TITLE 4. AGRICULTURE
PART 1. TEXAS DEPARTMENT OF AGRICULTURE
CHAPTER 7. PESTICIDES
SUBCHAPTER D. USE AND APPLICATION
4 TAC §7.30
The Texas Department of Agriculture (Department) adopts amendments to Title 4, Part 1, Chapter 7, Subchapter D, §7.30, relating to Classification of Pesticides, without changes to the proposal published in the January 4, 2019, issue of the Texas Register (44 TexReg 12). The amendments will not be republished. The adoption is made in order to add mandatory training prior to the application of 3,6-Dichloro-o-anisic acid (dicamba), as required by the Environmental Protection Agency (EPA), and 2,4-dichlorophenoxyacetic acid (2,4-D), in order to reduce the potential for misapplication of the products which could cause damage to sensitive crops which may be exposed to the pesticides.

The Department received one comment in favor of the proposal from Steve Verett, acting as Executive Vice President on behalf of Plains Cotton Growers, Inc. Mr. Verett stated that the training would work to mitigate the risks associated with applications.

The amendments are adopted under §76.004 of the Texas Agriculture Code, which provides the Department with the authority to adopt rules related to the labeling requirements for pesticides required to be registered under Chapter 76.

The code affected by the adoption is the Texas Agriculture Code, Chapter 76.

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 March 4, 2019.
TRD-201900729
Jessica Escobar
Assistant General Counsel
Texas Department of Agriculture
Effective date: March 24, 2019
Proposal publication date: January 4, 2019
For further information, please call: (512) 463-4075

TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
CHAPTER 9. TALKING BOOK PROGRAM
13 TAC §§9.1 - 9.4, 9.7, 9.8, 9.11
The Texas State Library and Archives Commission (Commission) adopts amendments to 13 Texas Administrative Code (TAC) §§9.1 - 9.4, 9.7, 9.8, and 9.11, relating to Talking Book Program. The amended rules are adopted without changes to the text as published in the September 21, 2018, issue of the Texas Register (43 TexReg 6169). The amended rules will not be republished.

No comments were received regarding the amended rules.

The amendments are adopted to keep the rules up-to-date, to clarify current terminology, and to delete references to obsolete technology that is no longer in use by the program. The adopted amendments include removal of references to cassette technology no longer in use, providing links to further information on certifying authorities, updating information on how applications may be submitted, putting more emphasis on digital services, and updating terminology in reference to specific types of disabilities.

The amended rules are adopted in accordance with Texas Government Code §2001.039, which provides the Commission with the authority to adopt rules as necessary for its own 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 28, 2019.
TRD-201900713
Ava M. Smith
Director
Texas State Library and Archives Commission
Effective date: March 20, 2019
Proposal publication date: September 21, 2018
For further information, please call: (512) 463-5474

TITLE 16. ECONOMIC REGULATION
PART 1. RAILROAD COMMISSION OF TEXAS
CHAPTER 3. OIL AND GAS DIVISION
16 TAC §3.37, §3.38

The Railroad Commission of Texas adopts amendments to 16 TAC §3.37, relating to Statewide Spacing Rule, and §3.38, relating to Well Densities, without changes from the proposed text as published in the December 28, 2018, issue of the Texas Register (43 TexReg 8523) and will not be republished. The amendments incorporate a specific timeline for notice by publication when an operator seeks an exception to §3.37 or §3.38.

The Commission received three comments on the proposal, one from BPX Energy (BPX) and two from associations, the Permian Basin Petroleum Association (PBPA) and the Texas Oil and Gas Association (TXOGA).

PBPA and TXOGA support the proposed amendments, which require an operator to publish notice of an application once each week for two consecutive weeks, rather than once each week for four consecutive weeks, when an operator applies for an exception to §3.37 or §3.38. The Commission appreciates this support.

BPX supports the proposed change. However, to address concerns regarding the reduction in public notice requirements, BPX would also support a requirement to publish notice twice each week for two consecutive weeks.

Regarding BPX’s suggestion to require publication of notice twice each week for two consecutive weeks, PBPA notes some areas of the state are served only by weekly community newspapers. The requirement to publish twice per week in these areas could be problematic. The Commission agrees. Further, the notice requirements applicable to spacing and density exceptions focus on operators and unleased mineral interest owners of offset tracts. Most of these individuals will be notified directly by mail, as specified in §3.37(a) and §3.38(h). The notice by publication procedure will only be used when an operator is unable, after due diligence, to identify the address of any person who is required to be notified. The Commission has no evidence that in these instances reducing the frequency of published notices from once each week for four consecutive weeks to once each week for two consecutive weeks will harm operators’ or unleased mineral interest owners’ rights. In addition, the Commission received no comments from operators, mineral interest owners, or associations representing those persons that express concern over the reduction in published notice.

Therefore, the Commission adopts the amendments as proposed, such that a specific notice by publication provision is added in §3.37 and §3.38 and the Commission’s general publication rule, §1.43, will no longer apply. The adopted notice by publication provisions in §3.37(a)(4) and §3.38(h)(2) state that if, after diligent efforts, an applicant for an exception is unable to ascertain the name and address of one or more persons required to be notified, then the applicant shall notify such persons by publishing notice of the application in a form approved by the Commission. The amendments require that the notice be published once each week for two consecutive weeks in a newspaper of general circulation in the county where the well will be located, with the first publication taking place at least 14 days before the protest deadline in the notice of application. The amendments also require that the applicant file a publisher’s affidavit or other evidence of publication. As with other Commission notice by publication processes, the Commission may request additional information to show the applicant engaged in diligent efforts to locate persons to be notified.

The Commission also adopts other nonsubstantive amendments to correct outdated language.

The Commission adopts the amendments to §3.37 and §3.38 pursuant to Texas Natural Resources Code §§81.051 and §81.052, which provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission; and Texas Natural Resources Code §§85.201 and §85.202, which require the Commission to adopt and enforce rules and orders for the conservation and prevention of waste of oil and gas, and specifically for drilling of wells, preserving a record of the drilling of wells, and requiring records to be kept and reports to be made.


Cross reference to statute: Texas Natural Resources Code Chapters 81 and 85.

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, 2019.

TRD-201900680
Haley Cochran
Rules Attorney, Office of General Counsel
Railroad Commission of Texas
Effective date: March 18, 2019
Proposal publication date: December 28, 2018
For further information, please call: (512) 475-1295

TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.11

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §101.11, concerning the temporary or permanent appointment of a custodian of records for a dentist’s records. This amendment to the existing rule requires dentists to designate a custodian and provides for the Board to appoint a custodian if needed. This amendment is adopted with no changes to the proposed text as published in the January 18, 2019, issