discovery of such draft materials. Oncor stated the additional language would increase the amount of discovery disputes where parties have agreed to the non-discoverability of such materials, but the presiding officer has not issued an order that memorializes such an agreement. Oncor provided draft language consistent with its recommendation. AEP and ETI recommended that proposed §22.144(a) be revised to explicitly state that drafts of testimony, exhibits, and workpapers are not subject to discovery unless expressly agreed by all parties and ordered by the presiding officer. AEP and ETI stated that the proposed language attempts to capture the standard practice that such draft materials are non-discoverable by agreement of the parties. However, AEP and ETI stated that the rule language should go further to explicitly bar such material from discovery for efficiency to avoid the administrative burden of the parties entering into - and the commission approving - such agreements in every proceeding. AEP provided draft language consistent with its recommendation.

Commission response

The commission agrees with Oncor and deletes the additional language from §22.144(a). However, the commission notes that the effect is the same - the presiding officer may order that certain draft material is not subject to disclosure upon agreement by the parties. The commission declines to implement the proposed changes by ETI and AEP because the revisions would make the default position that drafts are not discoverable unless agreed to by all parties and ordered by the presiding officer.

Proposed §22.144(b) and §22.144(b)(2) - Making requests for information and service

Proposed §22.144(b) establishes the content and service requirements associated with making requests for information. Proposed §22.144(b)(2) requires a copy of each request for information to be served upon all parties in accordance with §22.74 and establishes that requests for information received after 5:00 p.m. are deemed to have been received the following working day.

Oncor and ETI opposed changing the 3:00 p.m. deadline for service of requests for information to 5:00 p.m.. Oncor and ETI emphasized that the benefit of a 3:00 p.m. deadline is that parties will be more likely to be aware that they have received discovery on that day, as opposed to a 5:00 p.m. deadline, which

is generally the end of a regular business day for most stakeholders. ETI stated that an earlier deadline will allow recipients of requests for information to review discovery requests, and either contact the propounding party for necessary clarifications, negotiate modifications to the requests, or begin responding to discovery before close of business. Oncor commented that the 5:00 p.m. deadline would cause parties that must response to RFIs to lose time when responding to requests for information and cause its employees to stay after business hours. Oncor stated that the proposed change would not greatly benefit the propounding party but significantly burden the responding party, with little benefit to the discovery process as a whole. Oncor provided draft language consistent with its recommendation. ETI stated that revising the deadline to 5:00 p.m. would create confusion with other pleading deadlines, particularly among pro se litigants. OPUC supported changing the deadline to 5:00 p.m. if the commission changes all of its other filing-related deadlines to 5:00 p.m. across the commission's procedural rules such as under existing §22.71(h). Similar to ETI, OPUC stated that inconsistent deadlines across the commission's procedural rules could create imbalances in the discovery process, such as if requests are due by 5:00 p.m. but responses are due by 3:00 p.m.. TAWC expressed categorical support for changing the deadline for service of requests for information from 3:00 p.m. to 5:00 p.m..

Commission response

The commission agrees with OPUC that consistent deadlines are preferable and retains the 5:00 P.M. deadline, particularly for parties that do not regularly appear before the commission such as pro se litigants. In response to other commenters that opposed replacing the 3:00 P.M. deadline for service of requests for information with a 5:00 P.M. deadline, if a responding party needs additional time due to a discovery request being sent late in the day, that party may confer with the propounding party to seek an agreed extension or seek an extension from the presiding officer.

Proposed §22.144(c) and §22.144(d) - Responding to requests for information and objections to requests for information

Proposed §22.144(c) prescribes the timing and requirements for responding to requests for information. Proposed §22.144(d) requires parties to negotiate diligently and in good faith concerning any discovery disputes prior to filing objections. The provision further specifies the requirements for making objections and claiming privilege, including the form and content of objections.

Similar to its recommendation for proposed §22.142, OPUC recommended that proposed §22.144(c) be revised to list all filings associated with expedited proceedings for administrative efficiency. OPUC stated that the current fragmentary approach to expedited proceeding requirements in commission rules. OPUC stated that such a list would establish clear filing expectations for parties to those proceedings and ensure that parties and the general public are properly notified of those filings.

Commission response

The commission declines to implement the recommended change because it is unnecessary and out of scope. OPUC's recommendation represents a significant change that is beyond the scope of a rule review. Moreover, expedited proceedings frequently have varying deadlines based on different criteria. Therefore, maximum flexibility is necessary in expedited proceedings to ensure the statutory deadlines are met. Revisions to §22.144 to address expedited proceedings may be considered in a further rulemaking.

TAWC recommended the deadlines for responding to requests for information and requests for admissions of facts and objections in proposed §22.144(c) and (d) be revised to align with those established in the TRCP. Specifically, TAWC recommended that discovery responses should be extended to 30 days, as in the TRCP, rather than 20 days. TAWC alternatively recommended that, if the discovery rule is not modeled off the TRCP, the deadline for objections should be the same as the deadline for responses. TAWC further recommended that the process for asserting privileges and exemptions match the process established under TRCP Rule 193.3(c), including "recognition of the exemption in TRCP 193.3(c) from the requirement to assert a privilege at all for certain lawyer and litigation related communications and documents."

Commission response

The commission declines to implement the recommended change because it is out of scope for the same reasons stated in the commission response under the header for §§22.141 and 22.142. Specifically, the implications of applying the TRCP rules concerning responses to discovery wholesale to all commission proceedings -including the costs and benefits of such a revision - would require substantial evaluation that is beyond the scope of a rule review. Moreover, such an analysis has not been provided by commenters.

Proposed §22.144(d)(2) - Objections based on claims of privilege or exemption.

Proposed §22.144(d)(2) requires objections based on claims of privilege or exemption under the Texas Rules of Civil Procedure or Texas Rules of Evidence to file an index that lists specific information regarding the documents subject to the discovery request within two working days of the filing of the objections. The provision also establishes certain requirements for the index and exception for documents provided under the terms of a protective order.

LCRA recommended proposed §22.144(d)(2) be revised to expand the exception to complying with the requirements associated with making an objection to a discovery request on the basis of privilege "if alternative procedures are agreed to by the parties." LCRA stated that this revision reflects the common industry practice that parties frequently agree "that privilege objections are not necessary, that privilege may be asserted in the discovery response, and that an extension for the privilege index is allowed." LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is overbroad and out of scope. LCRA's proposed language is overbroad because it exceeds the provided justification. Specifically, LCRA's edits would potentially exempt the requirement for a public privilege altogether, if agreed to by the parties, rather than just an extension for filing one. Additionally, the implications of allowing alternative procedures for objections to discovery requests, including the costs and benefits of such a revision, would require substantial evaluation that is beyond the scope of a rule review.

Proposed §22.144(e) - Motions to compel

Proposed §22.144(e) requires a party seeking discovery to file a motion to compel no later than five working days after the objection is received Alternatively, if no response is made to the request for information, the motion to compel must be filed no later than five working days after the deadline by when a response was due. The provision further states that, unless otherwise ordered by the presiding officer, a party seeking discovery in connection with an unanswered discovery request or an incomplete discovery response must file a motion to compel no later than five working days from the date the incomplete discovery response was received, or the unanswered discovery request was due.

LCRA recommended that proposed §22.144(e) be revised to clearly "affirm the obligation of all parties to provide full and complete responses to discovery that is appropriately propounded and unobjected." LCRA stated that, as proposed, the proposed language could enable a party to avoid responding to discovery by simply not responding to the request for information, rather than being required to file an objection. LCRA therefore recommended deletion of the references to unanswered discovery requests in the provision. LCRA provided draft language consistent with its recommendation. Oncor similarly observed that the proposed language could be interpreted such that the party that receives a discovery request may decline to respond "unless and until a motion to compel for the unanswered request is timely filed by the requesting party, rather than having to file an objection to the request." Oncor requested clarification as to whether the provision is intended to be read to have no negative consequences to the responding party. If that is not the correct interpretation, Oncor recommended that proposed §22.144(e) be revised to indicate the consequences when a party neither files an objection nor a response to request for information both when the requesting party timely files a motion to compel and when the requesting party does not.

Commission response

A full response to discovery is required under §22.144(c)(1), therefore further revisions to require a "full and complete" response are unnecessary. However, the commission revises §22.144(e) to address Oncor and LCRA's concerns. Specifically, the commission revises the provision to state that if an incomplete response is filed, the party seeking discovery must file a motion to compel no later than five working days after the incomplete response was filed and if no response is filed despite the requirement to do so, the party seeking discovery must file a motion to compel no later than five working days after the response was due. Additionally, the commission omits reference to the presiding officer ordering a different deadline to file a motion to compel.

TAWC recommended that proposed §22.144(e) be revised to state that a motion to compel may be filed within five working days of discovering a previous response is incomplete. TAWC stated the proposed language does not account for instances where it could not have been known that a discovery response was incomplete, such as in a deposition.

Commission response

The commission declines to implement the recommended change. TAWC's proposed language contravenes the purpose of having a deadline to file a motion to compel and would inappropriately relieve the party seeking discovery of the obligation to timely review discovery responses.

OPUC recommended that proposed §22.144(e) be revised to require a motion compel to "be filed no later than five working days after the deadline to respond" rather than "five working days after the deadline by when a response was due." OPUC stated this revision would help minimize the ambiguity associated with the deadline to file a motion to compel.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The aforementioned revisions made to §22.144(e) should substantially address OPUC's concern.

Proposed §22.144(h) - Production of material responsive to requests for information

Proposed §22.144(h) establishes the procedures applicable to the production of materials responsive to requests for information, unless otherwise specified by the presiding officer.

TAWC recommended that proposed §22.144(h) be revised to align the discovery requirements associated with the production of voluminous material with the TRCP. TAWC expressed concern that, without further revision, the proposed indexing requirement for voluminous discovery would be overly burdensome, resource intensive, or even impossible in some instances. TAWC noted that the indexing requirement is onerous and not necessary in most cases because responses to request for information generally reference the relevant documents or files and the associated bates or page numbers that are responsive to the request. TAWC endorsed a general requirement that discovery responses and the associated materials be organized for efficient review of the requester, but cautioned that an index would "result in an unreasonable amount of time and expense to be incurred that is not materially justified." TAWC indicated that the proposed language would significantly increase the difficulty for parties to respond to discovery. In contrast, TRCP Rule 196.3(c) noted that the TRCP authorizes documents and tangible things to be produced in the manner that they are kept in the usual course of business. TAWC noted that TRCP Rule 196.4 establishes parameters for the production of electronic data and recommended that the electronic production of documents be an option for parties if feasible. If such an option is not included in the rule, TAWC alternatively recommended the commission lower the threshold for what it determines to be "voluminous" such that paper copies may be made available where those documents are maintained in instances when the total amount of documents requested in the set of discovery is more than 100 pages; not when as a single request is more than 100 pages, as the existing rule and proposed language currently provide. TAWC indicated that a single discovery request could still entail the production of thousands of pages of documents. TAWC commented that, prior to COVID, the commission required the filing of all discovery materials, unlike most other litigation forums.

Commission response

The commission declines to implement the recommended change because it is out of scope for the same reasons previously stated. Specifically, the implications of applying the TRCP rules concerning voluminous discovery wholesale to all commission proceedings, including the costs and benefits of such a revision, would require substantial evaluation that is beyond the scope of a rule review.

OPUC recommended that proposed §22.144(h) state that failure to fully produce all responsive material when responding to a discovery request could result in sanctions under §22.161. OPUC commented that sanctions on this basis are authorized under

the APA for "other improper purpose such as to cause unnecessary delay or needless increase in the cost of the proceeding" or "abuse of the discovery process in seeking, making, or resisting discovery." OPUC noted that utilities frequently fail to respond properly to requests for information in commission proceedings it has litigated, which has led to unnecessary delays and increased litigation costs. OPUC stated that authorizing sanctions for failure to fully produce discovery provides an incentive for parties to comply with discovery requests at the outset and would discourage unnecessary discovery disputes. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. Sanctions are already available under §22.161(b)(2) for abuse of discovery and §22.161(b)(3) for failing to obey an order of an administrative law judge or the commission.

Proposed §22.144(h)(1) - General requirements for production

Proposed §22.144(h)(1) requires a party responding to a request for information to make available all material responsive to the request to each party to that proceeding. The provision also specifies the specific methods that the responding party may use to make such material available.

ETI recommended proposed §22.144(h)(1) be revised to state that materials will only be provided in a manner consistent with each party's right to review such material under a commission protective order issued by the presiding officer. ETI stated that its recommended change eliminates ambiguity for the handling of confidential and highly sensitive protected material. ETI noted that highly sensitive protective material requires "exceptional handling" and must only be provided in a manner that is consistent with the terms of the protective order adopted in the proceeding and not necessarily to the parties in the proceeding, "regardless of their eligibility to receive and review those materials." ETI provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is out of scope. ETI's proposal would require substantial evaluation that is beyond the scope of a rule review.

Proposed §22.144(h)(1)(A) - Service of responsive material

Proposed §22.144(h)(1)(A) authorizes a party responding to request for information to make such material available by serving a copy of all such responsive material to the other parties to the proceeding in accordance with §22.74.

ETI recommended that proposed §22.144(h)(1)(A) be revised to include an exception to the requirement to serve a copy of discovery on each party in the proceeding in the event a party does not provide sufficient contact information to the producing party. ETI commented that filing the discovery with Central Records is sufficient to make that discovery available to parties with inadequate contact information. ETI stated such an exception is appropriate because parties do not always provide adequate contact information, particularly when there are numerous or pro se litigants in the proceeding, such as CCN applications. ETI provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. Discovery should be served on all parties and any disputes regarding discovery, including failure to properly serve discovery, can be brought to the presiding officer for resolution.

Proposed §22.144(h)(1)(B) - Filing of responsive material

Proposed §22.144(h)(1)(B) authorizes a party responding to request for information to make such material available by filing all such responsive material with the commission in the manner required by §22.71 of this title, relating to Commission Filing Requirements and Procedures, and, as applicable, §22.72 of this title relating to Form Requirements for Documents Filed with the Commission.

Oncor requested clarification as to whether proposed §22.144(h)(1)(B) requires a party to file voluminous discovery with an index or a party is only required to file an index describing the voluminous material, as is the case under the existing rule. Oncor recommended that the revision to proposed §22.144(h)(1)(B) not be adopted if the intention of the proposed language is the former and that the provision be explicitly revised to exclude voluminous discovery from being filed. Oncor observed that, under existing §22.144(h), a party is required to file with the commission the index of voluminous material, not the voluminous material itself. Oncor surmised that the intent of the index is to provide notice on the Interchange regarding the contents of the voluminous discovery materials that were not filed. Oncor expressed concern with the practicability associated with filing of voluminous material on the Interchange given the practical concerns with filing numerous of pages and the limitations of the Interchange filers which only allows for 255 individual files per filing, with a file size limitation of 200 megabytes. Alternatively, if the commission implements the new requirement, Oncor recommended that the commission provide guidance on how to electronically file large or numerous files. Oncor expressed that it is unclear whether the commission intends for voluminous materials to be filed separately from, or together with, the non-voluminous discovery. Oncor noted that if voluminous and non-voluminous discovery is not separated when filing, it would be burdensome and challenging for both the producing party when filing and for the requesting party when searching through the produced discovery. Oncor provided draft language consistent with its recommendation.

Commission response

The commission agrees with Oncor and implements the recommended change with minor revisions for consistency with the commission's drafting practices.

Proposed §22.144(h)(4) and §22.144(h)(4)(A)-(E)- Index for voluminous discovery

Proposed §22.144(h)(4) requires a party providing materials that individually are 100 pages or more to include with its response an index of the material responsive to a particular question and must organize the responses and material to enable parties to efficiently review the material. Proposed §22.144(h)(4)(A) requires the index to include information sufficient to locate each individual document by page or file number. Proposed §22.144(h)(4)(B) requires the index to include the date each document was created. Proposed §22.144(h)(4)(C) requires the index to include the title of the document, or, if none exists, a description of the document. Proposed §22.144(h)(4)(D) requires the index to include the name of the preparer or source of each document. Proposed §22.144(h)(4)(E) requires the index to include the length of each document.

AEP and Oncor recommended proposed §22.144(h)(4)(B) and (D) be deleted from the rule. Consistent with its recommendation for proposed §22.144(h)(1)(B), Oncor also recommended proposed §22.144(h)(4) be revised to exempt voluminous materials from being filed with the commission in lieu of providing an index describing such voluminous materials. AEP and Oncor commented that the creation date of a document under §22.144(h)(4)(B) and the name of the preparer under §22.144(h)(4)(D) are not always readily accessible and therefore is unduly burdensome to comply with. AEP alternatively recommended qualifying language such as "to the extent possible" be included in each provision such that parties can file the appropriate response without providing such information. Oncor further noted that the requirements to identify the creation date and the preparer is a burden additional to the already cumbersome task of compiling and producing discovery, particularly when a discovery request includes several records like internal company policies, transmission studies, etc. Oncor indicated that, in some instances, different portions of a document may have been created or updated on different dates, rendering it difficult to comply with the proposed change. Moreover, a utility responding to discovery may have hundreds of employees that have had varying levels of involvement in the preparation or creation of a document that has become subject to a discovery request. Oncor highlighted the impracticability and time commitment that providing such information would entail in the index, which could in itself be several pages long. Oncor stated the proposed additional information is not necessary for the requesting party to be able to use the requested document for their intended purpose and, should a question arise about a particular set of voluminous discovery, the requesting party may propound additional requests for information. AEP and Oncor provided draft language consistent with their recommendations.

Commission response

The commission acknowledges AEP's and Oncor's concerns and replaces the requirement to provide the date the document was created and the requirement to provide the name of the preparer or source of each document with a requirement to provide the name of the sponsoring witness. The commission renumbers the provisions accordingly. The commission declines to implement Oncor's revisions to §22.144(h)(4) which would exempt voluminous materials from being filed with the commission. All materials must be filed with the commission to maximize the availability of data that are in the public interest.

Proposed §22.161 - Sanctions

Proposed §22.161 establishes the procedural requirements and basis for issuing sanctions. The provision also provides a list of the types of sanctions and the procedure for seeking sanctions.

Proposed §22.161(a) - Causes for imposition of sanctions

Proposed §22.161(a) authorizes the presiding officer to impose appropriate sanctions against a party or its representative for the reasons specified under §22.161(a)(1)-(3) after notice and an opportunity for hearing. The provision also requires one or more commissioners or a SOAH administrative law judge to hold a sanctions hearing if requested.

OPUC recommended proposed §22.161(a) be revised to be identical to the notice and hearing requirements of §2003.049 of the APA. OPUC stated that since the rule simply reiterates what is already in statute, the rule language should reflect the statute exactly. OPUC explained that this proposed change would eliminate ambiguity and the potential for the rule to conflict with the statute unnecessarily. OPUC noted that §2003.049 states that an administrative law judge cannot impose sanctions until after notice and opportunity for a hearing on the sanctions is completed. OPUC stated that the proposed language is ambiguous as to the type of notice and hearing that must be performed before the issuance and order of a sanctions motion. OPUC noted that the proposed rule could be interpreted as authorizing a presiding officer "to move for sanctions, and issue them, after any type of notice and hearing, even if they were unrelated to the sanctions at issue in the motion," which would be a substantial violation of a party's due process rights in proceedings before the commission. OPUC provided draft language consistent with its recommendation.

Commission response

The commission disagrees with OPUC and declines to implement the recommended change. A set of sanctions that is available to the presiding officer (i.e., an administrative law judge or the commissioners) is appropriate and consistent with the APA. For purposes of implementation, it is not a requirement to perfectly mirror statutory language in a rule. Moreover, the list in §2003.049(j) is not exhaustive and the amended rule preserves the requirement for notice and opportunity for a hearing before sanctions may be imposed.

OPUC provided alternative recommendations for §22.161 if the commission implements its proposed language for §22.161(a) and §22.161(d). As part of its alternative recommendation, OPUC recommended proposed §22.161(a) be revised to prohibit a presiding officer from unilaterally moving to strike or limit a party from a proceeding for failing to comply with §22.124. Specifically, OPUC recommended revising proposed §22.161(a) to require a notice and hearing for striking or limiting a party's participation for failing to file a statement of position or prefiling direct testimony under §22.124(a). OPUC further recommended that any hearing that is held on such a ruling must either be held by a commissioner or a SOAH administrative law judge. OPUC stated that the removal of a party from a proceeding for something as minor as filing a timely statement of position is a severe consequence that diminishes that person's capability of representing themselves before the commission. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. All sanctions require notice and opportunity for a hearing under the APA and the amended rule. If a hearing is requested, the hearing can be held either by the commission or the SOAH administrative law judge.

Proposed §22.161(b) and §22.161(b)(8)-(10)- Types of sanctions, limitation or disallowance of a party's right to participate in the proceeding, dismissal of application, and any other sanction available by law

Proposed §22.161(b) establishes the types of sanctions that may be assessed on a party by the presiding officer. Proposed §22.161(b)(8) establishes that the presiding officer may limit or disallow a party's right to participate in the proceeding as a sanction. Proposed §22.161(b)(8) establishes that the presiding officer may dismiss an application with or without prejudice as a sanction. Proposed §22.161(b)(10) specifies that the presiding officer may impose any other sanction available to the presiding officer by law.

OPUC recommended proposed §22.161(b)(8)-(10) be deleted because they exceed the commission's statutory authority under the APA. OPUC stated that §2003.049(j) of the APA does not authorize commission or SOAH administrative law judges to "broadly impede a party's due process rights in the manner allowed in the new proposed sanctions." OPUC cited case law stating that the commission may only exercise the powers the Legislature expressly grants it or implied powers reasonably necessary to carry out the agency's statutory duties. OPUC further cited the Texas Constitution and case law stating the commission does not have the same jurisdictional presumption that a district court does, and neither the commission or administrative law judges can exercise new powers or a power contradictory to statute on the basis that such power is administratively expedient. OPUC averred that the sanctions under proposed §22.161(b)(8)-(10) are not implied powers necessary to carry out the commission's statutory duties in commission proceedings. Specifically, the dismissal of a party from a proceeding or limiting a party's participation is a severe sanction on the party's due process right to appear in a commission proceedings. OPUC stated that the explicit limitations of §2003.049(j)(1)-(8) are reflected in proposed §22.161(c)(1)-(7) and that conversely, proposed §22.161(b)(8)-(10) are the effective exercise of a new power, contradictory to statute, "on the theory" of administrative expediency.

Commission response

The commission disagrees with OPUC and declines to implement the recommended changes. The sanctions under §22.161(b)(8)-(10) are in the existing rule and are necessary tools for the effective processing of a matter. Therefore, the cited sanctions should be retained.

As part of its alternative recommendation, OPUC recommended §22.161(b)(8) be revised to prohibit the issuance of a motion for sanctions for failing to file a statement of position unless all of OPUC's recommended procedural safeguards for §22.124 have been provided to the offending party. OPUC stated that, because of the inherent severity of dismissing, striking, or otherwise limiting participation in a proceeding on a party's due process rights, such safeguards are necessary. OPUC provided draft language consistent with its recommendation.

Commission response

The commission disagrees with OPUC and declines to implement the recommended change for the reasons already stated.

Proposed §22.161(c) - Procedure for seeking sanctions

As part of its alternative recommendation, OPUC recommended §22.161(c) be revised to prohibit the presiding officer from moving sua sponte to dismiss, strike, or limit a party's participation in the proceeding for failing to file a statement of position under §22.124. OPUC further recommended §22.161(c) be revised to require the automatic stay of a proceeding where a party is dismissed, struck, or limited from participating for failing to file a statement of position under §22.124 to allow the affected party an opportunity to appeal. OPUC also recommended §22.161(c) be revised to provide that the failure of the presiding officer to fully provide OPUC's proposed procedural safeguards under §22.124 is an "affirmative defense." OPUC stated that administrative efficiency does not outweigh the benefit in ensuring that parties are not wrongly removed or limited from a proceeding and receive their full due process rights. OPUC emphasized that the gravity of the sanction necessitates these extra procedural steps. OPUC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. The current practice in which an administrative law judge can issue an order dismissing inactive parties should be preserved as it is a key tool for managing a hearing on the merits, particularly for large proceedings with many intervenors. The implementation of an automatic stay is also impracticable because of the variable length of time between open meetings. Moreover, if a stay is entered in a proceeding, that does not toll any applicable statutory deadlines.

Existing §22.161(d) - Imposition of sanctions by the commission

Existing §22.161(d) establishes sanctions additional to those under existing §22.161(c) that may be imposed by an administrative law judge, except for the punishment of the offending party or its representative for contempt to the same extent as a district court, that may be assessed by the presiding officer or the commission, after notice and opportunity for hearing.

OPUC opposed the merging of sanctions that can be imposed by the commission and the sanctions that can be imposed by the administrative law judge into proposed §22.161(d) and recommended retaining the existing bifurcated structure. OPUC stated that under the existing rule, there are certain sanctions that only the commission may issue due to the significant impact such sanctions have on a party's right to representation and due process before the commission. OPUC stated that allowing an administrative law judge to impose such sanctions lessens a party's protections against such punitive action. OPUC stated that public participation by affected persons "is a hallmark of Commission proceedings" and that the combined effect of merging proposed §22.161(d) and allowing the limitation or disallowance of participation in a proceeding under proposed §22.161(d) limits public participation. OPUC emphasized the general benefit to the public interest of having meaningful participation by ratepayers in commission proceedings and that the opportunity for such participation is required by both state law and commission rules. OPUC stated that public participation would be directly affected by the proposed repeal and, as an example, stated that administrative law judges frequently attempt to strike ratepayer intervenors from participating in proceedings for failure to meet the statement of position requirements under §22.124. OPUC stated that only the commission should be authorized to strike a party from a proceeding and referred to a commission order in Project No. 36164 where only the commission, not an administrative law judge, could impose sanctions under §22.161(d).

Commission response

The commission disagrees with OPUC and declines to implement the recommended change. A single set of sanctions should be available to all presiding officers. Moreover, a sanctions order from an administrative law judge can be appealed to the commission for further review.

Proposed §22.181 - Dismissal of a Proceeding

Proposed §22.181 establishes the requirements and procedures associated with dismissing a commission proceeding and filing motions for dismissal.

Proposed §22.181(d) and §22.181(d)(9)- Reasons for dismissal and abuse of discovery

Proposed §22.181(d) establishes a list of criteria for which a commission proceeding may be dismissed by the presiding officer. Proposed §22.181(d)(9) provides that abuse of discovery consistent with §22.161(b)(2), relating to Sanctions, is grounds for dismissal of a proceeding.

LCRA recommended proposed §22.181(d)(9) be revised to specify the original standard of "gross abuse of discovery" as a basis for dismissal of a proceeding or one or more issues within a proceeding. LCRA commented that dismissal is "an extreme remedy that should not be wielded without sufficient cause." LCRA noted that Rule 215 of the TRCP does not list dismissal of a case a remedy for abuse of discovery. LCRA stated that, generally, the evidentiary procedures for contested cases under the Texas APA are more lenient during administrating hearings relative to court cases. Therefore, a sanction as severe as dismissal "should not be invoked for abuses that are less than gross abuses."

Commission response

The commission retains the existing language for §22.181(d)(9) and revises the provision to specify "gross abuse of discovery."

Proposed §22.182 - Summary Disposition

Proposed §22.182 prescribes the filing and content requirements for motions for summary decision, the timing for responses to the motion, and other procedural aspects associated with commission review of the motion.

Proposed §22.182(d) - Hearing on the motion not required

Proposed §22.182(d) provides that a hearing on a motion for summary decision is not required.

LCRA and OPUC recommended that proposed §22.128(d) be revised to reflect existing language that authorizes the presiding officer to set the motion for a hearing. LCRA commented that stating this authority explicitly makes it clear that the presiding officer may set such a hearing in the rare event a hearing on a summary decision motion is needed. OPUC noted that the proposed language suggests that the default standard is to not hold a hearing, which may be detrimental to residential and small commercial customers. LCRA and OPUC provided draft language consistent with its recommendation.

Commission response

The commission agrees with LCRA and implements the recommended language. The commission declines to implement OPUC's language as it would perpetuate the ambiguity in the existing rule the proposed language was attempting to correct.

SUBCHAPTER G. PREHEARING PROCEEDINGS

16 TAC §§22.123 - 22.127

The amended rules are adopted under the following provisions of PURA: §14.001 and Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 001 and Texas Water Code §13.041(a), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under PURA §36.110 and §53.110 which establish the authority and procedure for an electric utility to impose changed rates in certain circumstances by filing a bond with the commission; PURA §15.024 which provides the commission with the authority to assess and impose an administrative penalty against a person who fails to timely respond to a written notice summarizing an alleged violation and a corresponding recommended penalty; and Texas Government Code, Subchapter D §2001.081-103 which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); PURA 15.024, 36.110, 53,110; and Texas Government Code, Subchapter D §2001.081-103.

§22.123. Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission.

(a) Appeal of an interim order.

(1) Availability of appeal. Appeals are available for any interim order of the presiding officer that immediately prejudices a substantial or material right of a party or materially affects the course of the proceeding. Appeals are not available for evidentiary rulings. Interim orders are not subject to exceptions or motions for rehearing.

(2) Procedure for appeal. If the presiding officer intends to reduce an oral ruling to a written order, the presiding officer must so indicate on the record at the time of the oral ruling and must promptly issue the written order. Any appeal to the commission from an interim order must be filed within ten days of the date the written order is filed or the date the appealable oral ruling is made when no written order is to be issued. The appeal must be served on all parties in accordance with §22.74 of this title (relating to Service of Pleadings and Documents).

(3) Contents. An appeal must specify the reasons why the interim order is unjustified or improper and how it immediately prejudices a substantial or material right of a party or materially affects the course of the proceeding.

(4) Responses. Any response to an appeal must be filed within five working days of the filing of the appeal.

(5) Motion for stay. Pending a ruling by the commissioners, the presiding officer may, upon motion, grant a stay of the interim order if good cause is shown. A motion for a stay must specify the basis for a stay. The mere filing of an appeal does not stay the interim order or any applicable procedural schedule.

(6) Agenda ballot. Upon the filing of an appeal, the Office of Policy and Docket Management must send a separate ballot to each commissioner to determine whether the commission will consider the appeal at an open meeting. Untimely motions will not be balloted. The Office of Policy and Docket Management must notify the parties whether a commissioner by individual ballot has added the appeal to an open meeting agenda but will not identify the requesting commissioner or commissioners.

(7) Denial or granting of appeal.

(A) If no commissioner has placed an appeal on the agenda of an open meeting by agenda ballot within 20 days after the filing of an appeal, the appeal is deemed denied.

(B) If any commissioner has voted by agenda ballot in favor of considering the appeal, the appeal will be placed on the agenda of the next regularly scheduled open meeting or such other meeting

as the commissioner may direct by the agenda ballot. If two or more commissioners vote to consider the appeal, but differ as to the date the appeal will be heard, the appeal must be placed on the latest of the dates specified by the ballots. At the open meeting, the commission will either rule on the appeal or extend time to act on it.

(8) Reconsideration of appeal by presiding officer. The presiding officer may treat an appeal as a motion for reconsideration and may withdraw or modify the order under appeal before the commission decides on the merits of the appeal.

(b) Motion for reconsideration of interim order issued by the commission.

(1) Availability of motion for reconsideration. Motions for reconsideration are available for any interim order of the commission that immediately prejudices a substantial or material right of a party or materially affects the course of the hearing. Motions for reconsideration may only be filed by a party to the proceeding and are not available for evidentiary rulings. Interim orders are not subject to exceptions or motions for rehearing.

(2) Procedure for motion for reconsideration. If the commission does not intend to reduce an oral ruling to a written order, the commission will so indicate on the record at the time of the oral ruling. A motion for reconsideration of an interim order issued by the commission must be filed within five workings days from the date that the written interim order is filed or the date the oral interim ruling is made. The motion for reconsideration must be served on all parties in accordance with §22.74 of this title by hand delivery, electronic mail, or by overnight courier delivery.

(3) Content. A motion for reconsideration must specify the reasons why the interim order is unjustified or improper.

(4) Responses. Any response to a motion for reconsideration must be filed within five working days of the filing of the motion.

(5) Agenda ballot. Upon the filing of a motion for reconsideration, the Office of Policy and Docket Management must send a separate ballot to each commissioner to determine whether the commission will consider the motion at an open meeting. The Office of Policy and Docket Management must notify the parties whether a commissioner by individual ballot has added the motion to an open meeting agenda but will not identify the requesting commissioner or commissioners.

(6) Denial or granting of motion.

(A) If no commissioner has placed a motion for reconsideration on the agenda for an open meeting by agenda ballot within 20 days after the filing of the motion, the motion is deemed denied.

(B) If any commissioner has voted by agenda ballot in favor of considering the motion, the motion will be placed on the agenda for the next regularly scheduled open meeting or such other meeting as the commissioner may direct by the agenda ballot. If two or more commissioners vote to consider the motion, but differ as to the date the motion will be heard, the motion must be placed on the latest of the dates specified by the ballots. At the open meeting, the commission will either rule on the motion or extend time to act on it.

§22.127. Certification of an Issue to the Commission.

(a) Certification. The presiding officer may certify to the commission an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law.

(b) Issues eligible for certification. The following types of issues are appropriate for certification:

(1) the commission's interpretation of its rules and applicable statutes;

(2) which rules or statutes are applicable to a proceeding; or

(3) whether commission policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

(c) Procedure for certification in commission proceedings. A party may request the presiding officer to certify an issue to the commission or the presiding officer may certify an issue at his or her discretion. The presiding officer must submit a certified issue to the commission by issuing a written order.

(1) If a party requests an issue to be certified, the presiding officer will either certify the requested issue or file an order denying the motion at the earliest time practicable.

(2) In accordance with subsection (d) of this section, the Office of Policy and Docket Management (OPDM) must place the certified issue on the commission's agenda to be considered at the earliest time practicable.

(3) Party briefs on the certified issue are due within the timeframe set by OPDM.

(4) The presiding officer may abate the proceeding while a certified issue is pending.

(d) Commission action. The commission will decide the certified issue within 60 days of submission of the certified issue to the commission. A commission decision on a certified issue is not subject to a motion for rehearing.

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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Seaver Myers
Rules Coordinator
Public Utility Commission of Texas
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For further information, please call: (512) 936-7433

SUBCHAPTER H. DISCOVERY PROCEDURES

16 TAC §§22.141 - 22.144

The amended rules are adopted under the following provisions of PURA: §14.001 and Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 001 and Texas Water Code §13.041(a), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also

adopted under PURA §36.110 and §53.110 which establish the authority and procedure for an electric utility to impose changed rates in certain circumstances by filing a bond with the commission; PURA §15.024 which provides the commission with the authority to assess and impose an administrative penalty against a person who fails to timely respond to a written notice summarizing an alleged violation and a corresponding recommended penalty; and Texas Government Code, Subchapter D §2001.081-103 which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); PURA 15.024, 36.110, 53,110; and Texas Government Code, Subchapter D §2001.081-103.

§22.141. Forms and Scope of Discovery.

(a) Scope. Parties may obtain discovery regarding any matter not privileged or exempted under the Texas Rules of Evidence, the Texas Rules of Civil Procedure, or other law or rule that is relevant to the subject matter in the proceeding.

(1) Discoverable matters include:

(A) the existence, description, nature, custody, condition, location and contents of any documents, including papers, books, accounts, drawings, graphs, charts, photographs, maps, email, audio or video recordings;

(B) any other data compilations from which information can be obtained and translated, if necessary, by the person from whom information is sought, into reasonably usable form; and

(C) any other tangible things which constitute or contain matters relevant to the subject matter in the action, and the identity and location of persons having any knowledge of any discoverable matter.

(2) Discovery is not limited to tangible things, but may extend to knowledge, mental impressions, and opinions of persons who will testify; explanations of documents or tangible things, or information contained therein; and other relevant information within the knowledge or control of the entity from whom discovery is sought.

(3) A person is not required to produce a document or tangible thing unless it is within that person's constructive or actual possession, custody, or control.

(4) A person has possession, custody or control of a document or tangible thing as long as the person has a superior right to compel the production from a third party and can obtain possession of the document or tangible thing with reasonable effort.

(b) Discovery methods. Parties may obtain discovery by requests for information, which include requests for inspection or production of documents or things, requests for admissions, and depositions by oral examination.

(c) Stipulations regarding discovery procedure. The parties may, by written agreement:

(1) provide that depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used in accordance with the Texas Rules of Civil Procedure, subject to any other ruling or procedure established by the presiding officer;

(2) agree to extensions of time in which to respond to or object to a discovery request; and

(3) modify the procedures provided by this chapter for other methods of discovery.

§22.142. Limitations on Discovery and Protective Orders.

(a) Limitation of discovery requests. The presiding officer may limit discovery, by order, to protect a party against unreasonable or unwarranted discovery requests.

(1) The presiding officer may issue an order limiting discovery requests for good cause, including the following purposes:

(A) Prevention of undue delay in the proceeding;

(B) Protection from a request to provide information which is readily available to the requesting party at a reasonable cost;

(C) Protection from unreasonably cumulative or duplicative discovery requests; or

(D) Protection of a party or other person from undue burden, unnecessary expense, harassment or annoyance, or invasion of personal, constitutional, or property rights.

(2) Any person from whom discovery is sought may file a motion for a protective order, specifying the grounds on which a protective order is justified. Motions and responses must include affidavits, discovery pleadings, or other pertinent documents to support the allegations made therein.

(3) The presiding officer may order that:

(A) Specific discovery not be sought in whole or in part, or that the extent or subject matter of discovery be limited, or that it not be undertaken at the time or place specified;

(B) Discovery be undertaken only by such method or upon such terms and conditions or at the time and place directed by the presiding officer;

(C) For good cause shown, results of discovery be sealed or otherwise adequately protected, that its distribution be limited, or that its disclosure be restricted;

(D) Information or material be protected by any means consistent with the intent of this chapter; or

(E) Information or material be protected in the interest of justice if necessary to protect the party from undue burden, unnecessary expense, harassment or annoyance, or invasion of personal, constitutional, or property rights.

(4) The presiding officer may limit requests for information (RFIs) as set out in subsection (d) of this section.

(b) Denial of right to discovery requests. The presiding officer may deny a party the right to continue discovery, by order, upon proof and a finding that the party abused the discovery process.

(c) Protection of confidential or proprietary information. The presiding officer may issue a protective order governing the production of confidential or proprietary information as is appropriate in each proceeding before the commission. The order must be in the form adopted by the commission as the standard protective order. In addition, the parties may enter into agreements regarding protection of confidential or proprietary information. Entry of a protective order is not a determination that any documents produced under the protective order are proprietary or confidential.

(d) Limitations on requests for information.

(1) Before setting limitations on RFIs, the presiding officer must consider the following factors:

(A) The type of proceeding.

(B) The number and complexity of the issues in the proceeding.

(C) The cost of alternative forms of discovery for the party seeking discovery.

(D) The comprehensiveness of the information provided in the application.

(E) Any material deficiencies in the application.

(F) The number of issues that the party seeking discovery is expected to address.

(G) The novelty of the issues in the proceeding.

(H) The number of answers required by requests, including subparts, propounded in similar proceedings.

(I) Whether the number of questions is limited in other forms of discovery.

(J) Whether the hearing on the merits will be shortened by virtue of questions that are answered.

(K) Any jurisdictional deadlines.

(2) For purposes of calculating the number of RFIs, each answer is considered a separate request for information.

(3) If a party is not required to answer a question, that question may not be included in the calculation of whether the propounding party has reached its limit. However, if the presiding officer determines that a party is intentionally propounding frivolous, irrelevant, or otherwise objectionable requests, the question will be included in the calculation of a propounding party's limit.

(4) To discourage duplicate RFIs, any party that does not use its entire allotment of RFIs directed toward another party may transfer, by written notice to the presiding officer, that portion of its allotment to any other party in the proceeding. The requirements of this paragraph do not apply to RFIs originating from commission staff or directed to commission staff.

(5) The presiding officer may use discretion in determining whether to limit the number of RFIs that may be propounded upon commission staff or the Office of Public Utility Counsel by another party. In making this determination, the presiding officer must consider the limited resources available to each agency, and specifically that commission staff is required by law to represent the public interest in all proceedings before the commission.

(6) The presiding officer may limit or expand the number of RFIs that commission staff may propound upon any other party, and must consider that commission staff is required by law to represent the public interest in all proceedings before the commission, and thus may require more questions than other parties to ensure that it adequately explores all of the issues presented in the case.

§22.143. Depositions.

(a) Governing statute. The taking and use of depositions in any proceeding are governed by the APA and §22.141 of this title (relating to Forms and Scope of Discovery). A request to issue a commission for deposition must be filed no later than five working days before the date of the deposition. Issuance of a commission for deposition is a ministerial act and does not preclude requests for issuance of a protective order pursuant to §22.142 of this title (relating to Limitations on Discovery and Protective Orders).

(b) Deposition by agreement. Upon agreement of the parties, parties may waive the requirement of issuance of a commission. All parties will be given no less than three working days' notice of depositions, including the person to be deposed, the date, time, and place of the deposition, and the subject of the deposition.

(c) Copy to be provided. Upon receipt of a transcript of the deposition by the party, the party conducting the deposition must provide a copy of the transcript to commission staff and upon request, the Office of Public Utility Counsel, without cost to the commission or the Office of Public Utility Counsel.

(d) Agreements. An agreement affecting a deposition upon oral examination is also enforceable if the agreement is recorded in the deposition transcript.

§22.144. Requests for Information and Requests for Admission of Facts.

(a) Availability. At any time after an application is filed, and subject to the provisions of §22.141 of this title (relating to Forms and Scope of Discovery), any party may serve upon any other party written requests for information and requests for admission of fact.

(b) Making requests for information.

(1) Contents. A request under this section must identify with reasonable particularity the information, documents or material sought. A request seeking inspection of documents or property must describe with reasonable particularity the documents to be produced or the property to which access is requested, and must set forth the items to be inspected by individual item or by category.

(2) Service. A copy of each request for information must be served upon all parties to the proceeding in accordance with §22.74 of this title, relating to Service of Pleadings and Documents. Requests for information that are received after 5:00 p.m. Central Prevailing Time are deemed to have been received the following working day. Responses to requests for information must be served on the requesting party and any party that has requested, in writing, to be served.

(c) Responding to requests for information.

(1) Time for response. The party upon whom a request is served must serve a full written response to the request within 20 days after receipt of the request. The presiding officer, on motion and for good cause shown, may extend or shorten the time for providing responses.

(2) Requirements of response.

(A) Each response to discovery under this subsection must identify the preparer or person under whose direct supervision the response was prepared, and the sponsoring witness, if any.

(B) Each request for information must be answered separately. Responses to requests for information must be preceded by the request to which the answer pertains.

(C) Responses to requests for production of documents, property, or other items, must state, for each item or category of items for which an objection has not been raised, that inspection or other requested action will be permitted at a mutually convenient time at the location where the documents, property, or other items are maintained. If compliance with the request is impossible, a written response must be filed stating the reasons for the unavailability of the information.

(D) Where the response to a request for information may be derived or ascertained from local public records, the responding party is not be obligated to produce the documents for the requesting party. It is a sufficient answer to identify with particularity the public records that contain the requested information.

(E) Where a request may be answered by production of or reference to information that currently exists in the form of a docu-

ment, computer record, or other existing tangible thing, it is a sufficient answer to the request to specify the records from which the answer may be derived or ascertained and to afford a reasonable opportunity to the requesting party to examine, to audit or to inspect such records and to allow the requesting party to make copies, compilations, abstracts or summaries from such records. The specification of records provided must be consistent with the method specified under subsection (h) of this section and include sufficient detail to permit the requesting party to locate and to identify the records from which the answers may be ascertained.

(F) Responses to requests for information must be filed under oath, unless the responding party stipulates in writing that responses to requests for information can be treated by all parties as if the answers were filed under oath.

(d) Objections to requests for information. Parties must negotiate diligently and in good faith concerning any discovery dispute prior to filing an objection. The objections must include a statement that negotiations were conducted diligently and in good faith. If negotiation fails, objections to requests for information, if any, must be filed within ten days of receipt of the request for information. The objections must state the date the request for information was received.

(1) The objections must be a separate pleading and entitled "Objections of (name of objecting party) to (style of RFI objected to)." The request for information to which an objection is being filed must be stated and the specific grounds for the objection must be separately listed for each question. If an objection pertains only to a part of a question, that part must be clearly identified. All arguments upon which the objecting party relies must be presented in full in the objection.

(2) If the objection is founded upon a claim of privilege or exemption under the Texas Rules of Civil Procedure or Texas Rules of Evidence, the objecting party must file within two working days of the filing of the objections, an index that lists, for each document: the date and title of the document; the preparer or custodian of the information; to whom the document was sent and from whom it was received; and the privilege or exemption that is claimed. A full and complete explanation of the claimed privilege or exemption must be provided. The index must be sufficiently detailed to enable the presiding officer to identify the documents from the list provided. The index and explanations must be public documents and must be served on all parties who are entitled to receive copies of responses to requests for information under subsection (b)(2) of this section. If a document is to be provided pursuant to the terms of a protective order, the responding party need not comply with the procedures of this paragraph.

(3) A party raising objections on the grounds of relevance as well as grounds of privilege or exemption is not required to file an index to the privileged or exempt documents at the time the objections are filed. A party may instead include an objection to the filing of the index. The objections must show good cause for postponement of the filing of the index. An index to the privileged or exempt documents is due within five working days of receipt of an order denying the relevance objection or overruling the objection to the filing of an index.

(4) The requirement to respond to those requests, or portions thereof, to which objection is made will postponed until the objections are ruled upon and for such additional time thereafter as the presiding officer may direct.

(5) In the interests of narrowing discovery disputes, the responding party may agree to provide certain information sought by a request while objecting to the provision of other information sought by the request.

(e) Motions to compel. The party seeking discovery must file a motion to compel no later than five working days after an objection is filed. If an incomplete response is filed, the party seeking discovery must file a motion to compel no later than five working days after the incomplete response was filed. If, despite the requirement to provide a response, no response is filed, the party seeking discovery must file a motion to compel no later than five working days after the response was due. Absence of a motion to compel will be construed as an indication that the parties have resolved their dispute. The presiding officer may rule on the motion to compel based on written pleadings without allowing additional argument.

(f) Responses to motions to compel. Responses to a motion to compel must be filed within five working days after receipt of the motion and must include all factual and legal arguments the respondent wants to present regarding the motion.

(g) In camera inspection. If an objection is founded on a claim of privilege or an exemption under the Texas Rules of Civil Procedure or Texas Rules of Evidence, the burden is on the objecting party to request an in camera inspection and to provide the documents for review. Any request must be filed within three working days of the receipt of the motion to compel. The request must contain the factual and legal bases to support the claimed exemption or privilege. The objecting party must review the documents and note with specificity any portions to which the claimed privilege or exemption claim does not apply. The objecting party must provide the documents to the presiding officer, under seal, no later than one working day after it requests an in camera inspection. Documents submitted for in camera review must not be filed with Central Records. Documents submitted for in camera review must be submitted to the presiding officer and enclosed in a sealed and labeled container accompanied by an explanatory cover letter. The cover letter must identify the control number and style of the proceeding and explain the nature of the sealed materials. The container must identify the control number, style of the case, name of the submitting party, and be marked "IN CAMERA REVIEW" in bold print at least one inch in size. Each page for which a privilege is asserted must be marked "privileged."

(h) Production of material responsive to requests for information. The following procedures apply to the production of materials responsive to requests for information unless otherwise specified by the presiding officer:

(1) A party responding to a request for information must make available all material responsive to the request to each party to that proceeding. A party responding to a request for information makes such material available by:

(A) serving a copy of all such responsive material to the other parties to the proceeding in the manner specified by §22.74 of this title; and

(B) with the exception of voluminous material as provided by paragraph (4) of this subsection, filing all such responsive material with the commission in the manner required by §22.71 of this title (relating to Commission Filing Requirements and Procedures) and, as applicable, §22.72 of this title (relating to Form Requirements for Documents Filed with the Commission).

(2) In addition to the required methods of production specified under subparagraphs (1)(A) and (1)(B) of this section, a party responding to a request for information may also make available materials responsive to such a request in a form and manner agreed to by the parties.

(3) Material responsive to a request for discovery must, at a minimum, be:

(A) consecutively categorized or classified (e.g., "Attachment A");

(B) labelled or cross-referenced by request for information number and subpart (e.g., "Responsive to RFI 1-1"); and

(C) sequentially ordered by page or bates number.

(4) A party providing materials that individually are 100 pages or greater must include with its response a detailed index of the material responsive to a particular question and must organize the responses and material to enable parties to efficiently review the material. The index must include:

(A) information sufficient to locate each individual document by page or file number;

(B) the title of the document, or, if none exists, a description of the document;

(C) the name of the sponsoring witness; and

(D) the length of each document.

(5) If a party responding to a request for information does not provide an index required under paragraph (4) of this subsection, the party filing the request for information may file a motion to compel the responding party to produce such an index.

(i) Duty to supplement. A responding party is under a continuing duty to supplement its discovery responses if that party acquires information upon the basis of which the party knows or should know that the response was incorrect or incomplete when made, or though correct or complete when made, is materially incorrect or incomplete. The responding party must amend its prior response within five working days of acquiring the information.

(j) Requests for admission of facts. Requests for admission of facts must be made in accordance with the Texas Rules of Civil Procedure.

(k) Modifications of deadlines. Modification of the deadlines for responses, objections, and motions to compel may be modified by agreement of the affected parties, by filing a letter or other document evidencing the agreement.

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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Seaver Myers
Rules Coordinator
Public Utility Commission of Texas
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Proposal publication date: September 5, 2025
For further information, please call: (512) 936-7433

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SUBCHAPTER I. SANCTIONS

16 TAC §22.161, §22.162

The new and amended rules are adopted under the following provisions of PURA: §14.001 and Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 001 and Texas Water Code §13.041(a), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under PURA §36.110 and §53.110 which establish the authority and procedure for an electric utility to impose changed rates in certain circumstances by filing a bond with the commission; PURA §15.024 which provides the commission with the authority to assess and impose an administrative penalty against a person who fails to timely respond to a written notice summarizing an alleged violation and a corresponding recommended penalty; and Texas Government Code, Subchapter D §2001.081-103 which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); PURA 15.024, 36.110, 53,110; and Texas Government Code, Subchapter D §2001.081-103.

§22.161. Sanctions.

(a) Causes for imposition of sanctions. After notice and an opportunity for a hearing, a presiding officer, on the presiding officer's own motion or on the motion of a party, may impose appropriate sanctions against a party or its representative for the reasons specified under this subsection. If a hearing on the motion for sanctions is requested, one or more commissioners or a SOAH administrative law judge must hold a sanction hearing for purposes of this section. Sanctions may be imposed for:

(1) filing a motion or pleading that was brought in bad faith, for the purpose of harassment, or for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abusing the discovery process in seeking, making, or resisting discovery; or

(3) failing to obey an order of an administrative law judge or the commission.

(b) Types of sanctions. A sanction imposed under subsection (b) of this section may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representative;

(3) holding that designated facts be deemed admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;

(6) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable

expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior;

(7) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed;

(8) limiting or disallowing the offending party's rights to participate in the proceeding;

(9) dismissing the application with or without prejudice; and

(10) imposing any other sanction available to the presiding officer by law.

(c) Procedure for seeking sanctions. A motion for sanctions may be filed at any time during the proceeding or may be initiated *sua sponte* by the presiding officer. A motion to compel discovery is not a prerequisite to the filing of a motion for sanctions. A motion should contain all factual allegations necessary to apprise the parties and the presiding officer of the conduct at issue, should request specific relief, and must be verified by affidavit. A motion must be served on all parties. Any order regarding sanctions issued by a presiding officer is appealable pursuant to §22.123 of this title (relating to Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission). Any sanction imposed by the administrative law judge may be stayed to allow the party to appeal the imposition of the sanction to the commission.

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. SUMMARY PROCEEDINGS

16 TAC §§22.181 - 22.183

The amended rules are adopted under the following provisions of PURA: §14.001 and Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 001 and Texas Water Code §13.041(a), which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §14.052 and Texas Water Code §13.041(b), which requires the commission to adopt and enforce rules governing practice and procedure before the commission and SOAH. The amended rules are also adopted under PURA §36.110 and §53.110 which establish the authority and procedure for an electric utility to impose changed rates in certain circumstances by filing a bond with the commission; PURA §15.024 which provides the commission with the authority to assess and impose an administrative penalty against a person who fails to timely respond to a written notice summarizing an alleged violation and a corresponding recommended penalty; and Texas Government Code, Subchapter D §2001.081-103 which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, and Texas Water Code §13.041(a) and (b); PURA 15.024, 36.110, 53,110; and Texas Government Code, Subchapter D §2001.081-103.

§22.181. Dismissal of a Proceeding.

(a) Dismissal of a proceeding. Upon the motion of the presiding officer or the motion of any party, the presiding officer may recommend that the commission dismiss, with or without prejudice, any proceeding for any reason specified in this section.

(b) Dismissal of issues within a proceeding. Upon the motion of the presiding officer or the motion of any party, the presiding officer may dismiss or may recommend that the commission dismiss, with or without prejudice, one or more issues within a proceeding for any reason specified in this section.

(c) Dismissal without hearing. A dismissal under this section requires a hearing unless the facts necessary to support the dismissal are uncontested or are established as a matter of law.

(d) Reasons for dismissal. Dismissal of a proceeding or one or more issues within a proceeding may be based on one or more of the following reasons:

(1) lack of jurisdiction;

(2) moot questions or obsolete petitions;

(3) res judicata;

(4) collateral estoppel;

(5) unnecessary duplication of proceedings;

(6) failure to prosecute;

(7) failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient;

(8) failure to state a claim for which relief can be granted;

(9) gross abuse of discovery consistent with §22.161(b)(2) of this title (relating to Sanctions);

(10) withdrawal of an application consistent with subsection (g) of this section; or

(11) other good cause shown.

(e) Motion for dismissal, responses, and replies. Dismissal of a proceeding or one or more issues within a proceeding may be made upon the motion of the presiding officer or the motion of any party.

(1) A party's motion for dismissal must specify at least one of the grounds for dismissal identified in subsection (d) of this section. The motion must include a statement that explains the basis for the dismissal and, if necessary:

(A) A statement that sets forth the material facts that support the motion; and

(B) An affidavit that supports the motion and that includes evidence that is not found in the then-existing record.

(2) A presiding officer's motion must be provided by written order or stated in the record and must specify one or more grounds

for dismissal identified in subsection (d) of this section and a clear and concise statement of the material facts supporting the dismissal.

(3) The party that initiated the proceeding and any other party has 20 days from the date of receipt to respond to a motion to dismiss unless the presiding officer specifies otherwise. The response must contain a statement of reasons the party contends the motion to dismiss should not be granted, and if necessary

(A) A statement that refers to each material fact identified in the motion to dismiss as uncontested that the responding party contends is contested; and

(B) An affidavit that supports the response to the motion to dismiss and that includes evidence the party relies upon to establish contested issues of fact. The affidavit may include evidence that is not found in the then-existing record.

(4) Replies to a response to a motion to dismiss may be made only by leave of and as directed by the presiding officer.

(f) Action on a motion to dismiss. Action on a motion to dismiss must conform to this subsection.

(1) If a hearing on the motion to dismiss is held, that hearing must be confined to the issues raised by the motion to dismiss.

(2) If the administrative law judge determines that all issues within a proceeding should be dismissed, the administrative law judge must prepare a proposal for decision in accordance with §22.261 of this title (relating to Proposals for Decision) to that effect, unless the reason for dismissal is solely one of the following:

(A) the withdrawal of an application under subsection (g)(1), (2), or (3) of this section; or

(B) either failure to prosecute under subsection (d)(6) of this section or failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient under subsection (d)(7) of this section, or both, and the dismissal is without prejudice.

(3) For dismissal under paragraphs (2)(A) and (2)(B) of this subsection, the administrative law judge may issue an order dismissing the proceeding. An order issued under this paragraph is a final order of the commission and is subject to motions for rehearing under §22.264 of this title (relating to Rehearing).

(4) The commission will consider a proposal for decision recommending dismissal as soon as is practicable.

(5) If the commission determines that all issues within a proceeding should be dismissed, the commission will issue an order subject to motions for rehearing under §22.264 of this title.

(6) If the administrative law judge determines that one or more, but not all, issues within a proceeding should be dismissed, the administrative law judge may issue a proposal for interim decision or an interim order dismissing such issues. An interim order issued by the administrative law judge resulting in partial dismissal is subject to appeal or reconsideration under §22.123 of this title (relating to Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission). If the commission determines that one or more, but not all, issues within a proceeding should be dismissed, the commission may issue an interim order dismissing such issues. An interim order issued by the commission resulting in partial dismissal is subject to appeal or reconsideration under §22.123 of this title.

(g) Withdrawal of application. An application may be withdrawn only in accordance with this subsection.

(1) A party that initiated a proceeding may withdraw its application without prejudice to refiling of same, at any time before that party has presented its direct case. A party may agree to withdraw its application with prejudice.

(2) After the presentation of its direct case, but prior to the issuance of a proposed order or proposal for decision, a party may request to withdraw its application with or without prejudice, and withdrawal may be granted only upon a finding of good cause by the presiding officer.

(3) The presiding officer may grant a request to withdraw an application with or without prejudice after a proposed order or proposal for decision has been issued if the request to withdraw is filed by the applicant and the applicant's application would be granted by the proposed order or proposal for decision.

(4) A request to withdraw an application with or without prejudice after a proposed order or proposal for decision has been issued that is filed by an applicant to whom the result of the proposed order or proposal for decision is adverse may be granted only upon a finding of good cause by the commission. In ruling on the request, the commission will weigh the importance of the matter being addressed to the jurisprudence of the commission and the public interest.

(5) A request to withdraw an application with or without prejudice after the application has been placed on an open meeting agenda for consideration of an appeal of an interim order, a request for certified issues, or a preliminary order with threshold legal or policy issues may be granted only upon a finding of good cause by the commission. In ruling on the request, the commission will weigh the importance of the matter being addressed to the jurisprudence of the commission and the public interest.

(6) If a request to withdraw an application is granted, the presiding officer must issue an order of dismissal stating whether the dismissal is with or without prejudice. If the presiding officer finds good cause, the order of dismissal under this paragraph must not be with prejudice, unless the applicant requests dismissal with prejudice. Such order must, if applicable, specify the facts on which good cause is based and the basis of the dismissal and is the final order of the commission subject to motions for rehearing under §22.264 of this title.

§22.182. Summary Decision.

(a) Motion for summary decision. The presiding officer, on motion by any party, may grant a motion for summary decision on any or all issues to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed in accordance with §22.222 of this title (relating to Official Notice), or evidence of record show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor, as a matter of law, on the issues expressly set forth in the motion.

(b) Filing and contents of motion. Any party to a proceeding may move for summary decision on any or all of the issues. The motion must be filed before the close of the hearing on the merits or before the issuance of a proposal for decision or proposed order if no hearing is held, unless the time to file is extended by order of the presiding officer. The party filing the motion must demonstrate that the issue or issues may be resolved by summary decision in accordance with the standard set forth in subsection (a) of this section. Affidavits in support of the motion must be based on personal knowledge and must set forth such facts as would be admissible in evidence. A motion for summary decision must specifically describe the facts upon which the request for summary decision is based, the information and materials which demonstrate those facts, and the laws or legal theories that entitle the movant to summary decision.

(c) Response to motion. Any response to a motion for summary decision must be filed within 20 days from the date of receipt of the motion for summary decision, unless otherwise ordered by the presiding officer. A party opposing the motion must show, by affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record, that there is a genuine issue of material fact for determination at the hearing, or that summary decision is inappropriate as a matter of law.

(d) Hearing on the motion not required. While a hearing on the motion for summary decision is not required, the presiding officer may set the motion for a hearing.

(e) No further hearing. No further evidentiary hearing shall be held on issues for which summary decision has been granted.

(f) Action on the motion by administrative law judge. The administrative law judge must issue a proposal for decision if all issues will be resolved by summary decision. The administrative law judge may issue an interim order or a proposal for interim decision if some, but not all, issues will be resolved by summary decision. Such a partial summary decision may result if the motion for summary decision does not include all issues or, if the motion does include all issues, the administrative law judge grants summary decision on some issues and denies summary decision on other issues. Parties may file exceptions and replies to exceptions to a proposal for interim decision recommending resolution of issues by summary decision. An interim order issued by the administrative law judge granting partial summary decision is subject to appeal or reconsideration under §22.123 of this title (relating to Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission).

(g) Action on the motion by the commission. If all issues will be resolved by summary decision, the commission will issue an order that is subject to motions for rehearing under §22.264 of this title (relating to Motions for Rehearing). An interim order issued by the commission granting partial summary decision is subject to reconsideration under §22.123 of this title.

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

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TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §101.1, pertaining to general qualifications for dental licensure. The amendment is adopted without changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 390) and will not be republished. The adopted amendment requires certain personal identification documents that an applicant must submit in an initial and renewal application for dental licensure. The adopted amendment is necessary to ensure that the applicant's personal identification document is valid and that the applicant is legally eligible to practice dentistry in Texas. The adopted amendment would require applicants to submit appropriate documentation verifying legal presence and work authorization before a license may be issued or renewed.

The Texas Dental Association (TDA) did not specifically indicate whether it was in support or opposition of the rule as proposed. TDA provides that the proposed amendments appropriately require confirmation of citizenship or lawful work authorization. The process for submitting that documentation should be clear, consistent, and efficient for both new licensure/registrant applicants and those seeking renewal. Texas dental schools and allied oral health training programs rely heavily on the expertise and didactic and clinical teaching capability of internationally educated faculty. Implementation should therefore preserve rigorous verification standards while minimizing avoidable administrative friction, ensuring that qualified foreign educators can continue to contribute to the state's dental education pipeline without unnecessary disruption.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

The Texas House Democratic Caucus (TXHDC) submitted a written comment in opposition of adoption of the rule as proposed. The TXHDC is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will increase the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. Texans living in shortage areas struggle with limited access to care, resulting in longer wait times for appointments, travel challenges for patients, and an overall gap in preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Texas State Representative John Bryant submitted a written comment in opposition of adoption of the rule as proposed. Mr. Bryant is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will exacerbate the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. For Texans in these shortage areas, limited access translates to grueling travel times and a lack of preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Dr. Austin Lee, DMD submitted a written comment in opposition of adoption of the rule as proposed. Dr. Lee provides that this may be a part of an effort to eliminate and limit H1B. Many universities rely financially on their international dentist education program. He believes the rule would bar any graduating non-US citizen dental students to be able to obtain a Texas license, and the rule could affect universities in a way that they may need to shut down or lose students in the international programs.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. H-1B is a separate program that is controlled by the federal government. No changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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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Casey Nichols
Executive Director
State Board of Dental Examiners
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CHAPTER 103. DENTAL HYGIENE LICENSURE

22 TAC §103.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §103.1, pertaining to general qualifications for hygiene licensure. The amendment is adopted without changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 391) and will not be republished. The adopted amendment requires certain personal identification documents that an applicant must submit in an initial and renewal application for hygiene licensure. The adopted amendment is necessary to ensure that the applicant's personal identification document is valid and that the applicant is legally eligible to practice hygiene in Texas. The adopted amendment would require applicants to submit appropriate documentation verifying legal presence and work authorization before a license may be issued. The adopted amendment also corrects a grammatical error.

The Texas Dental Association (TDA) did not specifically indicate whether it was in support or opposition of the rule as proposed. TDA provides that the proposed amendments appropriately require confirmation of citizenship or lawful work authorization. The process for submitting that documentation should be clear, consistent, and efficient for both new licensure/registrant applicants and those seeking renewal. Texas dental schools and allied oral health training programs rely heavily on the expertise and didactic and clinical teaching capability of internationally educated faculty. Implementation should therefore preserve rigorous verification standards while minimizing avoidable administrative friction, ensuring that qualified foreign educators can continue to contribute to the state's dental education pipeline without unnecessary disruption.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

The Texas House Democratic Caucus (TXHDC) submitted a written comment in opposition of adoption of the rule as proposed. The TXHDC is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will increase the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. Texans living in shortage areas struggle with limited access to care, resulting in longer wait times for appointments, travel challenges for patients, and an overall gap in preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Texas State Representative John Bryant submitted a written comment in opposition of adoption of the rule as proposed. Mr. Bryant is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will exacerbate the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. For Texans in these shortage areas, limited access translates to grueling travel times and a lack of preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Dr. Austin Lee, DMD submitted a written comment in opposition of adoption of the rule as proposed. Dr. Lee provides that this may be a part of an effort to eliminate and limit H1B. Many universities rely financially on their international dentist education program. He believes the rule would bar any graduating non-US citizen dental students to be able to obtain a Texas license, and the rule could affect universities in a way that they may need to shut down or lose students in the international programs.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. H-1B is a separate program that is

controlled by the federal government. No changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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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Executive Director
State Board of Dental Examiners
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CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §114.6

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §114.6, pertaining to general qualifications for dental assistant registration or certification. The amendment is adopted with changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 393) and will be republished. The adopted amendment requires certain personal identification documents that an applicant must submit in an initial and renewal application for a dental assistant registration or certification. The adopted amendment is necessary to ensure that the applicant's personal identification document is valid and that the applicant is legally eligible to practice in Texas. The adopted amendment would require applicants to submit appropriate documentation verifying legal presence and work authorization before a registration or certification may be issued. The adopted amendment also corrects grammatical errors.

The Texas Dental Association (TDA) did not specifically indicate whether it was in support or opposition of the rule as proposed. TDA provides that the proposed amendments appropriately require confirmation of citizenship or lawful work authorization. The process for submitting that documentation should be clear, consistent, and efficient for both new licensure/registrant applicants and those seeking renewal. Texas dental schools and allied oral health training programs rely heavily on the expertise and didactic and clinical teaching capability of internationally educated faculty. Implementation should therefore preserve rigorous verification standards while minimizing avoidable administrative friction, ensuring that qualified foreign educators can continue to contribute to the state's dental education pipeline without unnecessary disruption.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

The Texas House Democratic Caucus (TXHDC) submitted a written comment in opposition of adoption of the rule as proposed. The TXHDC is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will increase the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. Texans living in shortage areas struggle with limited access to care, resulting in longer wait times for appointments, travel challenges for patients, and an overall gap in preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Texas State Representative John Bryant submitted a written comment in opposition of adoption of the rule as proposed. Mr. Bryant is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will exacerbate the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. For Texans in these shortage areas, limited access translates to grueling travel times and a lack of preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Dr. Austin Lee, DMD submitted a written comment in opposition of adoption of the rule as proposed. Dr. Lee provides that this may be a part of an effort to eliminate and limit H1B. Many universities rely financially on their international dentist education program. He believes the rule would bar any graduating non-US citizen dental students to be able to obtain a Texas license, and the rule could affect universities in a way that they may need to shut down or lose students in the international programs.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. H-1B is a separate program that is controlled by the federal government. No changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§114.6. General Qualifications for Registration or Certification.

(a) Any person who desires to provide dental assistant services requiring registration or certification must obtain the proper registration or certification issued by the Board before providing the services, ex-

cept as provided in Texas Occupations Code §265.001(d) and §114.11 of this chapter.

(b) Any applicant for registration or certification must meet the requirements of this chapter.

(c) To be eligible for registration or certification, an applicant must provide with an application form approved by the Board satisfactory proof to the Board that the applicant:

(1) has fulfilled all requirements for registration or certification outlined in this chapter;

(2) has submitted documentation of proof of United States citizenship, legal permanent residency in the United States, or federal work authorization. This requirement applies for initial and renewal applications. The applicant must submit one of the following:

(A) a valid, unexpired driver's license or state identification certificate issued by a state or territory of the United States that complies with the minimum document requirements and issuance standards for federal recognition under the REAL ID Act of 2005, Public Law 109-13, unless the driver's license is marked "Limited Term" or "Temporary";

(B) a valid, unexpired driver's license or state identification certificate that does not comply with REAL ID issued by one of the following states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, or Wyoming;

(C) a valid passport. Valid passport is defined as:

(i) an unexpired passport or passport card issued by the United States government; or

(ii) an unexpired passport issued by the government of another country accompanied by a current permanent resident card or unexpired immigrant visa issued by the United States Department of Homeland Security;

(D) a valid, unexpired license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(E) a United States Certificate of Naturalization (Form N-550 or N-570); or

(F) a United States Certificate of Citizenship (Form N-560 or N-561);

(3) has met the requirements of §101.8 of this title (relating to Persons with Criminal Backgrounds);

(4) has not had any disciplinary action taken in this state or any other jurisdiction;

(5) has successfully completed a current course in basic life support;

(6) has taken and passed the jurisprudence assessment administered by the Board or an entity designated by the Board within one year immediately prior to application;

(7) has paid all application, examination and registration or certification fees required by the Dental Practice Act and Board rules;

(8) has completed a course in human trafficking prevention approved by the executive commissioner of the Texas Health and Human Services Commission; and

(9) has submitted a National Practitioner Data Bank self-query report upon initial registration or certification. The report results must remain in the original sealed envelope.

(d) Applications for dental assistant registration and certification must be delivered to the office of the State Board of Dental Examiners.

(e) An application for dental assistant registration or certification is filed with the Board when it is actually received, date-stamped, and logged-in by the Board along with all required documentation and fees. An incomplete application will be returned to the applicant with an explanation of additional documentation or information needed.

(f) The Board may refuse to issue a registration or certificate or may issue a conditional registration or certificate to any individual who does not meet the requirements of subsection (c)(3) or (4) of this section, or who:

(1) presents to the Board fraudulent or false evidence of the person's qualification for registration or certification;

(2) is guilty of any illegality, fraud, or deception during the process to secure a registration or certification;

(3) is habitually intoxicated or is addicted to drugs;

(4) commits a dishonest or illegal practice in or connected to dentistry;

(5) is convicted of a felony under federal law or law of this state; or

(6) is found to have violated a law of this state relating to the practice of dentistry within the 12 months preceding the date the person filed an application for a registration or certification.

(g) If the Board chooses to issue a conditional registration or certificate, the individual may be required to enter into an agreed settlement order with the Board at the time the registration or certificate is issued.

(1) The order may include limitations including, but not limited to, practice limitations, stipulations, compliance with court ordered conditions, notification to employer or any other requirements the Board recommends to ensure public safety.

(2) In the event an applicant is uncertain whether he or she is qualified to obtain a dental assistant registration or certification due to criminal conduct, the applicant may request a Criminal History Evaluation Letter in accordance with §114.9 of this chapter, prior to application.

(3) Should the individual violate the terms of his or her conditional registration or certificate, the Board may take additional disciplinary action against the individual.

(h) An applicant whose application is denied by the Board may appeal the decision to the State Office of Administrative Hearings.

(i) An individual whose application for dental assistant registration/certification is denied is not eligible to file another application for registration/certification until the expiration of one year from the date of denial or the date of the Board's order denying the application for registration/certification, whichever date is later.

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 February 23, 2026.

TRD-202600858
Casey Nichols
Executive Director
State Board of Dental Examiners
Effective date: March 15, 2026
Proposal publication date: January 23, 2026
For further information, please call: (737) 363-2320

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CHAPTER 116. DENTAL LABORATORIES

22 TAC §116.3

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §116.3, pertaining to registration and renewal of dental laboratories. The amendment is adopted without changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 395) and will not be republished. The adopted amendment requires certain personal identification documents that an individual applicant must submit in an initial and renewal application for a dental laboratory registration. The adopted amendment is necessary to ensure that the applicant's personal identification document is valid and that the applicant is legally eligible to own a dental laboratory in Texas. The adopted amendment would require the applicant to submit appropriate documentation verifying legal presence and work authorization before a dental laboratory registration may be issued or renewed. Additionally, the adopted amendment removes references to the Dental Laboratory Certification Council (DLCC). Chapter 266 of the Texas Occupations Code pertaining to the regulation of dental laboratories was amended by Senate Bill 313 of the 85th Texas Legislature, Regular Session (2017). The bill repealed chapter sections that referenced the DLCC. The Board no longer uses the council.

The Texas Dental Association (TDA) did not specifically indicate whether it was in support or opposition of the rule as proposed. TDA provides that the proposed amendments appropriately require confirmation of citizenship or lawful work authorization. The process for submitting that documentation should be clear, consistent, and efficient for both new licensure/registrant applicants and those seeking renewal. Texas dental schools and allied oral health training programs rely heavily on the expertise and didactic and clinical teaching capability of internationally educated faculty. Implementation should therefore preserve rigorous verification standards while minimizing avoidable administrative friction, ensuring that qualified foreign educators can continue to contribute to the state's dental education pipeline without unnecessary disruption.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

The Texas House Democratic Caucus (TXHDC) submitted a written comment in opposition of adoption of the rule as proposed. The TXHDC is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will increase the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. Texans living in shortage areas struggle with limited access to care, resulting in longer wait times for appointments, travel challenges for patients, and an overall gap in preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Texas State Representative John Bryant submitted a written comment in opposition of adoption of the rule as proposed. Mr. Bryant is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will exacerbate the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. For Texans in these shortage areas, limited access translates to grueling travel times and a lack of preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Dr. Austin Lee, DMD submitted a written comment in opposition of adoption of the rule as proposed. Dr. Lee provides that this may be a part of an effort to eliminate and limit H1B. Many universities rely financially on their international dentist education program. He believes the rule would bar any graduating non-US citizen dental students to be able to obtain a Texas license, and the rule could affect universities in a way that they may need to shut down or lose students in the international programs.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. H-1B is a separate program that is controlled by the federal government. No changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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 February 23, 2026.

TRD-202600859
Casey Nichols
Executive Director
State Board of Dental Examiners
Effective date: March 15, 2026
Proposal publication date: January 23, 2026
For further information, please call: (737) 363-2320

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CHAPTER 117. FACULTY AND STUDENTS IN ACCREDITED DENTAL SCHOOLS

22 TAC §117.2

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §117.2, pertaining to dental faculty licensure. The amendment is adopted without changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 396) and will not be republished. The adopted amendment requires certain personal identification documents that an applicant must submit in an initial and renewal application for dental faculty licensure. The adopted amendment is necessary to ensure that the applicant's personal identification document is valid and that the applicant is legally eligible to practice as a faculty dentist in Texas. The adopted amendment would require applicants to submit appropriate documentation verifying legal presence and work authorization before a faculty license may be issued.

The Texas Dental Association (TDA) did not specifically indicate whether it was in support or opposition of the rule as proposed. TDA provides that the proposed amendments appropriately require confirmation of citizenship or lawful work authorization. The process for submitting that documentation should be clear, consistent, and efficient for both new licensure/registrant applicants and those seeking renewal. Texas dental schools and allied oral health training programs rely heavily on the expertise and didactic and clinical teaching capability of internationally educated faculty. Implementation should therefore preserve rigorous verification standards while minimizing avoidable administrative friction, ensuring that qualified foreign educators can continue to contribute to the state's dental education pipeline without unnecessary disruption.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

The Texas House Democratic Caucus (TXHDC) submitted a written comment in opposition of adoption of the rule as proposed. The TXHDC is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will increase the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. Texans living in shortage areas struggle with limited access to care, resulting in longer wait times for appointments, travel challenges for patients, and an overall gap in preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Texas State Representative John Bryant submitted a written comment in opposition of adoption of the rule as proposed. Mr. Bryant is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will exacerbate the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. For Texans in these shortage areas, limited access translates to grueling travel times and a lack of preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Dr. Austin Lee, DMD submitted a written comment in opposition of adoption of the rule as proposed. Dr. Lee provides that this may be a part of an effort to eliminate and limit H1B. Many universities rely financially on their international dentist education program. He believes the rule would bar any graduating non-US citizen dental students to be able to obtain a Texas license, and the rule could affect universities in a way that they may need to shut down or lose students in the international programs.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. H-1B is a separate program that is controlled by the federal government. No changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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 February 23, 2026.

TRD-202600860
Casey Nichols
Executive Director
State Board of Dental Examiners
Effective date: March 15, 2026
Proposal publication date: January 23, 2026
For further information, please call: (737) 363-2320

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22 TAC §117.3

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §117.3, pertaining to dental hygiene faculty licensure. The amendment is adopted without changes to the proposed text as published in the January 23, 2026, issue of the *Texas Register* (51 TexReg 398) and will not be republished. The adopted amendment requires certain personal identification documents that an applicant must submit in an initial and renewal application for dental hygiene faculty licensure. The adopted amendment is necessary to ensure that the applicant's personal identification document is valid and that the applicant is legally eligible to practice as a faculty hygienist in Texas. The adopted amendment would require applicants to submit appropriate documentation verifying legal presence and work authorization before a faculty license may be issued.

The Texas Dental Association (TDA) did not specifically indicate whether it was in support or opposition of the rule as proposed. TDA provides that the proposed amendments appropriately require confirmation of citizenship or lawful work authorization. The process for submitting that documentation should be clear, consistent, and efficient for both new licensure/registrant applicants and those seeking renewal. Texas dental schools and allied oral health training programs rely heavily on the expertise and didactic and clinical teaching capability of internationally educated faculty. Implementation should therefore preserve rigorous verification standards while minimizing avoidable administrative friction, ensuring that qualified foreign educators can continue to contribute to the state's dental education pipeline without unnecessary disruption.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

The Texas House Democratic Caucus (TXHDC) submitted a written comment in opposition of adoption of the rule as proposed. The TXHDC is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will increase the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. Texans living in shortage areas struggle with limited access to care, resulting in longer wait times for appointments, travel challenges for patients, and an overall gap in preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Texas State Representative John Bryant submitted a written comment in opposition of adoption of the rule as proposed. Mr. Bryant is concerned that the proposed changes will hinder the Board's ability to process and approve licensing applications efficiently, which will exacerbate the shortage of dental professionals in Texas. According to the Health Resources & Services Administration (HRSA), approximately 2 million Texans live in a Dental Health Professional Shortage Area. The HRSA estimates only 28.99% of the state's dental care needs are being met, and, to address this gap, an estimated 368 additional dental practitioners are required. For Texans in these shortage areas, limited access translates to grueling travel times and a lack of preventative and restorative care.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. No changes to the rule were made as a result of the comment.

Dr. Austin Lee, DMD submitted a written comment in opposition of adoption of the rule as proposed. Dr. Lee provides that this may be a part of an effort to eliminate and limit H1B. Many universities rely financially on their international dentist education program. He believes the rule would bar any graduating non-US citizen dental students to be able to obtain a Texas license, and the rule could affect universities in a way that they may need to shut down or lose students in the international programs.

Board response: the Board anticipates that the proposed changes will not hinder the Board's ability to efficiently process licensing applications. H-1B is a separate program that is controlled by the federal government. No changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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 February 23, 2026.

TRD-202600861
Casey Nichols
Executive Director
State Board of Dental Examiners
Effective date: March 15, 2026
Proposal publication date: January 23, 2026
For further information, please call: (737) 363-2320

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PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 137. COMPLIANCE AND PROFESSIONALISM FOR ENGINEERS

SUBCHAPTER D. FIRM AND GOVERNMENTAL ENTITY COMPLIANCE

22 TAC §137.75

The Texas Board of Professional Engineers and Land Surveyors (Board) adopts an amendment to 22 Texas Administrative Code, Chapter 137, Subchapter D, regarding firm and governmental entity compliance, specifically §137.75 Registration Renewal and Expiration. The Board adopts the amendment with no changes to the proposed text as published in the October 17, 2025, issue of the *Texas Register* (50 TexReg 6846). The rule will not be republished.

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to provide oral and/or written commentary concerning the adoption of the rules. The public comment period began on October 17, 2025, and ended November 16, 2025. The Board received no comments about this rule and adopts the rule with no changes to the proposal.

The rule is adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in 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 February 23, 2026.

TRD-202600862
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Effective date: March 15, 2026
Proposal publication date: October 17, 2025
For further information, please call: (512) 440-7723

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PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §§153.13, 153.21, 153.40

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.13, Education Required for Licensing, §153.21, Appraiser Trainees and Supervisory Appraisers, and §153.40, Approval of Continuing Education Providers and Courses. The amendments are adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7830) and will not be republished.

The amendments to §153.13 clarify courses that are acceptable by the Board to satisfy the education requirements for licensure. The amendments to §153.21 clarify requirements related to supervisory appraisers and appraiser trainees, specifically, the amendments eliminate the requirement that the Appraiser Trainee/Supervisory Appraiser course be retaken by trainees and supervisory appraisers every four years, and that the course must be taken by an applicant prior to obtaining a trainee license. The amendments to §153.40 clarify requirements related to the duration of approval of Board approved courses and approval requirements for providers.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB, and §1103.153, which authorizes TALCB to adopt rules relating to the requirements for approval of a provider or course for qualifying or continuing education.

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 February 24, 2026.

TRD-202600900
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: March 16, 2026
Proposal publication date: December 5, 2025
For further information, please call: (512) 936-3088

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PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 271. EXAMINATIONS

22 TAC §271.4

The Texas Optometry Board (Board) adopts new rule 22 TAC Part 14 §271.4 - Licensing for Military Service Member, Military Veteran, and Military Spouse. The Board adopts this rule with one change to the proposed text as published in the January 2, 2026, issue of the *Texas Register* (51 TexReg 27). The adopted rule will be republished.

CHANGE TO TEXT

The one change to the text can be found in subsection (d). The word "is" is changed to "if" in the second sentence to read as follows: "The Board may deny an application if the applicant has a disqualifying criminal history." The published sentence previously read "The Board may deny an application is the applicant has a disqualifying criminal history."

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

HB 5629 and SB 1818, adopted by the 89th Legislature, Regular Session, established new criteria for licensing agencies to consider upon receipt of an application by a member of the military, veteran or a military spouse. Both bills took effect on September 1, 2025.

The new rule incorporates the updated statutory provisions into language of the current rule (previously found at 22 TAC §273.14). The Board moved the language related to military licensing from Chapter 273 to Chapter 271 to consolidate agency rules related to licensing into the same chapter for ease of use by applicants and interested parties.

HB 5629 changes the threshold of military licensing from those that have licensing requirements that are substantially equivalent to instead require the Board to consider licenses that are similar in scope of practice and that are in good standing. HB 1818 requires the Board to immediately issue a 180-day provisional license to military applicants while an application for full licensure is pending.

COMMENTS

No comments were received on the proposed rule.

STATUTORY AUTHORITY

The Board adopts the rule pursuant to the authority found in §351.151 of the Tex. Occ. Code which vests the Board with

the authority to adopt rules necessary to perform its duties. The statutory provisions affected by the proposed rules are those set forth in Chapter 55 of the Tex. Occ. Code. No other sections are affected by the amendments.

§271.4. Licensing for Military Service Member, Military Veteran, and Military Spouse.

(a) The Board adopts by reference the definitions set forth in Chapter 55 of the Occupations Code.

(b) The Board has sole discretion in determining whether an applicant's out-of-state license is similar in scope to a license issued by the Board. Applicants may only practice optometry to the extent allowed by Texas law.

(c) To protect the health and safety of the citizens of this state, a license to practice optometry or therapeutic optometry requires a doctorate degree in optometry and passing scores on nationally accepted examinations. An alternative method to demonstrate competency is not available.

(d) An applicant under this section must pass a criminal-background check. The Board may deny an application if the applicant has a disqualifying criminal history.

(e) A person is in good standing with another state's licensing authority if the person:

(1) holds a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(2) has not been disciplined by the licensing authority with respect to the person's practice of optometry or therapeutic optometry; and

(3) is not currently under investigation by the licensing authority for unprofessional conduct related to the practice of optometry or therapeutic optometry.

(f) Alternate licensing procedure for military service member, military spouse, or military veteran authorized by Texas Occupations Code §55.004.

(1) A license shall be issued to a military service member, military veteran, or military spouse upon proof of one of the following:

(A) the applicant holds a current license in another state that is similar in scope of practice to Texas scope of practice and is in good standing with the other state's licensing authority; or

(B) within the five years preceding the application date, the applicant held the license sought in this state.

(2) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license, other than the requirements listed in subsections (c) and (d) of this rule, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted.

(3) While a license application is being processed, the applicant shall be issued a provisional license to practice. The provisional license shall expire on the earlier of the date the agency approves or denies the license application or the 180th day after the date the provisional license is issued.

(4) Not later than 10 days after receipt of a complete application including required supplemental documents and fingerprint criminal history background check, the agency shall process the application.

(5) An applicant applying as a military spouse must submit proof of marriage to a military service member.

(6) The initial renewal date for a license issued pursuant to this rule shall be set in accordance with the agency's rule governing initial renewal dates.

(g) Recognition of out-of-state license of military service member or military spouse authorized by Texas Occupations Code §55.0041

(1) Notwithstanding any other law a military service member or military spouse may engage in the practice of optometry or therapeutic optometry without obtaining a Texas license if the applicant currently holds a license similar in scope of practice to Texas issued by the licensing authority of another state and is in good standing with that licensing authority.

(2) In order for an out-of-state license to be recognized, a military service member or military spouse must submit an application on a form prescribed by the Board that includes:

(A) a copy of the member's military orders showing relocation to Texas;

(B) if the applicant is a military spouse, a copy of the military spouse's marriage license and spouse's order showing relocation to Texas; and

(C) a notarized affidavit affirming under penalty of perjury that:

(i) the applicant is the person described and identified in the application;

(ii) all statements in the application are true, correct, and complete;

(iii) the applicant understands the scope of practice for the applicable license in this state and will not perform outside of that scope of practice; and

(iv) the applicant is in good standing in each state in which the applicant holds or has held an applicable license.

(3) Not later than 10 days after receipt of an application for recognition of an out-of-state license, the agency shall notify the applicant:

(A) the agency recognizes the applicant's out-of-state license;

(B) the application is incomplete; or

(C) the agency is unable to recognize the applicant's out-of-state license because the agency does not issue a license similar in scope of practice to the applicant's license in another state or the applicant has a disqualifying criminal history.

(4) In order to ensure the public can verify if a person is recognized to practice optometry or therapeutic optometry in Texas, the Board will post the person's name and out of state license number on its website. The person is not considered licensed by the Board and no license verifications will be issued.

(5) A service member or military spouse authorized to practice with a recognized out of state license is subject to the enforcement authority granted under the Texas Optometry Act, and the laws and regulations applicable to a licensed provider.

(6) A service member or military spouse may practice under this recognized status only while the service member is stationed at a military installation in this state.

(7) In the event of a divorce or similar event (e.g., annulment, death of spouse) affecting a military spouse's marital status, a former spouse who relied upon this rule to obtain authorization to practice may continue to practice under the authority of this rule until the third anniversary of the date of confirmation referenced in paragraph (3)(A) of this subsection.

(8) In order to obtain and maintain the privilege to practice without a license in this state, a service member or military spouse must remain in good standing with every licensing authority that has issued a license to the service member or military spouse at a similar scope of practice and in the discipline applied for in this state.

(h) Pursuant to Texas Occupations Code §55.002, application fees are waived for military service members, military veterans, and military spouses. The applicant is responsible for paying any examination fees that are charged by a third-party examination vendor.

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 February 24, 2026.

TRD-202600874
Janice McCoy
Executive Director
Texas Optometry Board
Effective date: March 16, 2026
Proposal publication date: January 2, 2026
For further information, please call: (512) 305-8500

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CHAPTER 273. GENERAL RULES

22 TAC §273.14

The Texas Optometry Board (Board) adopts the repeal of 22 TAC Part 14 §273.14 -- License Applications for Military Service Member, Military Veteran, and Military Spouse. The Board repeals this rule with no changes as published in the January 2, 2026, issue of the *Texas Register* (51 TexReg 30). The repealed rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE REPEAL

HB 5629 and SB 1818, adopted by the 89th Legislature, Regular Session, established new criteria for licensing agencies to consider upon receipt of an application by a member of the military, veteran or a military spouse. Both bills took effect on September 1, 2025. In the scope of incorporating the new provisions of the legislation, the Board determined it makes sense to move the language found in the repealed rule to the same chapter of its rules related to licensing.

The substance of the language related to military licensing is being adopted in a separate submission with the *Texas Register*.

COMMENTS

No comments were received on the proposed repeal.

STATUTORY AUTHORITY

The Board repeals this rule pursuant to the authority found in §351.151 of the Tex. Occ. Code which vests the Board with the authority to adopt rules necessary to perform its duties. No other sections are affected by the 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 February 24, 2026.

TRD-202600875
Janice McCoy
Executive Director
Texas Optometry Board
Effective date: March 16, 2026
Proposal publication date: January 2, 2026
For further information, please call: (512) 305-8500

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CHAPTER 279. INTERPRETATIONS

22 TAC §279.16

The Texas Optometry Board (Board) adopts amendments to 22 TAC Part 14 §279.16 - Telehealth Services. The Board adopts this rule with no changes to the proposed text as published in the January 2, 2026, issue of the *Texas Register* (51 TexReg 31). The adopted rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

The rule specifies the informed consent documentation that is required when licensees perform telehealth services for optometry. The Board adopts this rule in accordance with House Bill 1700 of the 89th Texas Legislature, Regular Session (2025), and Chapter 111, Texas Occupations Code.

The rule provides that informed consent for the provision of telehealth services shall be in writing with exceptions for audio-only consent, and must be maintained in the patient record. The rule lists minimum requirements for the informed consent statement.

COMMENTS

No comments were received on the proposed rule.

STATUTORY AUTHORITY

The Board adopts this rule pursuant to the authority found in §351.151 of the Tex. Occ. Code which vests the Board with the authority to adopt rules necessary to perform its duties. The statutory provisions affected by the adopted rule are those set forth in §111.004 of the Tex. Occ. Code. No other sections are affected by the 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 February 24, 2026.

TRD-202600876

Janice McCoy
Executive Director
Texas Optometry Board
Effective date: March 16, 2026
Proposal publication date: January 2, 2026
For further information, please call: (512) 305-8500

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PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER B. LICENSING REQUIREMENTS

22 TAC §463.8

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §463.8, relating to Licensed Psychological Associate. Section 463.8 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 7994) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist. The amendments remove a requirement that an applicant preemptively identify transcript courses to Council staff, instead of on request. The adopted amendments also expand authorization to use up to 12 hours of graduate course credit from a secondary graduate degree program to meet licensure requirements. Finally, the adopted amendments remove language regarding remediating application deficiencies that are now superseded by Council Rule 882.14.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600962
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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22 TAC §463.9

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §463.9, relating to Licensure as a School Psychologist. Section 463.9 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 7996) and will not be republished.

Reasoned Justification.

The adopted amendments aligns the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received two comments for the proposed rule change, supporting the change in terminology.

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Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600963

Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

22 TAC §463.11

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §463.11, relating to Supervised Experience Required for Licensure as a Psychologist. Section 463.11 is adopted with changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 7999) and will be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment supporting the proposed rule change as aligning with statute.

Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§463.11. Supervised Experience Required for Licensure as a Psychologist.

(a) Required Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program and at least 1,750 of which must have been received as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).

(1) A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant whose doctoral degree was conferred prior to September 1, 2017.

(2) The formal internship must be documented by the Director of Internship Training. Alternatively, if the Director of Internship Training is unavailable, the formal internship may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program.

(3) Following conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting, while licensed or authorized to practice in another jurisdiction, or while practicing as a psychological associate or school psychologist in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained without a provisional license or trainee status prior to September 1, 2016, may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this rule if the experience was obtained under the supervision of a licensed psychologist.

(b) Satisfaction of Post-doctoral Supervised Experience with Doctoral Program Hours.

(1) Applicants who received their doctoral degree from a degree program accredited by the American Psychological Association (APA), the Canadian Psychological Association (CPA), Psychological Clinical Science Accreditation System (PCSAS), or a substantially equivalent degree program, may count the following hours of supervised experience completed as part of their degree program toward the required post-doctoral supervised experience:

(A) hours in excess of 1,750 completed as part of the applicant's formal internship; and

(B) practicum hours certified by the doctoral program training director (or the director's designee) as meeting the following criteria:

(i) the practicum training is overseen by the graduate training program and is an organized, sequential series of supervised experiences of increasing complexity, serving to prepare the student for internship and ultimately licensure;

(ii) the practicum training is governed by a written training plan between the student, the practicum training site, and the graduate training program. The training plan must describe how the trainee's time is allotted and assure the quality, breadth, and depth of the training experience through specification of the goals and objectives of the practicum, the methods of evaluation of the trainee's performance, and reference to jurisdictional regulations governing the supervisory experience. The plan must also include the nature of supervision, the identities of the supervisors, and the form and frequency of feedback from the agency supervisor to the training faculty. A copy of the plan must be provided to the Council upon request;

(iii) the supervising psychologist must be a member of the staff at the site where the practicum experience takes place;

(iv) at least 50% of the practicum hours must be in service-related activities, defined as treatment or intervention, assessment, interviews, report-writing, case presentations, and consultations;

(v) individual face-to-face supervision shall consist of no less than 25% of the time spent in service-related activities;

(vi) at least 25% of the practicum hours must be devoted to face-to-face patient or client contact;

(vii) no more than 25% of the time spent in supervision may be provided by a licensed allied mental health professional or a psychology intern or post-doctoral fellow; and

(viii) the practicum must consist of a minimum of 15 hours of experience per week.

(2) Applicants applying for licensure under the substantial equivalence clause must submit an affidavit or unsworn declaration from the program's training director or other designated leader familiar with the degree program, demonstrating the substantial equivalence of the applicant's degree program to an APA, PCSAS, or CPA accredited program at the time of the conferral of applicant's degree.

(3) An applicant and the affiant or declarant shall appear before the agency in person to answer any questions, produce supporting documentation, or address any concerns raised by the application if requested by a council or board member or the Executive Director. Failure to comply with this paragraph shall constitute grounds for denial of substantial equivalency under this rule.

(c) General Requirements for Supervised Experience. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:

(1) Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.

(2) A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.

(3) The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.

(4) All supervised experience must be received from a psychologist licensed at the time supervision is received.

(5) The supervising psychologist must be trained in the area of supervision provided to the supervisee.

(6) Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.

(7) All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Council rules.

(8) Unless authorized by the Council, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.

(9) The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use that title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a School Psychologist may use that title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and school psychologist. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Council rule.

(d) Formal Internship Requirements. The formal internship hours must be satisfied by one of the following types of formal internships:

(1) The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

(2) The successful completion of an organized internship meeting all of the following criteria:

(A) It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.

(B) The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.

(C) The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.

(D) Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.

(E) The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.

(F) At least 25% of trainee's time must be in direct patient/client contact.

(G) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.

(H) Training must be post-clerkship, post-practicum and post-externship level.

(I) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.

(J) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or

(3) The successful completion of an organized internship program in a school district meeting the following criteria:

(A) The internship experience must be provided at or near the end of the formal training period.

(B) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.

(C) The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.

(D) The internship experience must occur in a setting appropriate to the specific training objectives of the program.

(E) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.

(F) The internship experience must occur under conditions of appropriate supervision. Field-based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.

(G) Field-based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.

(H) Field-based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.

(I) The internship site shall inform interns concerning the period of the internship and the training objectives of the program.

(J) The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.

(K) The internship experience must be conducted in a manner consistent with the current legal-ethical standards of the profession.

(L) The internship agency must have a minimum of two full-time equivalent interns at the internship level during the applicant's training period.

(M) The internship agency must have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.

(e) Industrial/Organizational Requirements. Individuals from an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have taken place after conferral of the doctoral degree and in accordance with subsection (a) of this section. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Council rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.

(f) Licensure Following Respecialization.

(1) In order to qualify for licensure after undergoing respecialization an applicant must demonstrate the following:

(A) conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing respecialization;

(B) completion of a formal post-doctoral respecialization program in psychology which included at least 1,750 hours in a formal internship; and

(C) upon completion of the respecialization program, at least 1,750 hours of supervised experience obtained as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).

(2) An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.

(g) Remedy for Incomplete Supervised Experience.

(1) An applicant who has completed at least 1,500 hours of supervised experience in a formal internship, 1,500 hours of supervised experience following conferral of a doctoral degree, and who does not meet all of the supervised experience qualifications for licensure set out in subsections (a), (c), and (d) of this section or §465.2 of this title, may petition for permission to remediate an area of deficiency. An applicant may not however, petition for the waiver or modification of the requisite doctoral degree or passage of the requisite examinations.

(2) The Council may allow an applicant to remediate a deficiency identified in paragraph (1) of this subsection if the applicant can demonstrate:

(A) the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and

(B) the remediation would not adversely affect the public welfare.

(3) The Council may approve or deny a petition under this subsection, and in the case of approval, may condition the approval on reasonable terms and conditions designed to ensure the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice as a licensed psychologist.

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 February 26, 2026.

TRD-202600964
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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SUBCHAPTER C. LICENSING PROVISIONS RELATED TO MILITARY SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES

22 TAC §463.20

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §463.20, relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses. Section 463.20 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8002) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with changes made to Texas Occupations Code Chapter 55 by the 89th Legislature regarding licensing of military service members, veterans, and spouses.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

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Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules nec-

essary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600965
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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SUBCHAPTER E. EXAMINATIONS

22 TAC §463.30

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §463.30, relating to Examinations Required for Licensure. Section 463.30 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8004) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment supporting the proposed rule change as aligning with statute.

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Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600966

Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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CHAPTER 465. RULES OF PRACTICE

22 TAC §465.1

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §465.1, relating to Definitions. Section 465.1 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8005) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment supporting the proposed rule change as aligning with statute.

Top of Form

Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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-202600967
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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22 TAC §465.2

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §465.2, relating to Supervision. Section 465.2 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8007) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment supporting the proposed rule change as aligning with statute.

Top of Form

Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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22 TAC §465.18

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §465.18, relating to Forensic Services. Section 465.18 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8010) and will not be republished.

Reasoned Justification.

The adopted amendments conform the rule to the statutory changes made to Sections 107.104 and 107.112 of the Family Code by H.B. 2340 from the 89th Legislature, Regular Session (2025).

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

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Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires

state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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22 TAC §465.21

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §465.21, relating to Termination of Services. Section 465.21 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8014) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment supporting the proposed rule change as aligning with statute.

Top of Form

Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600970
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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22 TAC §465.38

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists adopts amendments to §465.38, relating to Psychological Services in Schools. Section 465.38 is adopted without changes as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8015) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist. The amendments also add a requirement that school psychologists follow newly enacted state laws regarding parental consent to mental health treatment in schools.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment supporting the proposed rule change as aligning with statute.

Agency Response.

The agency appreciates the public comments in support of this rule change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600971

Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

SUBCHAPTER B. RULES OF PRACTICE

22 TAC §681.53

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors adopts amendments to §681.53, relating to Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions. Section 681.53 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8017) and will not be republished.

Reasoned Justification.

The adopted amendments are made to conform the rule to the statutory changes made to Sections 107.104 and 107.112 of the Family Code by H.B. 2340 from the 89th Legislature, Regular Session (2025).

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Professional Counselors
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
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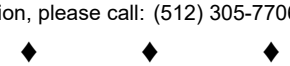

SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §681.114

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors adopts amendments to §681.114, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses. Section 681.114 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8019) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with changes made to Texas Occupations Code Chapter 55 by the 89th Legislature regarding licensing of military service members, veterans, and spouses.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received one comment against the proposed rule changes, stating that licensees should be required to have at least two years of supervised experience.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comment. The adopted amendments are required to align the agency's rules with recent statutory changes. While the rule language allows the agency to credit military service experience toward the required two-year minimum, it does not change the two-year requirement or provide for waiver of that experience.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

TRD-202600956
Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Professional Counselors
Effective date: March 18, 2026
Proposal publication date: December 12, 2025
For further information, please call: (512) 305-7706

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PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

CHAPTER 781. SOCIAL WORKER LICENSURE

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §781.102

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.102, relating to Definitions. Section 781.102 is adopted with changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7836) and will be republished.

Reasoned Justification.

The adopted amendments update language related to supervisors to remove terminology that suggests the Council approves individual supervision relationships and to align with changes proposed in other rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received one comment against the proposed rule changes, raising concerns about the use of the term "supervisor" needing more consistency across all rules.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received three comments in support of the rule changes, which included commentary unrelated to the proposed rule changes.

Agency Response.

The agency appreciates the public comments. The agency believes it has identified all language related to supervisors that needs changing to ensure consistency, but will continue to update rule language as any outdate terminology is found.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§781.102. Definitions.

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

(1) Accredited colleges or universities--An educational institution that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

(2) Act--The Social Work Practice Act, Texas Occupations Code, Chapter 505, concerning the licensure and regulation of social workers.

(3) Agency--A public or private employer, contractor or business entity providing social work services.

(4) Assessment--An ongoing process of gathering information about and reaching an understanding of the client or client group's characteristics, perceived concerns and real problems, strengths and weaknesses, and opportunities and constraints; assessment may involve administering, scoring and interpreting instruments designed to measure factors about the client or client group.

(5) Association of Social Work Boards (ASWB)--The international organization which represents regulatory boards of social work and administers the national examinations utilized in the assessment for licensure.

(6) Board--Texas State Board of Social Worker Examiners.

(7) Case record--Any information related to a client and the services provided to that client, however recorded and stored.

(8) Client--An individual, family, couple, group or organization that receives social work services from a person identified as a social worker who is licensed by the Council.

(9) Clinical social work--A specialty within the practice of master social work that requires applying social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. Clinical social work practice involves using specialized clinical knowledge and advanced clinical skills to assess, diagnose, and treat mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness and serious emotional disturbances in adults, adolescents and children. Treatment methods may include, but are not limited to, providing individual, marital, couple, family, and group psychotherapy. Clinical social workers are qualified and authorized to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) codes, and other diagnostic classification systems in assessment, diagnosis, and other practice activities. The practice of clinical social work is restricted to either a Licensed Clinical Social Worker, or a Licensed Master Social Worker as described in §781.302 of this title.

(10) Confidential information--Individually identifiable information relating to a client, including the client's identity, demographic information, physical or mental health condition, the services the client received, and payment for past, present, or future services the client received or will receive. Confidentiality is limited in cases where the law requires mandated reporting, where third persons have legal rights to the information, and where clients grant permission to share confidential information.

(11) Counseling, clinical--The use of clinical social work to assist individuals, couples, families or groups in learning to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

(12) Counseling, supportive--The methods used to help individuals create and maintain adaptive patterns. Such methods may include, but are not limited to, building community resources and networks, linking clients with services and resources, educating clients and informing the public, helping clients identify and build strengths, leading community groups, and providing reassurance and support.

(13) Council--The Texas Behavioral Health Executive Council.

(14) Consultation--Providing advice, opinions and conferring with other professionals regarding social work practice.

(15) Continuing education--Education or training aimed at maintaining, improving, or enhancing social work practice.

(16) Council on Social Work Education (CSWE)--The national organization that accredits social work education schools and programs.

(17) Direct practice--Providing social work services through personal contact and immediate influence to help clients achieve goals.

(18) Dual or multiple relationship--A relationship that occurs when social workers interact with clients in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively.

(19) Electronic practice--Interactive social work practice that is aided by or achieved through technological methods, such as the web, the Internet, social media, electronic chat groups, interactive TV, list serves, cell phones, telephones, faxes, and other emerging technology.

(20) Examination--A standardized test or examination, approved by the Council, which measures an individual's social work knowledge, skills and abilities.

(21) Equivalent or substantially equivalent--A licensing standard or requirement for an out-of-state license that is equal to or greater than a Texas licensure requirement shall be deemed equivalent or substantially equivalent.

(22) Executive Director--The executive director for the Texas Behavioral Health Executive Council. The executive director may delegate responsibilities to other staff members.

(23) Exploitation--Using a pattern, practice or scheme of conduct that can reasonably be construed as primarily meeting the licensee's needs or benefitting the licensee rather than being in the best interest of the client. Exploitation involves the professional taking advantage of the inherently unequal power differential between client and professional. Exploitation also includes behavior at the expense of another practitioner. Exploitation may involve financial, business, emotional, sexual, verbal, religious and/or relational forms.

(24) Field placement--A formal, supervised, planned, and evaluated experience in a professional setting under the auspices of a CSWE-accredited social work program and meeting CSWE standards.

(25) Fraud--A social worker's misrepresentation or omission about qualifications, services, finances, or related activities or information, or as defined by the Texas Penal Code or by other state or federal law.

(26) Full-time experience--Providing social work services thirty or more hours per week.

(27) Group supervision for licensure or for specialty recognition--Providing supervision to a minimum of two and a maximum of six supervisees in a designated supervision session.

(28) Health care professional--A licensee or any other person licensed, certified, or registered by the State of Texas in a health related profession.

(29) Impaired professional--A licensee whose ability to perform social work services is impaired by the licensee's physical health, mental health, or by medication, drugs or alcohol.

(30) Independent clinical practice--The practice of clinical social work in which the social worker, after having completed all requirements for clinical licensure, assumes responsibility and accountability for the nature and quality of client services, pro bono or in exchange for direct payment or third party reimbursement. Independent clinical social work occurs in independent settings.

(31) Independent non-clinical practice--The unsupervised practice of non-clinical social work outside of an organizational setting, in which the social worker, after having completed all requirements for independent non-clinical practice recognition, assumes responsibility and accountability for the nature and quality of client services, pro bono or in exchange for direct payment or third party reimbursement.

(32) Independent Practice Recognition--A specialty recognition related to unsupervised non-clinical social work at the LBSW or LMSW category of licensure, which denotes that the licensee has earned the specialty recognition, commonly called IPR, by successfully

completing additional supervision which enhances skills in providing independent non-clinical social work.

(33) Individual supervision for licensure or specialty recognition--Supervision for professional development provided to one supervisee during the designated supervision session.

(34) LBSW--Licensed Baccalaureate Social Worker.

(35) LCSW--Licensed Clinical Social Worker.

(36) License--A regular or temporary Council-issued license, including LBSW, LMSW, and LCSW. Some licenses may carry an additional specialty recognition, such as LMSW-AP, LBSW-IPR, or LMSW-IPR.

(37) Licensee--A person licensed by the Council to practice social work.

(38) LMSW--Licensed Master Social Worker.

(39) LMSW-AP--Licensed Master Social Worker with the Advanced Practitioner specialty recognition for non-clinical practice. This specialty recognition will no longer be conferred after September 1, 2017. Licensees under a supervision plan for this specialty recognition before September 1, 2017 will be permitted to complete supervision and examination for this specialty recognition.

(40) Non-clinical social work--Professional social work which incorporates non-clinical work with individuals, families, groups, communities, and social systems which may involve locating resources, negotiating and advocating on behalf of clients or client groups, administering programs and agencies, community organizing, teaching, researching, providing employment or professional development non-clinical supervision, developing and analyzing policy, fund-raising, and other non-clinical activities.

(41) Person--An individual, corporation, partnership, or other legal entity.

(42) Psychotherapy--Treatment in which a qualified social worker uses a specialized, formal interaction with an individual, couple, family, or group by establishing and maintaining a therapeutic relationship to understand and intervene in intrapersonal, interpersonal and psychosocial dynamics; and to diagnose and treat mental, emotional, and behavioral disorders and addictions.

(43) Recognition--Authorization from the Council to engage in the independent or specialty practice of social work services.

(44) Rules--Provisions of this chapter specifying how the Council implements the Act-as well as Title 22, Chapters 881-885 of the Texas Administrative Code.

(45) Social work case management--Using a bio-psychosocial perspective to assess, evaluate, implement, monitor and advocate for services on behalf of and in collaboration with the identified client or client group.

(46) Social worker--A person licensed under the Act.

(47) Social work practice--Services which an employee, independent practitioner, consultant, or volunteer provides for compensation or pro bono to effect changes in human behavior, a person's emotional responses, interpersonal relationships, and the social conditions of individuals, families, groups, organizations, and communities. Social work practice is guided by specialized knowledge, acquired through formal social work education. Social workers specialize in understanding how humans develop and behave within social environments, and in using methods to enhance the functioning of individuals, families, groups, communities, and organizations. Social work practice involves the disciplined application of social work values, principles, and methods including, but not limited to, psychotherapy; marriage, family, and couples intervention; group therapy and group work; mediation; case management; supervision and administration of social work services and programs; counseling; assessment, diagnosis, treatment; policy analysis and development; research; advocacy for vulnerable groups; social work education; and evaluation.

(48) Supervisor--A person who holds a social work license with the Council and has received recognition of supervisor status to provide supervision in Texas. A Council-licensed supervisor will denote having this specialty recognition by placing a "-S" after their credential initials, e.g., LBSW-S, LMSW-S or LCSW-S.

(49) Supervision--Supervision includes:

(A) administrative or work-related supervision of an employee, contractor or volunteer that is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(B) clinical supervision of a Licensed Master Social Worker in a setting in which the LMSW is providing clinical services; the supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, Licensed Clinical Social Worker or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(C) clinical supervision of a Licensed Master Social Worker, who is providing clinical services and is under a supervision plan to fulfill LCSW supervised experience requirements; a Licensed Clinical Social Worker with supervisor status delivers this supervision;

(D) non-clinical supervision of a Licensed Master Social Worker or Licensed Baccalaureate Social Worker who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition; this supervision is delivered by a licensee with an appropriate category of licensure, authorization to practice independently, and supervisor status; and

(E) Council-ordered supervision of a licensee by a Council-approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(50) Supervision hour--A supervision hour is a minimum of 60 minutes in length.

(51) Termination--Ending social work services with a client.

(52) Waiver--The suspension of educational, professional, and/or examination requirements for applicants who meet the criteria for licensure under special conditions based on appeal to the Council.

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 February 26, 2026.

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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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Proposal publication date: December 5, 2025
For further information, please call: (512) 305-7706

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SUBCHAPTER B. RULES OF PRACTICE

22 TAC §781.302

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.302, relating to The Practice of Social Work. Section 781.302 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7840) and will not be republished.

Reasoned Justification.

The adopted amendments update rule references to clinical and non-clinical supervision plans, to align with other proposed rule changes.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment in support of the rule changes.

Agency Response.

The agency appreciates the public comment in support of the proposal.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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) 305-7706

22 TAC §781.303

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.303, relating to General Standards of Practice. Section 781.303 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7841) and will not be republished.

Reasoned Justification.

The adopted amendments require a licensee who provides services to a client who concurrently receives services from another provider to seek consent from the client to contact the other provider and to strive to establish a collaborative relationship with that provider. The amendment also clarifies a licensee must report any knowledge of unlicensed practice.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received one comment against the rule, objecting that requiring social workers to gain consent to share mental health information with fellow providers could conflict with parental consent laws, particularly in schools.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment in support of the rule changes, as well as two comments that were neutral requesting further clarification of the requirement to coordinate services.

Agency Response.

The agency appreciates the public comments related to this rule change. The amendments to the rule do not conflict with informed consent or parental consent, and do not require a licensee to coordinate care with other providers against the consent of the client. The rule would require licensees who learn of

a client receiving concurrent services from another mental health professional to seek client consent to share information and coordinate, but would not require further action if that consent was denied.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

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22 TAC §781.322

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.322, relating to Child Custody Evaluations. Section 781.322 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7843) and will not be republished.

Reasoned Justification.

The adopted amendments conform the rule to the statutory changes made to Sections 107.104 and 107.112 of the Family Code by H.B. 2340 from the 89th Legislature, Regular Session (2025).

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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) 305-7706

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SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §781.401

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.401, relating to Qualifications for Licensure. Section 781.401 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7845) and will not be republished.

Reasoned Justification.

The adopted amendments align the rule with statutory language and use more plain language to describe licensure requirements, including to replace the phrase "Council-approved supervisor" with the more accurate term "qualified supervisor." The amendments also remove language related to the independent practice recognition specialty, which is proposed to be included in a new rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received one comment against the rule change that pointed out inconsistencies in the degree requirements between the LMSW and LCSW licenses. The agency also received one neutral comment concerned about eliminating non-clinical independent licensure.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comments. The inconsistencies pointed out in the rule match different degree requirements set out in statute for LMSW and LCSW licenses. Further, the language related to non-clinical independent licensure are not eliminated, but are consolidated into a single rule by the combined rule changes.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

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22 TAC §781.402

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers repeals rule §781.402, relating to Clinical Supervision for LCSW and Non-

Clinical Supervision for Independent Practice Recognition. Section 781.402 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7846) and will not be republished.

Reasoned Justification.

The adopted repeal removes the current rule in conjunction with proposed new rules that restructure and consolidate existing rule language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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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Darrel D. Spinks
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Texas State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

22 TAC §781.402

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts new rule §781.402, relating to Types of Supervision. Section 781.402 is adopted with changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7848) and will be republished.

Reasoned Justification.

The adopted new rule will consolidate existing rule language regarding the types of supervision provided by social work licensees. The new language makes non-substantive edits to use more plain, direct language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received one neutral comment requesting supervisor terminology be made consistent across agency rules.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comments. The adopted rule changes general update all uses of supervisor terminology, but staff will continue to review rules to ensure terminology is used consistently.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§781.402. Types of Supervision.

(a) Types of supervision.

(1) Administrative or work-related oversight of an employee, contractor or volunteer that is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure. This supervision does not require recognition by the Council.

(2) Clinical supervision of an LMSW in a setting in which the LMSW is providing clinical services. This supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, LCSW, or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure.

(3) Clinical supervision of an LMSW, who is providing clinical services and is under a supervision plan to fulfill supervision requirements for achieving the LCSW. This supervision must be provided by an LCSW who holds supervisor status.

(4) Non-clinical supervision of an LMSW or LBSW who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition.

(5) Council-ordered supervision of a licensee by an approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(b) A licensee with supervisor status may perform the following supervisory functions.

(1) An LCSW may supervise clinical experience toward the LCSW license, non-clinical experience toward the Independent Practice Recognition (non-clinical), and Council-ordered supervision.

(2) An LMSW with the Independent Practice Recognition (non-clinical) or Advanced Practitioner (AP) recognition may supervise an LBSW's or LMSW's non-clinical experience toward the non-clinical Independent Practice Recognition, and an LBSW or LMSW (non-clinical) under Council-ordered supervision.

(3) An LBSW with the non-clinical Independent Practice Recognition may supervise an LBSW's non-clinical experience toward the non-clinical Independent Practice Recognition, and an LBSW under Council-ordered supervision.

(c) A supervisor shall supervise only those supervisees who provide services that fall within the supervisor's own competency.

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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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

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22 TAC §781.403

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers repeals rule §781.403, relating to Independent Practice Recognition (Non-Clinical). Section 781.403 is repealed without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7849) and will not be republished.

Reasoned Justification.

The adopted repeal removes the current rule in conjunction with proposed new rules that restructure and consolidate existing rule language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The repeal is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules nec-

essary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this repeal to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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) 305-7706

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22 TAC §781.403

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts new rule §781.403, relating to Supervision Process. Section 781.403 is adopted with changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7850) and will be republished.

Reasoned Justification.

The adopted new rule consolidates existing rule language regarding the supervision process and requirements supervisors must perform. The new language clarifies the type of records a supervisor must keep, including a detailed log of supervision sessions and a plan for the custody of records in the event a supervisor ceases practice. The new language requires a supervisee to notify supervisors of any pending complaints against the supervisee, and to share a copy of any remediation plan with all current and future supervisors. The new language also makes non-substantive edits to use more plain, direct language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received one neutral comment requesting supervisor terminology be made consistent across agency rules.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comments. The adopted rule changes general update all uses of supervisor terminology, but staff will continue to review rules to ensure terminology is used consistently.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§781.403. Supervision Process.

(a) A supervisor providing any form of supervision, other than administrative or work-related supervision described in §781.402(a)(1) of this title, must comply with the following:

(1) The supervisor is obligated to keep legible, accurate, complete, signed supervision notes and must be able to produce such documentation for the Council if requested. The notes shall document the content, duration, and date of each supervision session.

(2) A social worker may only provide supervision to a supervisee employed in another setting with written approval of the employer. A copy of the approval must be kept in the supervisor's files.

(3) A supervisor who is otherwise compensated for supervisory duties may not charge or collect a fee or anything of value from the supervisee for the supervision services provided to the supervisee.

(4) The supervisor shall ensure that the supervisee knows and adheres to the laws and rules governing the practice of social work.

(5) A supervisor shall not be employed by or under the employment supervision of the person who he or she is supervising.

(6) A supervisor shall not be a family member of the person being supervised.

(7) The supervisor and supervisee shall avoid forming any relationship with each other that impairs the objective, professional judgment and prudent, ethical behavior of either.

(b) All supervision toward licensure or specialty recognition must meet the following conditions.

(1) The supervisor shall keep a supervision file on each supervisee that includes:

(A) a supervision plan;

(B) a clearly defined job description and list of responsibilities for each of the supervisee's positions held during the supervised experience, including a discussion of any position or duties not subject to supervision;

(C) a list of locations where the supervisee provides supervised services;

(D) a log of experience and supervision earned by the supervisee that reflects the date and duration of each supervision meeting, the accumulated hours of non-clinical experience, and the accumulated hours of clinical supervised experience, if any;

(E) an established plan for the custody and control of the records of supervision for the supervisee in the event of the supervisor's death or incapacity or termination of the supervisor's practice,

(F) copy of written approval from the supervisee's employing agency agreeing to outside supervision, and

(G) a copy of any written plan for remediation of the supervisee described in 781.403(d) of this section.

(2) A supervisor is responsible for developing a well-conceptualized supervision plan with the supervisee, and for updating that plan whenever there is a change in agency of employment, job function, goals for supervision, or method by which supervision is provided.

(3) Before entering into a supervisory plan, the supervisor shall be aware of actual or intended service terms and conditions between a supervisee and their clients. The supervisor shall not provide supervision if the supervisee is practicing outside the authorized scope of the license. If the supervisor believes that a social worker is practicing outside the scope of the license, the supervisor shall make a report to the Council.

(4) Supervision toward licensure or specialty recognition may occur in one-on-one sessions, in group sessions, or in a combination of one-on-one and group sessions. Sessions may transpire in the same geographic location, or via audio, web technology or other electronic supervision techniques that comply with HIPAA and Texas Health and Safety Code, Chapter 611, and/or other applicable state or federal statutes or rules.

(5) Supervision groups shall have no fewer than two supervisees and no more than six.

(6) The Council considers supervision toward licensure or specialty recognition to be supervision which promotes professional growth. Therefore, all supervision formats must encourage clear, accurate communication between the supervisor and the supervisee, including case-based communication that meets standards for confidentiality. Though the Council favors supervision formats in which the supervisor and supervisee are in the same geographical place for a substantial part of the supervised experience, the Council also recognizes that some current and future technology, such as using reliable, technologically-secure computer cameras and microphones, can allow personal face-to-face, though remote, interaction, and can support professional growth. Supervision formats must be clearly described in the supervision plan, explaining how the supervision strategies and methods of delivery meet the supervisee's professional growth needs and ensure that confidentiality is protected.

(7) Supervision toward licensure or specialty recognition must extend over a full 3000 hours over a period of not less than 24 full months for Licensed Clinical Social Worker (LCSW) or Independent Practice Recognition (IPR). Even if the individual completes the minimum of 3000 hours of supervised experience and minimum of 100 hours of supervision prior to 24 months from the start date of supervision, supervision which meets the Council's minimum requirements shall extend to a minimum of 24 full months.

(8) Supervision shall occur in proportion to the number of actual hours worked for the 3,000 hours of supervised experience. No more than 10 hours of supervision may be counted in any one month, or 30-day period, as appropriate, towards satisfying minimum requirements for licensure or specialty recognition.

(c) A supervisor who agrees to provide Council-ordered supervision of a licensee must understand the Council order and follow the supervision stipulations outlined in the order. The supervisor must address with the licensee those professional behaviors that led to Council discipline, and must help to remediate those concerns while assisting the licensee to develop strategies to avoid repeating illegal, substandard, or unethical behaviors.

(d) If the supervisor determines that the supervisee lacks the professional skills and competence to practice social work under an independent license, the supervisor shall develop and implement a written remediation plan for the supervisee. If a supervisee receives a remediation plan, the supervisee must provide a copy of the remediation plan to any other current or future supervisors, as well as any relevant documentation regarding successful completion of the plan.

(e) The supervisor and the supervisee bear professional responsibility for the supervisee's professional activities. Supervisees notified of a pending complaint against them must inform each of their supervisors of the complaint.

(f) A supervisee who provides client services for payment or reimbursement shall submit billing to the client or third-party payers which clearly indicates:

(1) the services provided;

(2) who provided the services;

(3) the supervisee's licensure category; and

(4) the fact that the licensee is under supervision.

(g) If either the supervisor's or supervisee's license is revoked, suspended, placed on probated suspension, or becomes delinquent or expired during supervision, supervision hours accumulated during that time will not be accepted unless approved by the Council.

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 February 26, 2026.

TRD-202600983
Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
Effective date: March 18, 2026
Proposal publication date: December 5, 2025
For further information, please call: (512) 305-7706

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22 TAC §781.404

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.404, relating to Recognition as a Supervisor. Section 781.404 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7852) and will not be republished.

Reasoned Justification.

The adopted amendments consolidate existing rule language regarding the requirements to hold supervisor status. The amendments clarify that a supervisor must hold a social work license issued by the Council, and adds requirements for actions a licensee must take if supervisor status is revoked or expires. Language related to types of supervision and the supervision process is proposed to move to other consolidated rules.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

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22 TAC §781.405

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers repeals rule §781.405, relating to Application for Licensure. Section 781.405 is repealed without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7856) and will not be republished.

Reasoned Justification.

The adopted repeal removes the current rule in conjunction with proposed new rules that restructure and consolidate existing rule language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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-202600985

Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

22 TAC §781.405

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts new rule §781.405, relating to Clinical Supervision for Licensed Clinical Social Worker. Section 781.405 is adopted with changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7857) and will be republished.

Reasoned Justification.

The adopted new rule consolidates existing rule language related to applying for a clinical social worker license, including what information must be submitted to the Council with the application. The new language also clarifies how an LMSW may continue to perform clinical social work services after completing LCSW experience requirements. The new language also makes non-substantive edits to use more plain, direct language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received two comments in support of the rule changes, along with suggested typographical changes.

Agency Response.

The agency appreciates the public comments and suggestions.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education require-

ments for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§781.405. Clinical Supervision for Licensed Clinical Social Worker.

(a) To accrue supervised clinical experience required for the issuance of a Licensed Clinical Social Worker (LCSW), a Licensed Master Social Worker (LMSW) and their LCSW supervisor shall complete a supervision plan, on a form prescribed by the Council or a form with substantially equivalent information, signed by both the LMSW and the LCSW supervisor.

(b) The LMSW shall submit an application to reclassify the LMSW licensure to an LCSW license upon fulfillment of the supervision requirements and passage of the ASWB Clinical exam.

(1) The applicant must provide the appropriate supervision plans and verification forms. The documentation must include the names and contact information of all supervisors; beginning and ending dates of supervision; job description; and average number of hours of social work activity per week.

(2) The applicant's experience must have been in a position providing social work services, under the supervision of a qualified supervisor, with written evaluations to demonstrate satisfactory performance.

(3) The applicant must maintain and, upon request, provide to the Council documentation of employment status, pay vouchers, or supervisory evaluations.

(c) Upon request of the LMSW, the LCSW supervisor shall submit a completed and signed supervision verification form prescribed by the Council, within 30 days.

(d) An LMSW who has completed clinical supervision for an LCSW license may, but is not required to, continue to provide clinical social work services under the supervision plan with their LCSW supervisor. An LCSW supervisor may, but is not required to, continue to provide clinical supervision to an LMSW who has completed their clinical supervised experience hours. An LMSW who has completed clinical supervision may not provide clinical social work services outside of appropriately supervised practice until issuance of an LCSW license.

(e) A person who has obtained a temporary license may not begin the supervision process toward independent clinical practice until the regular license is issued.

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 February 26, 2026.

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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
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Proposal publication date: December 5, 2025
For further information, please call: (512) 305-7706

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22 TAC §781.406

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers repeals rule §781.406, relating to Required Documentation of Qualifications for Licensure. Section 781.406 is repealed without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7859) and will not be republished.

Reasoned Justification.

The adopted repeal removes the current rule in conjunction with proposed new rules that restructure and consolidate existing rule language.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 State Board of Social Worker Examiners
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For further information, please call: (512) 305-7706

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22 TAC §781.406

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts new rule §781.406, relating to Independent Practice Recognition. Section 781.406 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7860) and will not be republished.

Reasoned Justification.

The adopted new rule consolidates existing rule language related to the independent practice recognition (IPR) specialty, including requirements to qualify for the specialty designation and qualification to supervise the experience required to earn the specialty. The new language clarifies that an LBSW or LMSW under supervision toward the IPR designation may own and operate a non-clinical practice under that supervision. The new language also makes non-substantive edits to use more plain, direct language.

List of interested groups or associations against the rule.

The agency received one comment against the rule change, suggesting that two years of supervision seemed excessive for LMSW license candidates already recognized for independent practice as an LBSW.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comment and suggestion. However, the requirement for receiving new supervision upon applying for an LMSW is necessary because the training received for independent practice as an LBSW will not include the full scope of services and responsibilities of an LMSW.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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) 305-7706

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22 TAC §781.407

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts new rule §781.407, relating to Prohibited Independent Practice. Section 781.407 is adopted with changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7862) and will be republished.

Reasoned Justification.

The adopted new rule consolidates existing rule language related to prohibitions on independent social work practice, including that an LMSW working towards an LCSW may not own or operate a private practice to provide clinical social work services. The new language expands the guidelines the Council will rely on and makes clarifying edits to better guide a determining whether independent practice is occurring.

List of interested groups or associations against the rule.

The agency received two comments neutral on the rule changes, but that noted the use of the term "independent contractor" might suggest approval by the Council of using that terminology even when an individual is being closely supervised.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comments and suggestions. The agency has eliminated the use of the term "independent contractor" in the rule to avoid confusion.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§781.407. Prohibited Independent Practice.

(a) A Licensed Master Social Worker who plans to apply for a Licensed Clinical Social Worker license may not own or operate a private practice to provide clinical social work to clients.

(b) A licensee who is not recognized for independent practice and who is not under a non-clinical supervision plan must not engage in any independent practice that falls within the definition of social work practice in §781.102 of this title unless the person is licensed in another profession and acting solely within the scope of that license.

(c) A social worker provides services under the direction of an employing agency, and is not practicing independently, when the employer has the right to control the means and details by which services are performed, regardless of whether the social worker is a full-time or part-time employee or is contracted for services. The Council will use guidelines developed by the Internal Revenue Service (IRS) and the Texas Workforce Commission, to demonstrate whether a professional is performing independent practice. Such guidelines include:

(1) Behavioral control. An employer can control the social worker's behavior by giving instructions about how work gets done rather than simply receiving the end products of the work. The more detailed the instructions, the more control an employer exercises.

(2) Financial control. The employer determines the amount and regularity of payment to employees. An independent practitioner typically negotiates a timeframe for completing work and receiving payment. Independent practitioners have more freedom to make business decisions that affect the profitability of their work, such as investing in equipment or renting an office. Employees typically do not invest their own finances into an employing agency. Employees are usually reimbursed for job-related expenses, whereas independent practitioners often must negotiate reimbursement as part of the total agreed compensation.

(3) Relationship of the parties. The nature of the relationship between the employer and the social worker is usually outlined in a written contract with clear intent whether the employing agency has control over the social worker and whether the employer is assuming responsibility for the social worker as an employee. Signs that a social worker is an employee include: if the employment relationship is permanent or ongoing, if an employer gives the social worker employee benefits, and if the social worker is retained to perform key aspects of the employer's day-to-day business.

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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Darrel D. Spinks
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22 TAC §781.419

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.419, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses. Section 781.419 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7863) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with changes made to Texas Occupations Code Chapter 55 by the 89th Legislature regarding licensing of military service members, veterans, and spouses.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 February 26, 2026.

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Darrel D. Spinks
Executive Director
Texas State Board of Social Worker Examiners
Effective date: March 18, 2026
Proposal publication date: December 5, 2025
For further information, please call: (512) 305-7706

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SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §781.805

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Social Workers adopts amendments to §781.805, relating to Schedule of Sanctions. Section 781.805 is adopted without changes to the proposed text as published in the December 5, 2025, issue of the *Texas Register* (50 TexReg 7864) and will not be republished.

Reasoned Justification.

The adopted amendments adjusts the schedule of sanctions to align with other rule consolidation proposals.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed the rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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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Darrel D. Spinks
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PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §801.2

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.2, relating to Definitions. Section 801.2 is adopted with changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8021) and will be republished.

Reasoned Justification.

The adopted amendment would remove the term "regionally" to expand the category of acceptable accrediting agencies to include regional, national, and institutional accrediting bodies, as long as they are recognized by CHEA, THECB, or the U.S. Department of Education. The adopted amendments would also add the recently created "temporary" license to the definition of license.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been

proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§801.2. Definitions.

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

(1) Accredited institutions or programs--An institution of higher education accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

(2) Act--Texas Occupations Code, Chapter 502, the Licensed Marriage and Family Therapist Act.

(3) Board--The Texas State Board of Examiners of Marriage and Family Therapists.

(4) Client--An individual, family, couple, group, or organization who receives or has received services from a person identified as a marriage and family therapist who is either licensed by the council or unlicensed.

(5) Council--The Texas Behavioral Health Executive Council.

(6) Council Act--Texas Occupations Code, Chapter 507, concerning the Texas Behavioral Health Executive Council.

(7) Council rules--22 Texas Administrative Code, Chapters 801 and 881 to 885.

(8) Direct clinical services to couples or family--Professional services provided to couples or families in which a clinician delivers therapeutic services with two or more individuals simultaneously or two or more individuals from the same family system within the same therapeutic session. Individuals must share an ongoing relationship beyond that which occurs in the therapeutic experience itself. Examples of ongoing relationships include family systems, couple systems, enduring friendship/community support systems, and residential, treatment or situationally connected systems.

(9) Endorsement--The process whereby the council reviews licensing requirements that a license applicant completed while under the jurisdiction of an out-of-state marriage and family therapy regulatory board. The council may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(10) Executive director--The executive director for the Texas Behavioral Health Executive Council.

(11) Family system--An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, and life stage), the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.

(12) Group supervision--Supervision that involves a minimum of three and no more than six marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

(13) Independent Practice--The practice of providing marriage and family therapy services to a client without the supervision of an LMFT-S.

(14) Individual supervision--Supervision of no more than two marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

(15) Jurisprudence exam--An online learning experience based on the Act, the Council Act, and council rules, and other state laws and rules relating to the practice of marriage and family therapy.

(16) License--A marriage and family therapist license, a marriage and family therapist associate license, a provisional or temporary marriage and family therapist license, or a provisional marriage and family therapist associate license.

(17) Licensed marriage and family therapist (LMFT)--As defined in §502.002 of the Occupations Code, a person who offers marriage and family therapy for compensation.

(18) Licensed marriage and family therapist associate (LMFT Associate)--As defined in §502.002 of the Occupations Code, an individual who offers to provide marriage and family therapy for compensation under the supervision of a supervisor approved by the executive council. The appropriate council-approved terms to refer to an LMFT Associate are: "Licensed Marriage and Family Therapist Associate" or "LMFT Associate." Other terminology or abbreviations like "LMFT A" are not council-approved and may not be used.

(19) Licensee--Any person licensed by the council.

(20) Licensure examination--The national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.

(21) Marriage and family therapy--The rendering of professional therapeutic services to clients, singly or in groups, and involves the professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.

(22) Month--A calendar month.

(23) Person--An individual, corporation, partnership, or other legal entity.

(24) Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:

(A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));

(B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and

(C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.

(25) Supervision--

(A) Supervision for licensure--The guidance or management in the provision of clinical services by a marriage and family therapy supervisee or LMFT Associate, which must be conducted for at least one supervision hour each week, except for good cause shown.

(B) Supervision, Council-ordered--For the oversight and rehabilitation in the provision of clinical services by a licensee under a Council Order, defined by the Order and the Council-Ordered Supervision Plan, and must be conducted as specified in the Council Order and Supervision Plan (generally in face-to-face, one-on-one sessions).

(26) Supervision hour--50 minutes.

(27) Supervisor--An LMFT with supervisor status meeting the requirements set out in §801.143 of this title. The appropriate council-approved terminology to use in reference to a Supervisor is: "Supervisor," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S" or "LMFT Supervisor." Other terminology or abbreviations may not be used.

(28) Technology-assisted services--Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.

(29) Therapist--A person who holds a license issued by the council.

(30) Waiver--The suspension of educational, professional, or examination requirements for an applicant who meets licensing requirements under special conditions.

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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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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SUBCHAPTER B. RULES OF PRACTICE

22 TAC §801.57

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.57, relating to Child Custody Evaluations. Section 801.57 is adopted with changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8023) and will be republished.

Reasoned Justification.

The adopted amendment conform the rule to the statutory changes made to Sections 107.104 and 107.112 of the Family Code by H.B. 2340 from the 89th Legislature, Regular Session (2025).

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§801.57. Child Custody Evaluations.

(a) Licensees must comply with all applicable statutes and rules, including but not limited to Texas Family Code, Chapter 107,

Subchapters D, E, and F (relating to Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions).

(b) When a licensee who has conducted a court-ordered child custody evaluation or adoption evaluation receives any complaint relating to the outcome of the evaluation, the licensee must report the complaint to the court that ordered the evaluation. See Council rule §884.3 of this title.

(c) Disclosure of confidential information in violation of Texas Family Code §§107.111 (relating to Child Custody Evaluator Access to Investigative Records of Department of Family and Protective Services; Offense), 107.1111 (relating to Child Custody Evaluator Access to Other Records), or 107.163 (relating to Adoption Evaluator Access to Investigative Records of Department of Family and Protective Services; Offense), or failure to redact any social security numbers or child's birth date from records subject to disclosure under 107.112 (relating to Communications and Recordkeeping of Child Custody Evaluator) before making the records available, is grounds for disciplinary action, up to and including license revocation.

(d) A licensee may not provide any other type of service, neither sequentially nor simultaneously in the same case that he or she provides a child custody evaluation, unless required by court order.

(e) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child in accordance with Texas Family Code, Chapter 107, Subchapter D.

(f) Before beginning child custody evaluations or adoption evaluations, a licensee must inform the parties in writing of:

(1) the limitations on confidentiality in the evaluation process; and

(2) the basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation, and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(g) An LMFT Associate may not conduct child custody evaluations or adoption evaluations unless qualified by another professional license to provide such services or otherwise allowed by law.

(h) An LMFT who has completed a doctoral degree and at least 10 court-ordered child custody evaluations under the supervision of an individual qualified by the Texas Family Code, Chapter 107 to perform child custody evaluations is qualified to conduct child custody evaluations under Texas Family Code, Chapter 107. All other LMFTs must comply with the qualification requirements stipulated in Texas Family Code, Chapter 107.

(1) In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.

(2) In addition to the qualifications prescribed by this rule, to be qualified to conduct a child custody evaluation, an individual must complete, during the two-year period preceding the evaluation, at least three hours of initial or continuing training, as applicable, related to the care of a child with an intellectual disability or developmental disability, including education, therapy, preparation for independent living, or methods for addressing physical or mental health challenges.

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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Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.112

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.112, relating to General Academic Requirements. Section 801.112 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8025) and will not be republished.

Reasoned Justification.

The adopted amendments remove the term "regionally" to expand the category of acceptable accrediting agencies to include regional, national, and institutional accrediting bodies, as long as they are recognized by CHEA, THECB, or the U.S. Department of Education. The adopted amendments also align the requirement that all courses must receive a passing grade and be credited on an applicant's transcript, removing the requirement that some courses receive a "B" letter grade.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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22 TAC §801.113

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.113, relating to Academic Requirements. Section 801.113 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8026) and will not be republished.

Reasoned Justification.

The adopted amendments remove the term "regionally" to expand the category of acceptable accrediting agencies to include regional, national, and institutional accrediting bodies, as long as they are recognized by CHEA, THECB, or the U.S. Department of Education.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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 State Board of Examiners of Marriage and Family Therapists
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For further information, please call: (512) 305-7706

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22 TAC §801.204

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists adopts amendments to §801.204, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses. Section 801.204 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8028) and will not be republished.

Reasoned Justification.

The adopted amendments align the Council's rules with changes made to Texas Occupations Code Chapter 55 by the 89th Legislature regarding licensing of military service members, veterans, and spouses.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

Lastly, the Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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) 305-7706

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PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 881. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §881.2

The Texas Behavioral Health Executive Council adopts amendments to §881.2, relating to Definitions. Section 881.2 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8029) and will not be republished.

Reasoned Justification.

The adopted amendment aligns the Council's rules with House Bill 2598, passed by the 89th Legislature, to rename a Licensed Specialist in School Psychology to a School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received three comments against the proposed amendment, arguing that the use of the term "psychologist" should be limited to individuals holding a doctoral degree in psychology.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received six comments in favor of the amendment, with commentors noting the change will help remove confusion by using a title the general public will more accurately understand.

Agency Response.

The agency appreciates the public comments. Because the Legislature changed the statutory name of the school psychology license in House Bill 2598, adoption of the proposed amendments is necessary to comply with statute.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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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Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
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For further information, please call: (512) 305-7706

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CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER B. LICENSE

22 TAC §882.42

The Texas Behavioral Health Executive Council adopts amendments to §882.42, relating to Ineligibility Due to Criminal History. Section 882.42 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8031) and will not be republished.

Reasoned Justification.

The adopted amendment conforms the rule to the statutory changes made to Section 53.021 of the Occupations Code by S.B. 1080 from the 89th Legislature, Regular Session (2025).

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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. LICENSING PROVISIONS RELATED TO MILITARY SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES

22 TAC §882.60

The Texas Behavioral Health Executive Council adopts amendments to §882.60, relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses. Section 882.60 is adopted with changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8032) and will be republished.

Reasoned Justification.

The adopted amendments align the Council's rule with changes made to Texas Occupations Code Chapter 55 by the 89th Legis-

lature regarding licensing of military service members, veterans, and spouses.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment in support of the amendments, highlighting the importance of career portability for military service members.

Agency Response.

The agency appreciates the public comment in support of the proposed change.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§882.60. Special Provisions Applying to Military Service Members, Veterans, and Spouses.

(a) The Council adopts by reference the definitions set forth in Chapter 55 of the Occupations Code.

(b) A license may be issued to a military service member, military veteran, or military spouse upon proof of one of the following:

(1) the applicant holds a current license in good standing in another jurisdiction that has a similar scope of practice as the license sought in this state as defined by the Texas Occupations Code; or

(2) within the five years preceding the application date, the applicant held the license sought in this state.

(c) An applicant applying as a military spouse must submit proof of marriage to a military service member.

(d) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license, other than the requirements in subsection (b) of this section, the jurisprudence examination, and the fingerprint criminal history background check, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the relevant member board or its designated application or licensing committee and consider the board's or committee's input and recommendations. In the event the Executive Director does not follow a recommendation of the board or committee, the Executive Director must submit a written explanation to the board or committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has a disqualifying criminal history.

(e) Each member board may develop and maintain alternate methods for a military service member, military veteran, or military spouse to demonstrate competency in meeting the requirements for obtaining a license, including receiving appropriate credit for training, education, and professional experience.

(f) Each member board shall develop and maintain a method for applying credit toward license eligibility requirements for applicants who are military service members or military veterans with verifiable military service, training, or education. An applicant may not receive credit toward licensing requirements under this subsection if the applicant holds another license that has been restricted, or the applicant has a disqualifying criminal history.

(g) The initial renewal date for a license issued pursuant to this rule shall be set in accordance with the agency's rule governing initial renewal dates.

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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Darrel D. Spinks
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For further information, please call: (512) 305-7706

22 TAC §882.61

The Texas Behavioral Health Executive Council adopts amendments to §882.61, relating to Special Licensing Provisions for Service Members and Military Spouses. Section 882.61 is adopted with changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8034) and will be republished.

Reasoned Justification.

The adopted amendments align the Council's rule with changes made to Texas Occupations Code Chapter 55 by the 89th Legislature regarding licensing of military service members, veterans, and spouses.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

N/A

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§882.61. Special Licensing Provisions for Service Members and Military Spouses.

(a) Notwithstanding §882.23 of this chapter and in accordance with §55.0041 of the Occupations Code and the Veterans Auto and Education Improvement Act of 2022 (Public Law No. 117-333), a service member or military spouse is authorized to practice marriage and family therapy, professional counseling, psychology, or social work without a license if the person meets each of the following requirements:

(1) the service member or military spouse notifies the Council on an agency approved form or as directed by agency staff, of the service member's or military spouse's intent to practice a particular profession in this state;

(2) the service member or military spouse provides verification of licensure in good standing in another jurisdiction in the similar scope of practice and in the discipline applied for in this state;

(3) the service member or military spouse submits proof of location in this state (e.g. copy of a permanent change of station order); and

(4) the Council provides confirmation to the service member or military spouse that it has verified the service member's or military spouse's license in the other jurisdiction and that the service member or military spouse is authorized to practice a particular profession.

(b) The Council may rely upon the following when verifying licensure under this subsection: official verification received directly from the other jurisdiction, a government website reflecting active licensure and good standing, or verbal or email verification directly from the other jurisdiction.

(c) A service member or military spouse authorized to practice under this rule is subject to all laws and regulations in the same manner as a regularly licensed provider.

(d) A service member or military spouse may practice under this rule while the service member or military spouse is stationed at a military installation in this state.

(e) In order to obtain and maintain the privilege to practice without a license in this state, a service member or military spouse must remain in good standing with every licensing authority that has issued a license to the service member or military spouse at a similar scope of practice and in the discipline applied for in this state.

(f) This does not apply to service members or military spouses that are licensed and able to operate in this state through an interstate licensure compact. Service members or military spouses eligible to participate in an interstate licensure compact may either apply to practice through the authority of the interstate licensure compact or through other applicable state law.

(g) Notwithstanding subsection (d) of this section, in the event of a divorce or similar event (e.g., annulment, death of spouse) affecting a military spouse's marital status, a military spouse who relied upon this section to obtain authorization to practice may continue to practice under the authority of this rule until the third anniversary of the date the spouse submitted the application for authorization.

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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Darrel D. Spinks
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Texas Behavioral Health Executive Council
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CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER B. INVESTIGATIONS AND DISPOSITION OF COMPLAINTS

22 TAC §884.11

The Texas Behavioral Health Executive Council adopts amendments to §884.11, relating to Informal Conferences. Section 884.11 is adopted without changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8035) and will not be republished.

Reasoned Justification.

The adopted amendments will streamline the enforcement process and better align it with other agency rules.

List of interested groups or associations against the rule.

Texas Counseling Association, Texas Society for Clinical Social Workers, Houston Psychological Association, Texas Association of Marriage and Family Therapy.

Summary of comments against the rule.

The agency received 248 comments against the proposed rule change. Commentors argue that the presence of licensed professional board members is necessary during disciplinary proceedings to provide expertise related to clinical judgment and standards of care. They argue agency staff and attorneys lack the necessary training and practical experience to effectively assess the nuances of complaint scenarios. Many commentors feel the informal settlement conferences are adjudication of

complaints and, therefore, fairness and due process require the presence of board members. Commentors are concerned absence of a professional board member will decrease transparency, deemphasize the importance of professional training, and weaken public protection.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

The agency received one comment in support of the rule change, which noted the proposal would help remove any potential bias from licensed board members and encourage consistency and efficiency through reliance on the penalty matrix.

Agency Response.

The agency appreciates the public feedback and understands the concerns raised by the comments. However, the impact of the proposed rule change will not be to remove professional board members from the enforcement process. Council staff will continue to seek involvement of board members in informal settlement conferences, including to seek input from professional board members when standard of practice questions arise. The rule change as adopted simply allow staff to manage the workflow of the agency and ensures informal settlement conferences can continue even without the presence of a board member if one is not necessary.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

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) 305-7706

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CHAPTER 885. FEES

22 TAC §885.1

The Texas Behavioral Health Executive Council adopts amendments to §885.1, relating to Executive Council Fees. Section 885.1 is adopted with changes to the proposed text as published in the December 12, 2025, issue of the *Texas Register* (50 TexReg 8037) and will be republished.

Reasoned Justification.

The adopted amendments remove a prior fee schedule that has not been in effect for over two years. The amendments also add a fee for requesting an 11" by 14" wall printing of a license, and conforms language to other rule changes that rename Licensed Specialists in School Psychology to School Psychologist.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

The agency received three comments against the proposed rule change. The commentors mostly raised concerns about the amount of fees required for application or renewal of a license, stating that fee amounts are too high given the relative pay for a mental health practitioner.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency appreciates the public comments and continuously works to keep our fees low compared with the national average. The proposed amendments do not raise any application or renewal fees, and so the comments do not relate directly to the proposed amendments. One commentor suggests that a free printed license should be provided to all licensees. The agency has recently created a free printable license that is made available to all license holders to print at their convenience.

Statutory Authority.

The rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

§885.1. Executive Council Fees.

(a) General provisions.

(1) All fees are nonrefundable, nontransferable, and cannot be waived except as otherwise permitted by law. Any attempt to cancel, initiate a chargeback, or seek recovery of fees paid to the Council may result in the opening of a complaint against a licensee or applicant.

(2) Fees required to be submitted online to the Council must be paid by debit or credit card. All other fees paid to the Council must be in the form of a personal check, cashier's check, or money order.

(3) For applications and renewals the Council is required to collect fees to fund the Office of Patient Protection (OPP) in accordance with Texas Occupations Code §101.307, relating to the Health Professions Council.

(4) For applications, examinations, and renewals the Council is required to collect subscription or convenience fees to recover costs associated with processing through Texas.gov.

(5) All examination fees are to be paid to the Council's designee.

(b) The Executive Council adopts the following chart of fees: Figure 22 TAC §885.1(b)

(c) Late fees. (Not applicable to Inactive Status)

(1) If the person's license has been expired (i.e., delinquent) for 90 days or less, the person may renew the license by paying to the Council a fee in an amount equal to one and one-half times the base renewal fee.

(2) If the person's license has been expired (i.e., delinquent) for more than 90 days but less than one year, the person may renew the license by paying to the Council a fee in an amount equal to two times the base renewal fee.

(3) If the person's license has been expired (i.e., delinquent) for one year or more, the person may not renew the license; however, if eligible the person may apply for reinstatement of the license.

(d) Open Records Fees. In accordance with §552.262 of the Government Code, the Council adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).

(e) Military Exemption for Fees. All licensing and examination base rate fees payable to the Council are waived for applicants who are:

(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all licensure requirements; or

(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements 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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Darrel D. Spinks
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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 116. CONTROL OF AIR POLLUTION BY PERMITS FOR NEW CONSTRUCTION OR MODIFICATION

SUBCHAPTER F. STANDARD PERMITS

30 TAC §116.605

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendment to 30 Texas Administrative Code (TAC) §116.605.

Amended 30 TAC §116.605 is adopted without change to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 6986). The rule will not be republished.

These amended rules 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

Senate Bill (SB) 763 amends Texas Health and Safety Code (THSC), §382.05195, Standard Permit. The bill adds Subsection (e-1) requiring TCEQ to conduct a protectiveness review at least once every eight years for a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant (CBP) that performs wet batching, dry batching, or central mixing (Air Quality Standard Permit for Concrete Batch Plants (CBP SP)). If the standard permit is amended after a protectiveness review is conducted, TCEQ shall allow facilities authorized to operate under the standard permit as it read before being amended to continue to operate until a date provided by the commission that provides facility operators a reasonable amount of time to comply with the amended standard permit. The bill requires TCEQ to adopt rules necessary to implement these changes no later than March 1, 2026. SB 763 was signed by the Governor on June 20, 2025, and became effective on September 1, 2025.

SB 2351 amends THSC, §382.05195, Standard Permit, by adding Subsection (f-1) that will apply only to a standard permit issued under this section that authorizes the operation of a permanent concrete batch plant that performs wet batching, dry batching, or central mixing (CBP SP). SB 2351 also amends THSC, §382.05198, Standard Permit for Certain Concrete Plants, by adding Subsection (d) that will apply only to a standard permit issued under that section (Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls (CBPEC SP)). New THSC, §382.05195, Subsection (f-1) and THSC, §382.05198, Subsection (d) establish that upon TCEQ

amending these standard permits, TCEQ may require each facility operator authorized to begin construction of a facility under the former standard permit to update the facility's plans for the new construction in accordance with the amended standard permit if the facility operator did not begin construction before the adoption of the amended standard permit, and if the facility operator filed a request under commission rules for an extension to begin construction. SB 2351 was signed by the Governor on May 24, 2025, and became effective on May 24, 2025, after receiving a vote of two-thirds of all the members of each house.

Section by Section Discussion

To implement the requirements of SB 763 and SB 2351, 89th Regular Texas Legislature, 2025, the commission amends 30 TAC Chapter 116, Subchapter F (Standard Permits).

The rulemaking adoption adds 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the CBP SP at least once every eight years. The rulemaking adoption also adds 30 TAC §116.605(f)(1) and (2) that will be applicable only when an amendment to the CBP SP or the CBPEC SP is issued by the commission. New 30 TAC §116.605(f)(1) and (2) outlines criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit if the facility operator did not begin the construction before the adoption of the amended standard permit and the operator filed a request for an extension to begin construction. These adopted requirements are not applicable to temporary or specialty plants authorized under the CBP SP.

Final Regulatory Impact Determination

The commission reviewed the rulemaking adoption considering the regulatory impact analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the rulemaking adoption does not meet the definition of a "Major environmental rule" as defined in that statute, and in addition, if it did meet the definition, would not be subject to the requirement to prepare a regulatory impact analysis. 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. 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). TGC, §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 rulemaking's purpose is to amend 30 TAC §116.605(d)(4) requiring a protectiveness review to be conducted for the concrete batch plant standard permit at least once every eight years. The rulemaking adoption will also add 30 TAC §116.605(f)(1) and (2) that will outline criteria of how the commission may require an operator of a permanent facility that is authorized to begin new construction under the former standard permit to update the permanent facility's plans for the new construction to comply with the amended standard permit. The new requirements are required under statutory amendments to THSC, §382.05195.

As defined in the Texas Government Code, 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 to 30 TAC §116.605 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. The adopted rule implements Senate Bills 763 and 2351, 89th Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits and thus is a specific requirement under state statute. 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 on the regulatory impact analysis determination.

Takings Impact Assessment

Under TGC, §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 United States Constitution or §17 or §19, Article I, Texas Constitution; or a governmental action that (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% 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.

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 rulemaking adoption and found that the adoption is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination

Act, Texas Natural Resources Code, §§33.201 et seq., and therefore must be consistent with all applicable CMP goals and policies. The commission conducted a consistency determination for the adopted rules in accordance with Coastal Coordination Act implementation rules, 31 TAC §29.22, and found the rulemaking adoption is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this rulemaking adoption is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §26.12(l)). The adopted amendments to Chapter 116 will update TCEQ rules to implement the requirement that a protectiveness review be conducted for the CBP SP at least once every eight years and incorporate requirements for when an operator of a facility authorized under the CBP SP or CBPEC SP must comply with the amended standard permit. The CMP policy applicable to the rulemaking adoption is that commission rules comply with federal regulations in Title 40 of the Code of Federal Regulations (40 CFR) to protect and enhance air quality in the coastal areas (31 TAC §26.32). This rulemaking complies with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, in accordance with 31 TAC §29.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies.

Promulgation and enforcement of these rules will not violate or exceed any standards identified in the applicable CMP goals and policies because the adopted rules are consistent with these CMP goals and policies and because these rules do not create or have a direct or significant adverse effect on any coastal natural resource areas.

The commission invited public comment regarding the consistency with the coastal management program during the public comment period. No comments were received on related to the CMP.

Effect on Sites Subject to the Federal Operating Permits Program

The adopted amendments are not expected to have a significant impact on sites subject to the Federal Operating Permits Program. Facilities that operate under a registered standard permit and have a Site Operating Permit (SOP) should evaluate the revised applicable requirements of 30 TAC §116.615 to determine if an update to their SOP is necessary.

Public Comment

The commission held a public hearing on November 20, 2025. The comment period closed on November 25, 2025. The commission received comments from Senator Carol Alvarado (Texas Senate District 6), Representative Armando Walle (Texas House District 140), Bill Alsup on behalf of the City of Richardson, Sydney Beckner on behalf of Texans for Responsible Aggregate Mining (TRAM), Karina Yonekawa Blest, Lisa Brenskille, Theresa Q. Tran Carapucci on behalf of the City of Houston Health Department (HHD), Harris County Attorney's Office (HCAO), Alexandra Cormier, Esteban De La Rosa, Amy Dinn of Lone Star Legal Aid (LSLA) on behalf of Super Neighborhood 48 Trinity/Houston Gardens, Lucia Garcia, Genesis Granados, Kathryn Guerra on behalf of Public Citizen, Leticia Gutierrez of Air Alliance Houston, Jennifer Hadayia of Air Alliance Houston, Julian Hernandez, Omar Hernandez, Rich Herweck, Rosa Hines, Iris King, Gavin Linley-Elwell, Mike Renna, Sarah Sam, Adrian Shelly on behalf of Public Citizen, Reem Tariq, Tatum Ownes, Carmela Walker, Ebee Ward of Rigby Slack on behalf of the Texas Aggregate and Concrete Association, and Indira Zaldivar.

All comments received were in general support of the rule.

Response to Comments

COMMENT 1

Senator Alvarado commented that "nder prior agency rules, TCEQ possessed broad discretion to require a permit holder seeking a construction extension to update their permit based on the best available control technology and the lowest achievable emission rate. However, that discretion stemmed solely from agency rules, not statute, and was rarely exercised. Senate Bill (SB) 2351 codifies this authority in state law and provides clear legislative direction by *authorizing* TCEQ to require a permit holder requesting an extension to comply with the most recent version or amendment of the standard air permit. With this discretionary authority, I urge TCEQ to amend the proposed rules to state that the TCEQ must require facilities to meet new permit conditions if there are delays in construction.

Specifically, proposed rule 30 Texas Administrative Code (TAC) §116.605(f) should read as follows:

(f) When standard permits issued under THSC, §§382.05195 and 382.05198 are amended, the commission *shall* require each facility operator authorized to begin new construction of permanent concrete batch plants that perform wet batching, dry batching or central mixing under the former standard permit to update the facility's plan for the new construction in accordance with the amended standard permit if the facility operator:

Requiring each facility to operate under updated standard permit requirements after a delay in construction is fully compliant with the legislature's intent as passed in SB 2351."

AND

Representative Walle commented that House Bill 2351 addressed a gap in the permitting process "…by clarifying that when an operator requests an extension and TCEQ has since updated the applicable standard permit, TCEQ has clear authority to require compliance with the most recent permit conditions." And the "…legislative intent was to encourage TCEQ to make this requirement mandatory rather than permissive. We strongly believe that requiring permit holders who delay construction to comply with the most up-to-date standards would better protect the health, safety, and property of Texas communities. We respectfully urge TCEQ to incorporate this requirement into its rulemaking."

RESPONSE 1

Consistent with the bill, the proposed rulemaking would allow the commission to require facility operators authorized to begin new construction of permanent concrete batch plants to update the facility's plan for the new construction in accordance with an amended standard permit if construction had not begun before the adoption of the amended standard permit.

The commission appreciates the legislative intent to provide a strong statutory foundation for the agency. TCEQ strives to ensure any rulemaking actions align as closely as possible with statutory language set by the legislature. The proposed rulemaking gives TCEQ the ability to require operators authorized under a concrete batch plant standard permit to update plans to comply with an amended standard permit but also allows the

agency some discretion when amendments to the standard permit do not warrant an operator submitting updated facility plans.

No changes were made in response to this comment.

COMMENT 2

The City of Richardson supports TCEQ for advancing the rulemaking under Project 2025-032-116-AI and supports its adoption. The city supports the changes mandated by SB 763 and SB 2351 because regular updates to the protectiveness review will keep residents protected from emerging risks, and gives municipalities, cities, and communities greater transparency and confidence with TCEQ permitting and industrial operations.

RESPONSE 2

The commission appreciates the support. No changes were made in response to this comment.

COMMENT 3

HCAO proposed that protectiveness review for each standard permit be updated at least every eight years.

RESPONSE 3

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 763 for the timing of required protectiveness reviews for permanent concrete batch plants.

No changes were made in response to this comment.

COMMENT 4

HCAO commented that the commission should expedite an updated protectiveness review if there are changes to the National Ambient Air Quality Standards (NAAQS).

RESPONSE 4

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 763 for the timing of required protectiveness reviews. SB 763 does not include any guidance on additional triggers for the initiation of a protectiveness review, nor does it limit the commission's ability to initiate a protectiveness review. The commission does consider multiple factors in determining the necessity of completing a protectiveness review inside the proposed 8-year cycle.

No changes were made in response to this comment.

COMMENT 5

HCAO commented that the commission should allow the public to comment on protectiveness reviews.

RESPONSE 5

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 763 for the timing of required protectiveness reviews. SB 763 does not add any process requirements for the protectiveness reviews and does not give guidance on public participation.

No changes were made in response to this comment.

COMMENT 6

LSLA on behalf of Super Neighborhood 48 Trinity/Houston Gardens comments that "…new Rule 116.605(d)(4) should not be read on its own but in the context of existing TCEQ rules related to the amendment of the CBP SP. TCEQ needs to follow the rules already in place, notably in the same subsection (d) of Rule 116.605, and not defer any future protectiveness reviews until 2030 because it has not yet been 8 years from the last Air Quality Assessment. If there are conditions that should trigger an earlier amendment of the permit, such as the new NAAQS for $PM_{2.5}$ adopted in 2024, then TCEQ should conduct an updated protectiveness review and move forward with an amendment of the standard permit."

RESPONSE 6

The commission appreciates the comment and recognizes the alignment and codependency of the rules. SB 763 establishes a maximum time boundary for updating the protectiveness review without limiting the commission's ability to update the protectiveness review earlier if warranted.

No changes were made in response to this comment.

COMMENT 7

LSLA on behalf of Super Neighborhood 48 Trinity/Houston Gardens commented that the current concrete batch plant standard permit is not protective under the 2012 or 2023 NAAQS for $PM_{2.5}$ and that the protectiveness review completed in 2023 does not support the commission's ability to establish that the current concrete batch plant standard permit is protective for residents of Harris County.

RESPONSE 7

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 2351 and SB 763 for the timing of required protectiveness reviews. SB 763 does not include any guidance on additional triggers for the initiation of a protectiveness review, nor does it limit the commission's ability to initiate a protectiveness review.

No changes were made in response to this comment.

COMMENT 8

Public Citizen noted a discrepancy between the language in the proposed rule and the

statute. The proposed rule refers to a facility operator who, "filed a request under §116.120 of this title, (relating to Voiding of Permits) for an extension…" Whereas SB 2351 states, "the facility operator filed a request under commission rules for an extension…" meaning that SB 2351 is technically broader than the proposed rule, as it would cover any extension granted under any rules, not just under 30 TAC §116.120.

RESPONSE 8

The commission appreciates the comment. The commission's proposal follows the specific direction of the legislature in SB 2351, to require compliance with the most recent permit conditions.

No changes were made in response to this comment.

COMMENT 9

Public Citizen commented that the proposal does not include guidance on when the commission would require compliance with the terms in an updated standard permit. Public Citizen strongly supports adopting a mandatory requirement for compliance with revised standards.

RESPONSE 9

The commission appreciates the comment. The commission's proposal follows the specific direction of the legislature in SB 2351. The proposed rulemaking would allow the commission to require facility operators authorized to begin new construction of permanent concrete batch plants to update the facility's plan for the new construction in accordance with an amended standard permit if construction had not begun before the adoption of the amended standard permit.

The proposed rulemaking gives TCEQ the ability to require operators authorized under a concrete batch plant standard permit to update plans to comply with an amended standard permit but also allows the agency some discretion when amendments to the standard permit do not warrant an operator submitting updated facility plans.

No changes were made in response to this comment.

COMMENT 10

Public Citizen commented that the proposed 8-year cycle is an improvement over past practices but that the commission has the discretion to complete a protectiveness review more frequently. They suggested including this discretion in the rule language.

RESPONSE 10

The commission appreciates the comment. The proposal follows the specific direction of the legislature in SB 763 for the timing of required protectiveness reviews. SB 763 does not limit the commission's ability to initiate a protectiveness review within the 8-year cycle. The commission does consider multiple factors in determining the necessity of completing a protectiveness review inside the proposed 8-year cycle.

No changes were made in response to this comment.

COMMENT 11

Commentors encouraged the commission to consider cumulative impacts of multiple facilities (including concrete batch plants and other industries) in common geographic areas when evaluating permit applications and the protectiveness of the standard permit.

RESPONSE 11

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 2351 to require compliance with the most recent permit conditions and SB 763 for the timing of required protectiveness reviews. SB 763 and SB 2351 do not add any requirements for the protectiveness reviews.

No changes were made in response to this comment.

COMMENT 12

Multiple commentors encouraged the commission to require that the 440-yard set-back distance be measured from the facility fence-line, not the baghouse exhaust.

RESPONSE 12

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 2351 to require compliance with the most recent permit conditions and SB 763 for the timing of required protectiveness reviews. SB 763 and SB 2351 do not include guidance for set-back distances.

No changes were made in response to this comment.

COMMENT 13

Commentors expressed concern about pollution from temporary concrete batch suggesting that the commission establish a defined time limit for temporary facilities.

RESPONSE 13

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 2351 to require compliance with the most recent permit conditions and SB 763 for the timing of required protectiveness reviews. SB 763 and SB 2351 do not include any guidance addressing temporary facilities.

No changes were made in response to this comment.

COMMENT 14

Commentors expressed concern about the health effects of emissions from concrete batch plants and encouraged the commission to prioritize public health in all permitting decisions.

RESPONSE 14

The commission appreciates the comments, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 763 and SB 2351. The bills do not address specific permitting decisions.

No changes were made in response to this comment.

COMMENT 15

Commentors expressed concern that the commission relies on facility self-reporting over direct monitoring and recommended that the commission require fenceline monitoring for permanent concrete batch plants.

RESPONSE 15

The commission appreciates the comment, but this is outside the scope of the proposed rulemaking. The proposal follows the specific direction of the legislature in SB 2351 to require compliance with the most recent permit conditions and SB 763 for the timing of required protectiveness reviews. SB 763 does not include guidance for monitoring of concrete batch plants.

No changes were made in response to this comment.

COMMENT 16

All Commentors expressed strong support for the proposed revisions.

RESPONSE 16

The commission appreciates the support.

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; THSC §382.05195, concerning standard permits; and §382.05198, concerning standard permits for certain concrete plants.

In addition, the amendments are 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; TGC, §2001.006, concerning Actions Preparatory to Implementation of Statute or Rule, which authorizes state agencies to adopt rules or take other administrative action that the agency deems necessary to implement legislation; TGC, §2001.142, concerning Notification of Decisions and Orders, which provides a time period for presumed notification by a state agency; and the Federal Clean Air Act, 42 United States Code (USC), §§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 Senate Bills 763 and 2351, 89th Regular Legislature, 2025, which require changes relating to how the agency evaluates standard permits.

The adopted amendments implement changes to THSC, §382.05195.

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 February 27, 2026.

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CHAPTER 331. UNDERGROUND INJECTION CONTROL

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§331.19, 331.107, and 331.108.

Amended §331.19 and §331.107 are adopted *without changes* to the proposed text and, therefore, will not be republished. Amended §331.108 is adopted *with changes* to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7224) and, therefore, will be republished.

Background and Summary of the Factual Basis for the Adopted Rules

This rulemaking implements Senate Bill (SB) 616 and SB 1061, 89th Texas Legislature, Regular Session, 2025, which amended Texas Water Code (TWC), §§27.051 and 27.0513, relating to certain injection wells transecting the Edwards Aquifer used for an aquifer storage and recovery (ASR) project, and Class III production area authorizations (PAA) respectively. SB 616 allows for additional exceptions to prohibitions on drilling into or through the Edwards Aquifer. SB 1061 allows for an application for an amendment to a Class III PAA to be an uncontested matter if certain conditions are met and requires the commission to prioritize conservation of regional groundwater supplies when considering amendment to restoration table values.

The adopted rulemaking implements SB 616 by amending the commission's underground injection control rules to allow authorization of certain types of injection wells that transect or terminate in the Edwards Aquifer, either by permit or by rule, and to allow for authorization of an ASR injection well that transects the Edwards Aquifer as long as the geologic formation used for injection underlies the Edwards Aquifer and the injection well will be located in either the area of Williamson County east of Interstate Highway 35 or in Medina County. The adopted rulemaking implements SB 1061 by amending the commission's underground injection control rules to allow for amendment to an in-situ uranium mining PAA to be an uncontested matter if certain conditions are met and requiring the commission to prioritize the conservation of regional groundwater water supplies when reviewing an application to amend a restoration table value.

A PAA is an authorization, issued under the terms of a Class III injection well area permit for uranium mining, that approves the initiation of mining activities in a specified production area within a permit area, and sets specific conditions for production and restoration in each production area within a permit area. Because the SB 1061 amendments of TWC, §27.0513(d) now include an amendment application for a PAA and all of the applicability provisions applying under paragraphs (d)(1)-(4), all applications for a PAA will be uncontested matters and not subject to an opportunity for a contested case hearing. An application for a PAA is still subject to public notice requirements and an opportunity to submit public comment.

Section by Section Discussion

The commission adopts amendments to 30 Texas Administrative Code (TAC) §331.19 to implement SB 616 and TWC, §27.051(i). The adopted amendment revises the prohibition against certain injection wells in the Edwards Aquifer to allow authorization of certain aquifer storage and recovery projects. The commission adopts the amendment to §331.19 by adding new §331.19(a)(5) which states "wells that transect the Edwards Aquifer and that inject water into a geologic formation that underlies the Edwards Aquifer as part of an aquifer storage and recovery projectÂ in the area of Williamson County east of Interstate Highway 35 or in Medina County." An injection well subject to this allowance will still be required to comply with other applicable requirements in Chapter 331 for ASR projects.

The commission adopts amendments to 30 TAC §§331.107 and 331.108 to implement SB 1061 and TWC, §27.0513. The commission adopts the amendment to §331.107 by adding "The commission shall prioritize the conservation of regional water supplies when considering an application to amend a restoration table value or range table" to §331.107(g)(1). The adopted amendment to §331.107 implements TWC, §27.0513(c-1) as amended by SB 1061.Â Accordingly, the commission will give priority to the conservation of regional water supplies over the

other factors listed in §331.107(g)(1)(A)-(I). The commission specifically solicited comments on the amendment to paragraph 331.107(g)(1) to apply the prioritization of regional groundwater supplies when considering an application for amendment of a permit range table but received no comments about this provision. Because the same considerations are given to the amendment of a restoration table and amendment of a permit range table under §331.107(g), the commission adopts this amendment to give priority to the conservation of regional water supplies over the other factors when considering an amendment of a permit range table.

The commission's rule in §331.108 establishes that an application for a PAA is not subject to an opportunity for a contested case hearing if the conditions established in TWC, §27.0513(d) are met. The commission adopts the amendment of §331.108 by adding the phrase "or an amendment to production area authorization" in §331.108(a). The commission amends §331.108(a)(1)-(3) to implement the amendments to TWC, §27.0513(d)(1)-(3) as established by SB 1061.Â The commission adopts the amendment to §331.108 by adding new §331.108(a)(4), which establishes that an application for a PAA is not subject to an opportunity for a contested case hearing if the Notice of Receipt of Application and Intent to Obtain Permit is provided to the individual land owners, mineral rights owners and an applicable Groundwater Conservation District not later than 30 days after the date the executive director commission determines the new or amended PAA application to be administratively complete.Â Adopted new §331.108(a)(4) implements TWC, §27.0513(d) as amended by SB 1061. The public notice requirements for an application for a PAA has not changed and the amendments in §331.108(a)(4) are consistent with the existing public notice requirements in 30 TAC §§39.418 and 39.653. Under existing §39.653, the chief clerk is required to mail the Notice of Receipt of Application and Intent to Obtain Permit not later than 30 days after the executive director declares an application to be administratively complete. The commission amends §331.108(b) because the adopted revision of subsection (a) applies to an amendment application and to specify that a restoration table value in a PAA may not be amended to exceed the respective maximum value of the permit range table and is consistent with the existing requirement in §331.107(a)(1). In response to comment, the word "maximum" is added to the provision in §331.108(b). The commission adopts the removal of §331.108(c) because all Class III injection well permits for in situ uranium mining include a permit range table as required by TWC, §27.0513(a). Because the revisions to §331.108 now include amendment applications as specified by SB 1061, all applications for PAAs will be expected to fall within the conditions in §331.108(a)(1)-(4) that render the applications as uncontested matters and not subject to an opportunity for a contested case hearing. Applications for PAAs are still subject to public notice requirements and an opportunity to submit public comment.

Final Regulatory Impact Analysis

The commission reviewed the rulemaking adoption action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to Texas Government Code, §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. The adopted amendments implement SB 616 and SB 1061 from the 89th Texas Legislature, Regular Session, 2025. SB 616 provides additional exceptions to the prohibition of injection wells into or through the Edwards Aquifer to allow for certain ASR projects in Williamson or Medina Counties. SB 1061 is procedural in addressing application requirements for PAAs and revises the conditions for which applications for PAAs are uncontested matters and requires the commission to prioritize the conservation of regional groundwater supplies when considering an application for amendment to a restoration table value. The adopted rules revise the exceptions to the prohibition of injection wells that terminate in or transect the Edwards Aquifer to allow for certain ASR projects in Williamson or Medina Counties. The allowance for injection wells that transect the Edwards Aquifer for certain ASR projects in Williamson or Medina Counties does not alleviate or change existing requirements that will otherwise apply to ASR projects. The adopted rules also specify that the commission will prioritize the conservation of regional groundwater supplies when considering an application to revise a restoration table or permit range table. The adopted rules specify the conditions that render an application for a new or amended PAA an uncontested matter and not subject to an opportunity for a contested case hearing. The adopted rules do not change any existing requirements that protect the environment or reduce risks to human health from environmental exposure, nor do the adopted rules 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.

As defined in the Texas Government Code, §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 rules do not exceed a standard set by federal law. The adopted amendments do not exceed an express requirement of state law or a requirement of a delegation agreement. These rules were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and TWC, that are cited in the statutory authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invited public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period.

Takings Impact Assessment

The commission evaluated the rulemaking adoption and performed an analysis of whether Texas Government Code, Chapter 2007, is applicable. The adopted amendments implement SB 616 and SB 1061 from the 89th Texas Legislature, Regular Session, 2025. The adopted amendments in Chapter 331 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 the adopted rules. The adopted amendments to Chapter 331 amend the prohibition for injection wells that transect or terminate in the Edwards Aquifer to allow certain aquifer and

storage and recovery projects in Williamson or Medina Counties and amend procedural requirements for the processing of applications for PAAs. Consequently, this rulemaking action does not meet the definition of a taking under Texas Government Code, §2007.002(5). Therefore, this rulemaking action will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the adopted rules and found 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 (CMP).

The commission invited public comment regarding the consistency with the coastal management program during the public comment period.

Public Comment

The commission held a public hearing on December 8, 2025. The comment period closed on December 10, 2025. The commission received comments from Brazos River Authority, Greater Edwards Aquifer Alliance (GEAA), Texas Environmental Justice Advocacy Services (Tejas), and The Owner/Operator Members of the Uranium Committee of the Texas Mining & Reclamation Association (TMRA-UC).

Brazos River Authority supported the rulemaking. TMRA-UC was generally supportive of the rulemaking, but requested the commission not adopt amendment of §331.108(b). GEAA and Tejas were generally against the rulemaking.

Response to Comments

Comment

Brazos River Authority commented that TCEQ's proposed amendment of §331.19(a)(5) is consistent with both the plain language and intent of SB 616 and that it supports its adoption by the commission.

Response

The commission acknowledges Brazos River Authority's comment. No changes were made in response to the comment.

Comment

Tejas commented that the amendment to §331.19 to implement SB 616 raises a risk of contamination of the Edwards Aquifer from failures in well casing, cement, sealing materials, construction flaws, geological movement or long-term degradation.

Response

The implementation of SB 616 to amend rules to allow for certain exceptions to injection wells that transect the Edwards Aquifer does not alter rule provisions that require injection wells to be sited, designed, constructed and operated to protect underground sources of drinking water from pollution. Current underground injection control rules under 30 TAC Chapter 331 Subchapters A, H and K do not allow for Class V injection well design/construction and operation associated with ASR systems to introduce contaminants from the injection source into a non-designated receiving aquifer. No changes were made in response to the comment.

Comment

Tejas commented that the amendment to §331.19 to implement SB 616 could introduce surface water, treated effluent or other contaminants from the injection source into the Edwards Aquifer.

Response

The commission does not agree that amendment of §331.19 could introduce contaminants into the Edwards Aquifer. Any injection wells subject to this allowance in SB 616 will still be required to comply with other applicable requirements in Chapter 331 for ASR projects. Under existing rule 30 TAC §331.5(a), "No permit or authorization by rule shall be allowed where an injection well causes or allows the movement of fluid that would result in the pollution of an underground source of drinking water. A permit or authorization by rule shall include terms and conditions reasonably necessary to protect fresh water from pollution." No changes were made in response to the comment.

Comment

Tejas commented that any damage to the Edwards Aquifer would be irreversible given the high-flow nature of a karst aquifer.

Response

The commission does not agree that amendment of §331.19 imposes greater risk to the Edwards Aquifer due to the permeability of the aquifer or karst conditions. Any injection wells subject to §331.19 must still comply with the other applicable requirements of 30 TAC Chapter 331. No changes were made in response to the comment.

Comment

GEAA urged the TCEQ to reconsider and reject the provisions of SB 616 and SB 1061 asserting that this will endanger the Edwards Aquifer and eliminate public recourse. GEAA also urged TCEQ to reject provisions of SB 1061 that would reduce or eliminate public involvement.

Response

The commission is implementing law enacted by the legislature. The commission does not have the authority to reconsider SB 616 and SB 1061. No changes were made in response to the comment.

Comment

GEAA commented that removing the opportunity to challenge PAA amendments through contested case hearings eliminates the ability to scrutinize restoration plans and mining activities and thus opposes efforts to rollback opportunities for contested case hearing on PAA applications.

Response

The commission's amendments to §331.108 that establish when an application for a PAA is not subject to an opportunity for a contested case hearing implement SB 1061. By enacting the statutory amendments, the legislature established the requirements for a PAA application and when an application can or cannot be contested. The commission's rule amendments are consistent with SB 1061. No changes were made in response to the comment.

Comment

The Owner/Operator Members of the Uranium Committee of the Texas Mining & Reclamation Association (TMRA-UC) commented in support of the overall effort to align the TCEQ rules with SB 1061.

Response

The commission acknowledges TMRA-UC's comment. No changes were made in response to the comment.

Comment

TMRA-UC requested that the commission not adopt the proposed amendment to §331.108(b) and that the existing rule language in §331.108(b) be retained. TMRA-UC contends that the proposed amendment to §331.108(b) is not required by SB 1061 and conflicts with §331.107(g) and TWC, §27.0513(c). TMRA-UC states that if a restoration table value exceeds the upper limit of a permit range table, the statute allows a permittee to apply for a major amendment of the permit range table. TMRA-UC asserts that the rule should be revised to match the statutory language to retain the ability for applicants to apply for a major amendment of the permit.

Response

The commission does not agree that the amendment of §331.108(b) conflicts with §331.107(g) and TWC, §27.0513(c). However, for clarification, §331.108(b) has been revised since proposal to state "A restoration table may not be amended to exceed a respective maximum value of the permit range table." This provision is consistent with TWC, §27.0513(c) and 30 TAC §331.107(a)(1). A PAA restoration table value cannot exceed the range listed in the permit range table. If a proposed restoration table were to exceed the range listed in the permit table such that it falls above the upper limit of the range, the value from the permit range table must be used or the permittee must apply for an amendment of the permit range table. There is no authorization for a PAA restoration table to have a restoration value that exceeds the respective maximum value of a permit range table for a particular constituent in TWC, §27.0513(c) and 30 TAC §331.107.

SUBCHAPTER A. GENERAL PROVISIONS

30 TAC §331.19

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; 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, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.120, which authorizes the commission to administer the law so as to promote the judicious use and maximum conservation and protection of the environment and natural resources of the state; TWC, §27.051 which establishes conditions for the issuance of a UIC permit; and TWC, §27.019, which authorizes the commission to adopt rules for the performance of its powers, duties, and functions under the Injection Well Act.

The adopted rules implement Senate Bill (SB) 616, 89th Texas Legislature, Regular Session, 2025; and TWC, § 27.051.

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 February 27, 2026.

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Texas Commission on Environmental Quality
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For further information, please call: (512) 239-6087

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SUBCHAPTER F. STANDARDS FOR CLASS III WELL PRODUCTION AREA DEVELOPMENT

30 TAC §331.107, §331.108

Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; §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, 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, §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule; TWC, §5.120, which authorizes the commission to administer the law so as to promote the judicious use and maximum conservation and protection of the environment and natural resources of the state; §27.019, which authorizes the commission to adopt rules for the performance of its powers, duties, and functions under the Injection Well Act; and §27.0513 which establishes conditions for area permits and production areas for uranium mining.

The adopted rules implement Senate Bill (SB) 1061, 89th Texas Legislature, Regular Session, 2025; and TWC, §27.0513.

§331.108. Opportunity for a Contested Case Hearing on a Production Area Authorization Application.

(a) An application for a new production area authorization or an amendment to a production area authorization is not subject to opportunity for a contested case hearing if:

(1) the authorization is for a production area within the boundary of the permit under which the authorization will be issued and the permit includes, for each production area addressed in the application, a range table with values established in accordance with the requirements in §305.49(a)(10) of this title (relating to Additional Contents of Application for an Injection Well Permit);

(2) the application includes, for each production area addressed in the application, a restoration table with restoration parameter values that do not exceed the high values for the respective parameters in the permit range table;

(3) the application is for a production area within the boundary of the permit under which the authorization will be issued, and the application meets the requirements at §331.104(a) - (d) of this title (relating to Establishment of Baseline and Control Parameters for Excursion Detection) regarding baseline wells; and

(4) not later than 30 days after the date the executive director determines the application to be administratively complete, the Notice of Receipt of Application and Intent to Obtain Permit is mailed to:

(A) the owners of the surface of:

(i) the tract of land on which the existing or proposed production area is or will be located; and

(ii) the tracts of land adjacent to the tract of land on which the existing or proposed production area is or will be located;

(B) the owners of mineral rights underlying:

(i) the tract of land on which the existing or proposed production area is or will be located; and

(ii) the tracts of land adjacent to the tract of land on which the existing or proposed production area is or will be located; and

(C) any groundwater conservation district established in the county in which the existing or proposed production area is or will be located.

(b) A restoration table may not be amended to exceed a respective maximum value of the permit range table.

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 February 27, 2026.

TRD-202601006
Amy L. Browning
Acting Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Effective date: March 19, 2026
Proposal publication date: November 7, 2025
For further information, please call: (512) 239-6087

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER B. TEXAS BROADBAND DEVELOPMENT OFFICE

DIVISION 1. BROADBAND DEVELOPMENT MAP

34 TAC §§16.21 - 16.24

The Comptroller of Public Accounts adopts amendments to §16.21, concerning broadband development map, §16.22, concerning map challenges; criteria, §16.23, concerning challenge process; deadlines, and §16.24, concerning reclassification determinations, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7512). The rules will not be republished.

The amendments to §16.21 remove the requirement for the office to create, update or publish a map if the office adopts a map produced by the Federal Communications Commission and include conforming changes.

The amendments to §16.22 provide that a challenge may occur only if the office does not adopt a map produced by the Federal Communications Commission and remove references to a challenge process if the office adopts a map produced by the Federal Communications Commission.

The amendments to §16.23 remove unnecessary deadlines related to the office adopting a map produced by the Federal Communications Commission and remove unnecessary notice procedures. The amendments maintain the challenge procedures for a map the office creates for future use in the event the office chooses to create its own map.

The amendments to §16.24 modify the name of the section to more specifically reflect the outcome of the challenge process.

The comptroller did not receive any comments regarding adoption of the amendments.

The amendments are adopted under Government Code, §490I.0109, which permits the comptroller to adopt rules as necessary to implement Chapter 490I regarding the Texas Broadband Development Office.

The amendments implement Government Code, Chapter 490I.

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 February 25, 2026.

TRD-202600917
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Effective date: March 17, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 475-2220

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DIVISION 2. BROADBAND DEVELOPMENT PROGRAM

34 TAC §§16.30, 16.31, 16.35 - 16.38, 16.40 - 16.42, 16.46

The Comptroller of Public Accounts adopts amendments to §16.30, concerning definitions, §16.31, concerning notice of funds availability, §16.35, concerning program eligibility requirements, §16.36, concerning application process generally, §16.40, concerning evaluation criteria, §16.41, concerning application protest process, §16.42, concerning awards; grant agreement, and §16.46, concerning forms; notices, with changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7514). The rules will be republished. The Comptroller of Public Accounts also adopts new §16.37, concerning direct contract and grant awards, and new §16.38, concerning fixed amount awards with changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7514). The rules will be republished. The new sections replace §16.37, concerning overlapping applications or project areas, and §16.38, concerning overlapping project areas in noncommercial applications, which the comptroller will repeal in a separate rulemaking.

The amendments to §16.30 remove the "application protest period" and "designated area" definitions, add the "gigabit-level broadband service" definition, and add the "interested party" definition, which was previously in §16.41. The amendments modify the "served location" definition for brevity. The amendments to the "unserved location" definition provide speed requirements for public schools and community anchor institutions.

The amendments reword §16.31 for brevity and modify the publication process. The amendments remove the requirement for a notice of funds availability to state the minimum and maximum amounts of grant funds available for each application. The amendments clarify that eligibility criteria will be in each notice of funds availability.

The amendments to §16.35 change the title to "Competitive Grant Limitations." The amendments remove eligibility criteria details as unnecessary because §16.31 requires a notice of funds availability to include eligibility criteria. The amendments modify non-commercial provider limitations to competitive grants for the deployment of last-mile broadband service projects in subsection (b).

The amendments to §16.36 add "competitive grant" in the title and in subsection (b) to specify that this section applies to competitive grants. The amendments change "protest" to "publishing" to describe the 30-day period in subsection (d). The amendments describe notification after the challenge process and requests for additional information in subsections (f) and (g) respectively. The amendments remove certain provisions related to the challenge process for placement in §16.30 and §16.41.

New §16.37 describes the office's ability to award direct contract or grant awards on a non-competitive basis to a political subdivision in subsection (a). The section permits the office to award a direct contract or grant award with a grant agreement and to require information be submitted electronically in subsection (b).

New §16.38 describes fixed amount awards in subsection (a). The section permits the office to award a fixed amount award for competitive and direct grants without regard to the Texas Acquisition Threshold as defined in the Texas Grant Management Standards in subsection (b).

The amendments to §16.40 remove the reference to Government Code, §490I.0105 in subsection (a)(4) as required by Senate Bill 1405, 89th Legislature, R.S., 2025.

The amendments to §16.41 change the title of the section to "Application Challenge Process" to reflect the more commonly used term and make conforming changes throughout the section. The amendments in subsection (a) provide that only applications related to last-mile broadband infrastructure projects are subject to the challenge process and only the location may be challenged. The amendments describe under what circumstances a successfully challenged application may be amended and resubmitted in subsections (d) and (g). The amendments add subsections (g), (h) and (i) that are transferred from §16.36(f), (g) and (i) respectively, and make a conforming change to subsection (i).

The amendment to §16.42 adds the statutory requirement for last-mile infrastructure grant recipients to make reasonable efforts to restore private property affected by a broadband infrastructure project in subsection (d).

The amendments to §16.46 allow notice by certified mail and make conforming changes in subsections (c) and (d). The amendments remove subsection (e) relating to §16.34 that was previously repealed.

The comptroller received comments regarding adoption of the amendments and proposed new rules from the Texas Broadband Association ("TBBA"); Texas Cable Association ("TCA"); and Texas Telephone Association ("TTA").

The comptroller thanks these organizations for the suggestions, information, and legal arguments. This office appreciates the time and resources devoted to drafting and submitting the written and oral comments. These thoughtful comments helped make the rules more effective.

The TBBA requests replacing "or" with "and" in the definition of "gigabit-level broadband service" in the amendments to §16.30(8)(A) to ensure both the 1000 Mbps download and 20 Mbps upload speeds are required. The comptroller agrees with this comment and implements the suggestion as this will apply the appropriate standard for determining whether a public school or community anchor institution is underserved.

The TBBA requests requiring the comptroller publish notices of funding availability on the comptroller's website in addition to the Electronic State Business Daily ("ESBD") in §16.31(a). The TBBA believes the comptroller's website is a known repository for information about funding opportunities that should include the notices regarding funding opportunities. While the comptroller appreciates the commenter's concerns, the comptroller declines to make a change. Section 16.31(a) as amended allows for continued publishing of a link to the notice of funding availability on the comptroller's website. The change in §16.31(a) provides for a single, official location for notices of funds availability on the ESBD, which is in alignment with other funding opportunities across the state. This change will improve efficiency with the program as well as simplify the publication process.

The TBBA requests amending proposed §16.37 to include certain guardrails to protect transparency. First, the TBBA recommends that non-competitive awards occur only if they are expressly statutorily authorized or directed via specific legislative appropriation. While the comptroller appreciates this recommendation, the comptroller declines to make this change. The legislature amended Government Code, §490I.0106 by enacting Senate Bill 1405, 89th Legislature, R.S., 2025. The addition of "contracts" in Government Code, §490I.0106 conforms with the comptroller's existing authority to enter into interagency and interlocal contracts with other governmental entities permitted under Government Code, Chapters 771 and 791. Further, the removal of "to applicants" from Government Code, §490I.0106(a), (a-1), (a-2) and (a-3) makes clear that the award process is not limited to a competitive application process. There is no need for further statutory authorization. Additionally, funds awarded from the Broadband Infrastructure Fund (BIF) do not require further legislative appropriation as provided in Texas Constitution, article III, §49-d-16 and Government Code, §403.653. The proposal by TBBA is unnecessary under current state law.

Alternatively, TBBA requests including a 30-day comment period prior to issuance of a non-competitive contract or award that includes a rationale by the comptroller as to why the political subdivision is being granted the funds and why a competitive process is infeasible in the circumstance to prevent duplicative efforts. Existing authority still allows the comptroller to craft a notice of funding availability and other requirements for other broadband projects to ensure that a proposed project complements and does not duplicate any existing infrastructure.

However, the statutory requirements for a posting period and comments applies only to accepted applications for competitive grants and does not apply to contracts with local government. When the legislature removed "to applicants" from Government Code, §490I.0106(a), (a-1), (a-2) and (a-3), the legislature did not remove "applicant" or "application" from (e) or (f). The comptroller appreciates the commenter's concerns but declines to change the proposed rule to add extra procedures and time delays that would inhibit direct contracts of their efficiency, cost savings and speed of implementation.

The TBBA requests clarification, to mitigate confusion, that any awards made under proposed §16.37 are subject to §16.35. However, §16.35 incorporates Government Code, §490I.0106(d)(2) which prevents competitive awards to a non-commercial broadband service provider for last-mile broadband deployment if an eligible commercial broadband service provider has previously submitted an application for the same location. The rule implements recent legislation authorizing direct awards that are not subject to an application process. The comptroller will comply with all rules and statutes that govern the office when those rules and statutes apply, and declines to incorporate this request within the proposed rule.

The TBBA requests amending proposed §16.38 to limit fixed amount awards 'without regard to actual costs incurred' only for competitively awarded grants due to fiscal responsibility concerns. The proposed description of "fixed amount awards" mirrors text from the Texas Grant Management Standards Guide published by the comptroller. Under the analysis of Attorney General Opinion KP-0099 (2016), a fixed amount grant can comply with state fiscal law if there is a sufficient return benefit (ex: speed of implementation for public safety related grants, cost savings by forgoing extra process to monitor and analyze, and risk shifting). Adding competition is not necessary for fixed amount grants to comply with state fiscal law. The return benefits for the comptroller are the ability to promptly implement grant programs, the cost savings to the state by forgoing the extra procedures required for competitive reimbursement grants, and shifting the risk of underestimating costs to the grantee. As stated in the fiscal note, the rule will benefit the public by providing greater flexibility in broadband project funding while facilitating further access to and adoption of broadband service across the state. To clarify that fixed amount awards are based on reasonable, estimated costs provided by the grantee prior to award, the comptroller adopts the rule with changes to remove "without regard to actual costs incurred" and add "based on reasonable, estimated costs."

The TCA requests requiring all grants awarded by the comptroller to be competitive to provide important safeguards because TCA disagrees that political subdivisions should receive a non-competitive contract or award for any broadband project. This requirement would be contrary to recent legislative amendments. The addition of "contracts" in Government Code, §490I.0106 conforms with the comptroller's existing authority to enter into interagency and interlocal contracts with other governmental entities permitted under Government Code, Chapters 771 and 791. Further, the removal of "to applicants" in Government Code, §490I.0106(a), (a-1), (a-2) and (a-3) clarifies that the award process is not limited to a competitive application process. Further, unlike private entities, local governments have the additional safeguard of governance that is accountable to the public through, for example, gubernatorial appointments subject to senate confirmation, or through elections. Because there is established state law and guidance in the Texas Procurement and Contract Management Guide regarding direct interlocal contracts, the comptroller is satisfied with the existing guardrails to protect transparency and integrity in the award process. The comptroller declines to change the proposed rule in response to this comment.

Alternatively, TCA requests that non-competitive contracts or awards be limited to non-deployment-related programs. The TCA believes non-deployment-related programs permitted by Government Code, §490I.0106 (a-3) are similar to traditional government functions and would not conflict with existing last-mile internet service. The TCA believes that no non-competitive contracts or awards should ever go to broadband deployments or support retail or wholesale internet service. This requirement would be contrary to recent legislative amendments. While the comptroller appreciates the commenter's concerns, the comptroller declines to change the statutorily authorized rule. The comptroller disagrees that this change is necessary to protect transparency and integrity in the award process.

The TCA notes a possible conflict and requests clarification on how these non-competitive awards will impact other statutory requirements; specifically posting on the comptroller's website the award process information, criteria for awards and received applications. The requirements of Government Code, §490I.0106(e) continue to apply to the competitive award process, as discussed previously, and the requirements of §490I.0106(h) apply to both. The comptroller notes no plans to remove the competitive process as a means to award funds; therefore, these statutory requirements will be given full meaning and effect, and it is not necessary to change the rule.

The TCA argues that a competitive process ensures the best value for the agency and requests clarification on how the non-competitive process will be in alignment with the Texas Grant Management Standards and state law. Adding competition is not necessary in all cases for grants to comply with state fiscal law. The return benefits for the comptroller are the ability to promptly implement grant programs and the cost savings to the state by forgoing the extra procedures that would be required to identify and review additional applicants. The fiscal note further supports these benefits by acknowledging the proposed new rules would benefit the public by providing greater flexibility in broadband project funding while facilitating further access to and adoption of broadband service across the state. For example, the comptroller's office may enter into an agreement with a local governmental entity to deploy adequate middle-mile infrastructure in areas not previously served through earlier grant opportunities. Because competition is not always required under state law or guidance and because the added process implements recent legislation, the comptroller will provide for both processes.

The TCA notes that Government Code, §490I.0106(d)(2) and §490I.01062(a) may present conflicts for the award processes with a direct grant. The TCA requests clarification that any awards made under proposed §16.37 are subject to §16.35 regarding the prohibition on a political subdivision or other non-commercial broadband service providers being awarded a grant for last-mile broadband deployment if a commercial broadband service provider has previously submitted an application for the same location. The TCA also seems to suggest that Government Code, §490I.01062(a) requires a notice of funding availability be published for every award. The comptroller disagrees that a notice is always required when awarding funding or that the comptroller would not follow existing law regarding

last-mile broadband infrastructure projects. The comptroller agrees with TCA that a notice of funding availability, specifically for broadband infrastructure, should include the preference to prioritize fiber optic facilities specified in §490I.01062(a). The comptroller appreciates the concerns provided by the TCA, but the comptroller will not make a change to the rule in response because the rule implements recent legislation authorizing direct awards that are not subject to an application process. The comptroller will continue to comply with all applicable rules and statutes that govern each award process.

The TCA proposes the challenge process should be extended for all broadband infrastructure projects and not limited to last-mile projects. The TCA requests changes to §16.41 to provide for middle-mile projects be reviewed in a challenge process to prevent duplicative access. This suggestion is contrary to the statute. The comptroller modifies §16.41 to align with recent statutory changes. Specifically, Government Code, §490I.0106(f) requires only applications for projects that directly fund last-mile broadband service to eligible broadband serviceable locations go through the challenge process. The comptroller notes the existing authority does not change the comptroller's ability to craft a notice of funding availability with requirements that ensure a proposed project complements any existing infrastructure. The comptroller appreciates the commenter's concerns but declines to make further changes to the amended rule.

The TCA requests the challenge process occur without regard to the number of served locations in a proposed project area because the current limitation appears arbitrary. The amended §16.41 limits the challenge process to only allow for contesting whether the location(s) to be served by a proposed project is eligible for funding. An interested party may submit a challenge to an application when the proposed project includes served locations that represent at least twenty percent of the total project locations. While the comptroller appreciates the commenter's concerns, the comptroller declines to make a change to the rule. This limitation on the challenge process complies with the statute and provides greater flexibility in broadband project funding opportunities while facilitating further access to and adoption of broadband service across the state.

The TTA provides comments and proposals for proposed §16.37 regarding direct contracts or grant awards. First, the TTA requests requiring statutory authorization or legislative appropriation for direct contract or grant awards on a non-competitive basis to political subdivisions to guaranty that such awards are deliberate legislative policy choices. Adding this requirement would be contrary to recent legislative amendments enacted by Senate Bill 1405, 89th Legislature, R.S., 2025. While the comptroller appreciates this recommendation, the comptroller declines to make this change. The addition of "contracts" in Government Code, §490I.0106 conforms with the comptroller's existing authority to enter into interagency and interlocal contracts with other governmental entities permitted under Government Code, Chapters 771 and 791. Further, the removal of "to applicants" from Government Code, §490I.0106(a), (a-1), (a-2) and (a-3) clarifies that the award process is not limited to a competitive application process. There is no need for further statutory authorization. Additionally, funds awarded from the BIF do not require further legislative appropriation as provided in Texas Constitution, article III, §49-d-16 and Government Code, §403.653. The proposal by TTA is unnecessary under current state law.

Alternatively, the TTA requests that direct awards to political subdivisions generally follow the same competitive process as other grant awards made by the comptroller to provide safeguards, transparency and for the state to receive the best possible price for services. This requirement would be contrary to recent legislative amendments. A competitive process is still available to utilize when appropriate but is not required for every award. "The addition of "contracts" in Government Code, §490I.0106 conforms with the comptroller's existing authority to enter into interagency and interlocal contracts with other governmental entities permitted under Government Code, Chapters 771 and 791. Further, the removal of "to applicants" from Government Code, §490I.0106(a), (a-1), (a-2) and (a-3) clarifies that the award process is not limited to a competitive application process. And, unlike private entities, local governments have the additional safeguard of governance that is accountable to the public through, for example, gubernatorial appointments subject to senate confirmation, or through elections. Because there is established state law and guidance in the Texas Procurement and Contract Management Guide, the existing guardrails are sufficient to protect transparency and trust in the process for direct contracts and awards.

The TTA proposes another alternative to modifying the proposed §16.37 by requiring a public notice and comment period for all direct awards for transparency and accountability. Existing authority still allows the comptroller to craft a notice of funding availability and other requirements for other broadband projects to ensure a proposed project complements any existing infrastructure. However, the statutory requirements for a posting period and comments applies only to accepted applications for competitive grants and does not apply to direct contracts with local government. When the legislature removed "to applicants" from Government Code, §490I.0106(a), (a-1), (a-2) and (a-3), the legislature did not remove "applicant" or "application" from Government Code, §490I.0106(e) or (f). The comptroller appreciates the commenter's concerns but declines to change the proposed rule.

The TTA's last request regarding §16.37 is to require direct contracts or grant awards have an applicable "claw back" provision to safeguard public funds, deter fraud and enable the reallocation of funds. The comptroller agrees with the commenter's concerns but declines to change the proposed rule. The contract or grant agreement is better suited to address detailed terms and conditions regarding receiving funds and what would trigger returning funds. Additionally, because the Texas Grant Management Standards and Texas Procurement and Contract Management Guide provide guidance regarding remedies for noncompliance, the comptroller is satisfied with the existing guardrails to ensure compliance with the terms and conditions of an award.

The TTA also proposed changes to §16.38 regarding fixed award amounts to provide transparency, prevent waste and abuse, ensure selection of the most meritorious recipient and ensure the program efficiently and effectively achieves broadband deployment goals. The TTA requests requiring fixed amount award recipients be limited to those that have been evaluated under the competitive grant process already outlined in the existing rules. While the comptroller appreciates the commenter's concerns, the comptroller declines to accept the requested change. The proposed change is not present in statute and could significantly limit the applicant pool for future awards or contracts. Further, the comptroller may continue to utilize its existing grant process framework as appropriate without an addition to the rule. As previously discussed, the rule implements recent legislation. Fur-

ther, §16.37 limits use of the direct contract process to awards that are to local governments. Unlike private entities, local governments have the additional safeguard of governance that is accountable to the public through, for example, gubernatorial appointments subject to senate confirmation, or through elections. The comptroller will continue to comply with best practices as provided in the Texas Grant Management Guide, which includes additional guidance for the program on how best to provide for fixed amount awards while maintaining credibility and trust in the process.

The amendments are adopted under Government Code, §490I.0109, which permits the comptroller to adopt rules as necessary to implement Chapter 490I regarding the Texas Broadband Development Office.

The amendments implement Government Code, Chapter 490I.

§16.30. Definitions.

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

(1) Applicant--A person that has submitted an application for an award under this subchapter.

(2) Broadband development map--The map adopted or created under Government Code, §490I.0105.

(3) Broadband service--Internet service that delivers transmission speeds capable of providing:

(A) a download speed of not less than 100 Mbps;

(B) an upload speed of not less than 20 Mbps; and

(C) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

(4) Broadband serviceable location--A business or residential location in this state at which broadband service is, or can be, installed, including a community anchor institution.

(5) Census block--The smallest geographic area for which the U.S. Bureau of the Census collects and tabulates decennial census data as shown on the most recent on Census Bureau maps.

(6) Commercial broadband service provider--A broadband service provider engaged in business intended for profit, a telephone cooperative, an electric cooperative, or an electric utility that offers broadband service or middle-mile broadband service for a fare, fee, rate, charge, or other consideration.

(7) Community anchor institution--An entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

(8) Gigabit-level broadband service--Internet service that delivers transmission speeds capable of providing:

(A) a download speed of not less than 1000 Mbps;

(B) an upload speed of not less than 20 Mbps; and

(C) network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements.

(9) Grant funds--Grants, low-interest loans, and other financial incentives awarded to applicants under this subchapter for the purpose of expanding access to and adoption of broadband service.

(10) Grant recipient--An applicant who has been awarded grant funds under this subchapter.

(11) Interested party--A person, including an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity, that resides, is located, or conducts business in the project area subject to challenge. The term includes a broadband service provider that is not located in the project area but who proposes to provide broadband service in the project area.

(12) Mbps--Megabits per second.

(13) Middle mile infrastructure--Any broadband infrastructure that does not connect directly to an end-user location, including a community anchor institution. The term includes:

(A) leased dark fiber, interoffice transport, backhaul, carrier-neutral internet exchange facilities, carrier-neutral submarine cable landing stations, undersea cables, transport connectivity to data centers, special access transport, and other similar services; and

(B) wired or private wireless broadband infrastructure, including microwave capacity, radio tower access, and other services or infrastructure for a private wireless broadband network, such as towers, fiber, and microwave links.

(C) The term does not include provision of Internet service to end-use customers on a retail basis.

(14) Non-commercial broadband service provider--A broadband service provider that is not a commercial broadband service provider.

(15) Office--The Broadband Development Office created under Government Code, §490I.0102.

(16) Project area--The area, consisting of one or more broadband serviceable locations, identified by an applicant in which the applicant proposes to deploy broadband service or middle mile infrastructure.

(17) Public school--A school that offers a course of instruction for students in one or more grades from prekindergarten through grade 12 and is operated by a governmental entity.

(18) Qualifying broadband service--Broadband service that meets the minimum speed, latency and reliability thresholds prescribed by the office in each applicable notice of funds availability.

(19) Reliable broadband service--Broadband service that is accessible to a location via:

(A) fiber-optic technology;

(B) Cable Modem/ Hybrid fiber-coaxial technology;

(C) digital subscriber line (DSL) technology; or

(D) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum.

(20) Served location--A broadband serviceable location that is neither an unserved nor an underserved location.

(21) Underserved location--A broadband serviceable location that has access to reliable broadband service but does not have access to reliable broadband service with the capability of providing:

(A) a download speed of not less than 100 Mbps;

(B) an upload speed of not less than 20 Mbps; and

(C) a network round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of speed measurements as established under Government Code, §490I.0101.

(22) Unserved location--A broadband serviceable location that:

(A) does not have access to reliable broadband service; or

(B) is a public school or community anchor institution and does not have access to reliable broadband service that is gigabit-level broadband service.

§16.31. Notice of Funds Availability.

(a) The office shall provide notice of the availability of funds for competitive grant awards and may publish the notice on the Electronic State Business Daily website or the comptroller's website.

(b) The notice of funds availability published under subsection (a) of this section shall include:

(1) the total amount of grant funds available for award;

(2) eligibility criteria;

(3) application requirements;

(4) award and evaluation criteria; and

(5) the date by which applications must be submitted to the office;

(c) The notice may include:

(1) limitations on the geographic distribution of grant funds;

(2) the anticipated date of award; and

(3) any other information the office determines is necessary for award.

§16.35. Competitive Grant Limitations.

(a) The office may not award grant funds for deployment of last-mile broadband service for a broadband serviceable location to a non-commercial broadband service provider if a commercial broadband service provider has submitted an eligible application for the same location.

(b) For the purposes of this subchapter, a joint application submitted by any combination of a political subdivision, commercial broadband service provider, or a non-commercial broadband service provider that includes at least one commercial broadband service provider shall be deemed to be an application submitted by a commercial broadband service provider.

§16.36. Competitive Grant Application Process Generally.

(a) No award for competitive grant funding will be disbursed by the office except pursuant to an application submitted in accordance with this subchapter.

(b) An application for competitive grant funding under this subchapter shall be submitted on the forms and in the manner prescribed by the office. The office may require that applications be submitted electronically.

(c) Prior to publication of application information pursuant to Government Code, §490I.0106(e), the office may undertake an examination to determine whether the application appears on its face to comply with applicable program requirements. The office may reject and take no further action on an application that does not appear to comply with applicable program requirements on its face.

(d) The office shall for a period of at least 30 days publish on its website information from each accepted application, including the applicant's name, the project area targeted for expanded broadband service access or adoption by the application, and any other information the office considers relevant or necessary. The information will remain on the website for a period of at least 30 days before the office makes a decision on the application.

(e) During the 30-day application publishing period described by subsection (d) of this section, the office shall accept from any interested party a written protest of the application relating to whether the applicant or project is eligible for an award or should not receive an award based on the criteria prescribed by the office. A protest of an application must be submitted as provided under §16.41 of this subchapter.

(f) After the publishing period in subsection (d) of this section and any challenge process under §16.41 of this subchapter, the office will notify grant recipient(s).

(g) During the application review process, the office may require an applicant to submit additional information the office determines is necessary to make an award decision.

§16.37. Direct Contract or Grant Awards.

(a) The office may make a direct contract or grant award on a non-competitive basis to a political subdivision of this state.

(b) No award for direct funding will be disbursed by the office except pursuant to a contract or grant agreement executed in accordance with this subchapter. The office may require that information regarding the award be submitted electronically.

§16.38. Fixed Amount Awards.

(a) For the purposes of this subchapter, a fixed amount award is a type of grant agreement pursuant to which the office provides a specific amount of funding based on reasonable, estimated costs under the award.

(b) Pursuant to Government Code, §783.007(b) allowing for variances from the uniform assurances and standard financial conditions, the office may determine the amount per award and provide a fixed amount award for competitive and direct grants without regard to the Texas Acquisition Threshold as defined in the Texas Grant Management Standards. All other uniform assurances and standard financial conditions developed pursuant to Government Code, § 783.006 remain applicable to local governments receiving financial assistance from the office.

§16.40. Evaluation Criteria.

(a) The office shall establish the eligibility and award criteria applicable for each round of competitive grant funding by publishing the criteria in a notice of funds availability as provided by §16.31 of this subchapter. In establishing eligibility and award criteria, the office shall:

(1) prioritize applications that expand access to and adoption of broadband service in designated areas in which the highest percentage of broadband serviceable locations are unserved or underserved locations;

(2) prioritize applications that expand access to broadband service in public and private primary and secondary schools and institutions of higher education;

(3) prioritize applications that connect end-user locations with end-to-end fiber optic facilities that meet speed, latency, reliabil-

ity, consistency, scalability, and related criteria as the office shall determine;

(4) give preference to applicants that provide the information requested by the office under Government Code, §490I.01061; and

(5) take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service.

(b) In addition to the evaluation criteria provided under subsection (a) of this section, the office may include and provide preferences for the following evaluation criteria in the notice of funds availability:

(1) application participant(s) experience;

(2) technical specifications including broadband transmission speeds (Mbps upload and download) that will be deployed as a result of the project;

(3) estimated project completion date;

(4) the availability of matching funds including amount, percentage, and source of matching funds;

(5) cost effectiveness and overall impact as measured by the total project cost, the total number of prospective broadband service locations to be served by the project, the proportion of unserved and underserved locations to be served by the project compared to the number of serviceable locations within the designated area(s) the project is located, the proportion of recipients to be served by the project compared to the population of the designated area(s) in which the project is located, and the project cost per prospective broadband service recipient;

(6) geographic location including, but not limited to, rural areas where because of population density the cost of broadband expansion is characterized by disproportionately high capital and operational costs;

(7) community, non-profit, or cooperative support or participation in the project;

(8) affordability of broadband services in the areas in which the proposed project is located prior to the deployment of broadband services as a result of the project;

(9) consumer price of broadband services that applicant proposes to deploy as a result of the project;

(10) participation in federal programs that provide low-income consumers with subsidies for broadband services;

(11) small business and historically underutilized business involvement or subcontracting participation; and

(12) any additional factors the office may determine are necessary to further the expansion and adoption of broadband service.

(c) Notwithstanding subsection (a)(3) of this section, the office may consider an application for a broadband infrastructure project that does not employ end-to-end fiber optic facilities if the use of an alternative technology:

(1) is proposed for a high-cost area;

(2) may be deployed at a lower cost than deploying fiber optic technology; or

(3) meets the speed, latency, reliability, consistency, scalability, and related criteria as the office shall determine for each applicable notice of funds availability.

§16.41. Application Challenge Process.

(a) The office shall publish on the office's website criteria and requirements for submitting a challenge under this section for applications related to last-mile broadband infrastructure projects. An interested party may only challenge an application on the basis that the application includes broadband serviceable locations that are ineligible for an award. The inclusion of a location in a project may only be challenged if:

(1) the number of served locations included in a proposed project exceeds twenty percent of the total number of locations to which service would be deployed by the project; or

(2) the broadband serviceable location is subject to an existing federal commitment to deploy qualifying broadband service to the location.

(b) A challenge submitted under this section shall be submitted electronically in the manner and on the forms prescribed by the office and shall be accompanied by all relevant supporting documentation. The interested party submitting the challenge bears the burden to establish that a location is ineligible for an award.

(c) The office shall review the protest and make a determination as to whether the protest should be upheld. The office shall provide notice of its determination to each affected applicant, including the right, if any, to submit an amended application under subsection (d) of this section.

(d) If the office upholds a challenge on the basis prescribed by the office, an applicant may amend and resubmit an application without the challenged locations and re-scope the application or project area if, after the protest is upheld:

(1) the remaining number of broadband serviceable locations in the project area is greater than 50% of the original number of locations in the project area; or

(2) the office permits, at its sole discretion, the applicant to amend the application.

(e) If an amended application without the challenged locations is not received by the office by the 30th day after receiving notice of the determination under subsection (c) of this section, the office may remove the application from grant funding consideration.

(f) A determination made by the office under this section is not a contested case for purposes of Government Code, Chapter 2001.

(g) Notwithstanding any deadline for submitting an application, if the office upholds a challenge, the applicant may resubmit an amended application as provided under this subchapter without the challenged broadband serviceable locations not later than 30 days after the date that the office upheld the protest. An amended application may not include additional areas or broadband serviceable locations not already included in the original application.

(h) If the office upholds a challenge and the applicant resubmits an application in accordance with subsection (g) of this section, the resubmitted application is not subject to further challenges.

(i) Notwithstanding section §16.36(e) of this subchapter, a broadband service provider who has not provided information requested by the office under Government Code, §490I.01061, may not submit a challenge of an application made under this subchapter.

§16.42. Awards; Grant Agreement.

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

(b) Grants for the deployment of broadband infrastructure awarded under this subchapter may only be used for capital expenses,

purchase or lease of property, and other expenses, including backhaul and transport, that will facilitate the provision or adoption of broadband service.

(c) A grant recipient shall have 30 days from the date of award to negotiate and sign the grant agreement. The comptroller may extend the deadline to fully execute the grant agreement upon a showing of good cause by the grant recipient(s). If the grant agreement is not signed by the grant recipient and received by the office by the later of the 30th day after the award of the grant agreement or the extended deadline date, the office may rescind the award.

(d) For last-mile infrastructure projects, the grant recipient must make a reasonable effort to restore the private property affected by the project to the condition the property was in before the beginning of the project.

§16.46. Forms; Notices.

(a) Unless otherwise required by law, the office may prescribe all forms or other documents required to implement this subchapter and may require that the forms or other documents be submitted electronically.

(b) Any notice required by these rules to be sent by the office may be provided electronically and the office is entitled to rely on an email address provided by an applicant, grant recipient or other person, including a political subdivision or broadband service provider, for all purposes relating to notification. Applicants and grant recipients must provide an email address that is designated for receipt of notices from the office.

(c) If notice cannot be sent electronically, the office shall provide notice by regular or certified U.S. Mail and the office is entitled to rely on the mailing address currently on file for all purposes relating to notification.

(d) Service of notice by the office is complete and receipt is presumed on:

(1) the date the notice is sent, if sent before 5:00 p.m. by electronic mail;

(2) the date after the notice is sent, if sent after 5:00 p.m. by electronic mail; or

(3) three business days after the date it is placed in the mail, if sent by regular or certified U.S. Mail.

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 February 25, 2026.

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Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Effective date: March 17, 2026
Proposal publication date: November 21, 2025
For further information, please call: (512) 475-2220

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34 TAC §§16.37 - 16.39

The Comptroller of Public Accounts adopts the repeal §16.37, concerning overlapping applications or project areas, §16.38, concerning special rule for overlapping project areas in non-commercial applications, and §16.39, concerning application requirements, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7519). The rules will not be republished.

The comptroller repeals §§16.37 - 16.39 since they are no longer needed as information related to application requirements will be in each respective notice of funds availability.

The comptroller did not receive any comments regarding adoption of the repeal.

The repeal is adopted under Government Code, §490I.0109, which permits the comptroller to adopt rules as necessary to implement Chapter 490I regarding the Texas Broadband Development Office.

The repeal implements Government Code, Chapter 490I.

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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Victoria North
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SUBCHAPTER F. RURAL AMBULANCE SERVICE GRANT PROGRAM

34 TAC §§16.500 - 16.506

The Comptroller of Public Accounts adopts new §16.500, concerning definitions; §16.501, concerning applications; §16.502, concerning comptroller review; §16.503, concerning grant agreement; §16.504, concerning authorized uses of grant funds; §16.505, concerning reporting and compliance; and §16.506, concerning fiscal year 2026 application period, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7519). The rules will not be republished. These new sections will be located in 34 Texas Administrative Code, Chapter 16, new Subchapter F, Rural Ambulance Service Grant Program.

Section 16.500 provides definitions.

Section 16.501 describes the application process.

Section 16.502 describes comptroller review.

Section 16.503 describes the requirements for grant agreements.

Section 16.504 describes the authorized uses of grant funds and limitations on uses of grant funds.

Section 16.505 describes reporting requirements and available remedies for noncompliance.

Section 16.506 describes the Fiscal Year 2026 application period.

The comptroller received comments from eight entities, including four associations: Texas State Association of Fire and Emergency Districts ("SAFE-D"), Texas Ambulance Association ("TAA"), Texas EMS Alliance ("TEMSA"), and County Judges and Commissioners Association of Texas ("CJCAT")). Karnes County Emergency Medical Services ("Karnes County EMS"), Delta County, Camp County Emergency Medical Services ("Camp County EMS"), and Wilson County Emergency Services District ("Wilson ESD") also submitted comments on the proposal.

The comptroller thanks every commenter for the suggestions, information, and arguments. This office appreciates the time and resources devoted to drafting and submitting the written comments.

Karnes County EMS requests changing the allowable date for ordering an ambulance. If a county's ambulance service provider has an order on file with a manufacturer at the time the application was submitted, and the delivery and payment occur after the award date, Karnes County EMS proposes allowing the grantee to utilize grant funds on that order. Karnes County EMS and other commenters shared their frustration with the significant delays in delivery times by ambulance manufacturers and how best to guarantee their place in the production queue at the best price. Some commenters argued the disallowance of pre-award expenses is not statutorily authorized and conflicts with legislative intent. One commenter acknowledged a pre-award order would be at the county's own risk. SAFE-D, TAA, TEMSA and Delta County also request amending the ambulance ordering date allowed by the proposed rule. These organizations suggest qualified counties be able to place ambulance orders immediately upon receiving their grant award notices to prevent unnecessary delay in the delivery of the ambulance. TAA, TEMSA and CJCAT alternatively request a change to allow qualified counties to place ambulance orders on or after January 1, 2026, and later utilize grant funds for these orders. For the sake of this discussion, the comptroller assumes an order on file with a manufacturer requires a contract. Grant funding is not guaranteed in part because the statute limits providers to receive funds from only one county per fiscal year and the appropriation is not unlimited. For example, in some areas, up to six counties may share a single provider. If all six counties apply, only one can receive a grant in each fiscal year. In this scenario, at least one county would wait at least six years to receive a grant. Further, grant funds will be disbursed quickly, but not without an executed grant agreement between the comptroller and the county and, for counties with private providers, not until their executed agreement with the provider is submitted to our office. While the comptroller appreciates the commenters' concerns, the comptroller declines to make the proposed change because it would create risk and reduce the efficiency of program administration. Orders placed, i.e. purchase contracts signed, before execution of the grant agreement and fulfilment of its contingencies are pre-award expenses. The comptroller disagrees that disallowance of pre-award expenses conflicts with or exceeds statutory authority. In order to efficiently operate the program with statutorily required controls to ensure the public purpose is accomplished, the comptroller declines to amend §16.504(c), which disallows pre-award expenses.

TAA, TEMSA and Delta County also request that the rules provided that the comptroller distribute funding 30 to 45 days after the ambulance is ordered. TAA and TEMSA further recommend requiring that the county submit documentation regarding the order. Because the documentation provides appropriate fiscal oversight, the commenters argue this option gives the county what it needs to secure a place in the manufacturing queues. While the comptroller appreciates the commenters' concerns to receive funds timely, the comptroller declines to make the proposed change. After executing the grant agreement and, if applicable, submitting an executed private provider agreement, the comptroller will distribute grant funds to the grantee in accordance with §16.503 and Local Government Code, §130.914(h). The comptroller notes that the sample required documents (e.g. purchase agreements, documentation detailing the ordered vehicle specifications, progress reports on manufacturing status and final invoicing upon delivery) suggested by the commenters for qualified counties to provide the comptroller are reasonable examples that a grantee could be expected to produce to confirm compliance with the grant requirements.

Camp County EMS comments that it is concerned about significant delays in ambulance acquisition and capacity if qualified counties must wait or are denied funding in a scenario where qualified counties name the same qualified rural ambulance service provider. TAA, TEMSA, Delta County and CJCAT share similar concerns about this potential outcome from the proposed rules: If multiple qualified counties list the same qualified rural ambulance service provider in their application, only one qualified county may be awarded a grant for that fiscal year for that shared qualified rural ambulance service provider. The commenters request that qualified counties receive funding without regard to the partnering qualified rural ambulance service provider. While the comptroller appreciates the concerns, this request conflicts with Local Government Code, §130.914(c) that prevents providers from receiving grant funds through more than one county in a fiscal year. The statute requires evaluations that prevent immediate funding after applications are submitted. Grant funding cannot be guaranteed because the statute requires the comptroller to evaluate each county's capability to otherwise obtain the money necessary to provide adequate ground ambulance services, prevents a provider from receiving funding from another qualified county in the same fiscal year and does not provide for unlimited funding. The proposed rules allow the comptroller to ensure compliance with state law as the comptroller reviews and processes all applications prior to awarding the funding. Therefore, the recommended revision provided is respectfully declined.

CJCAT, SAFE-D, TEMSA, and TAA disagree with requiring a county to allocate the entire award to one provider and requests amending the proposed rules to allow qualified counties to distribute the funds among multiple eligible qualified ambulance service providers. Commenters cite legislative intent, disparities between counties with one provider and several providers, the desire to benefit all EMS agencies that serve a county and desire to provide equitable services across a county. The limitation to one provider per county per fiscal year is supported by the statute's requirement for sufficient controls. The limit to one provider simplifies grant administration not only for this office, but also for small rural counties who have very few employees, and may not have a dedicated staff grant compliance expert. Based on our office's experience with other grant programs, smaller counties have more incidence of disallowed expenditures. Because clawing back misspent funds is a great burden for small counties, the best mechanism to ensure grant compliance is prevention. Commenters asking to divide limited grant funds among multiple providers indicate possible misunderstandings of allowable grant uses. Statute limits the use of grant funds to the purchase of ambulances. After consulting De-

partment of State Health Services experts, the proposed rules include refurbishing as a mechanism for purchase. Many counties elect to refurbish an ambulance by purchasing a new 'box' to place on an existing chassis, or by purchasing a new chassis to transport an existing 'box.' The high costs of new ambulances and new boxes or chassis will likely exceed grant amounts. Dividing funds among multiple providers could signal an intent to use funds for something less than new ambulances or refurbishments. Some commenters argued they could support dividing grant funds among multiple providers by adding their own funds. While the county still needs to demonstrate their inability to otherwise obtain the funds necessary to provide adequate ground ambulance service to receive the grant, the county could provide grant funds to one provider and provide the county's own funds to the other. This rule also provides controls to ensure compliance with Local Government Code, §130.914(c) that states a qualified rural ambulance service provider is ineligible to receive additional grant funds under the grant program from another qualified county in the same fiscal year. The comptroller oversees compliance with state statute as the comptroller reviews and processes all applications prior to awarding the funding. Therefore, the recommended revision is respectfully declined.

Wilson ESD suggests qualified ambulance service providers could demonstrate their ability to provide matching funds to complete the ambulance purchase if the grant will not cover the full vehicle purchase amount. Wilson ESD further proposes granting qualified counties the ability to elect to split grant funds between two selected qualified rural ambulance service providers on application if the providers demonstrated matching funds to complete the respective ambulance purchases. The comptroller finds that these requested additions are outside the scope of the proposed rulemakings and would materially alter the issues raised in the proposed rules. Such an adoption would deprive affected parties of fair notice and the opportunity for meaningful and informed participation in the rulemaking process. See Tex. Workers' Comp. Comm'n v. Patient Advocates, 136 S.W.3d 643 (Tex. 2004). The comptroller declines to change the rules in response to these comments.

SAFE-D requests adding a definition for "grant period" that would be for at least five years from the date the county received the grant funds. The comptroller declines to add a definition for "grant period" in the rule because the statute provides grantees five years to purchase and take possession of an ambulance, and because the grant agreement is the most appropriate means to implement this statutory requirement.

The new sections are adopted under Local Government Code, §130.914, which requires the comptroller to adopt rules to implement a new grant program to provide financial assistance to certain rural counties for ambulance service.

The new sections implement Local Government Code, §130.914.

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 February 26, 2026.

TRD-202600996

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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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 151. GENERAL PROVISIONS

37 TAC §151.58

The Texas Board of Criminal Justice (board) adopts new rule §151.58, concerning Legislative Leave Pool, without changes to the proposed text as published in the October 31, 2025, issue of the *Texas Register* (50 TexReg 7100). The rule will not be republished. The purpose of the new rule is to establish a legislative leave pool in compliance with HB 1828, 89th Regular Legislative Session.

No public comments were received regarding the new rule.

The new rule is adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §493.0075, which establishes the donation of accrued compensatory time or accrued annual leave for legislative purposes for TDCJ employees.

Cross Reference to Statutes: None.

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 February 23, 2026.

TRD-202600855

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

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Proposal publication date: October 31, 2025

For further information, please call: (936) 437-6700

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CHAPTER 152. CORRECTIONAL INSTITUTIONS DIVISION
SUBCHAPTER A. MISSION AND ADMISSIONS

37 TAC §152.5

The Texas Board of Criminal Justice (board) adopts without changes the repeal of 37 Texas Administrative Code, Part 6 §152.5, concerning Designation of State Jail Regions, as published in the October 31, 2025, issue of the *Texas Register* (50 TexReg 7102). The rule will not be republished. The

repeal eliminates a rule whose governing statutes, Government Code §§507.003-.004 were repealed by SB 2405, 89th Regular Legislative Session.

No public comments were received regarding the repeal.

The repeal is adopted under Texas Government Code §492.013, which authorizes the board to adopt rules as necessary for its own procedures and for operation of the department and the independent reporting entities.

Cross Reference to Statutes: None.

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 February 23, 2026.

TRD-202600852
Stephanie Greger
General Counsel
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For further information, please call: (936) 437-6700

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37 TAC §152.3

The Texas Board of Criminal Justice (board) adopts amendments to §152.3, concerning Admissions, without changes to the proposed text as published in the October 31, 2025, issue of the *Texas Register* (50 TexReg 7101). The rule will not be republished. The adopted amendments add language to include the verification process of a county's request for reimbursement; remove requirements mandated by §152.5, "Designation of State Jail Regions," which is repealed; and make grammatical and formatting updates.

No public comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; §499.1215, which establishes guidelines for compensation to counties for inmates awaiting transfer to the TDCJ; and §507.024, which addresses the safe transfer of defendants from counties to state jail felony facilities.

Cross Reference to Statutes: None.

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-202600853
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
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For further information, please call: (936) 437-6700

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CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.19

The Texas Board of Criminal Justice (board) adopts amendments to §159.19, concerning Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness, with a change to the proposed text as published in the October 31, 2025, issue of the *Texas Register* (50 TexReg 7103). The rule will be republished. The adopted amendments add the Texas Workforce Commission to the Memorandum of Understanding (MOU); revise "mental illness" to "mental impairment" and "terminally ill" to "terminal illness" throughout, including the title; remove the linked graphic of the finalized MOU; and make other edits and grammatical updates for clarity.

No public comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.001, which establishes the board's authority over the department; §492.013, which authorizes the board to adopt rules; Texas Health and Safety Code §614.003, which establishes the Texas Correctional Office on Offenders with Medical or Mental Impairments; §§614.007-.008, which establishes the powers and duties of TCOOMMI and the community-based diversion program; and §§614.013-.015, which mandates a memorandum of understanding be established for the continuity of care for offenders with mental impairments, elderly offenders, and offenders with physical disabilities, terminal illnesses, or significant illnesses.

Cross Reference to Statutes: None.

§159.19. Continuity of Care and Services Program for Offenders who are Elderly, have a Mental Impairment or Physical Disability, or have Significant or Terminal Illness.

(a) The Texas Department of Criminal Justice (TDCJ) adopts a memorandum of understanding (MOU) with the Texas Health and Human Services Commission (HHSC), the Texas Workforce Commission, and the Texas Department of State Health Services (DSHS) for the purpose of establishing a continuity of care and services program for offenders who are elderly, have a mental impairment or physical disability, or have significant or terminal illness.

(b) This MOU is required by the Texas Health and Safety Code §§614.013 - 614.015.

(c) Copies of the MOU are filed in the Texas Correctional Office on Offenders with Medical or Mental Impairments, 4616 W. Howard Lane, Suite 200, Austin, Texas 78728 and may be reviewed during regular business hours.

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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Stephanie Greger
General Counsel
Texas Department of Criminal Justice
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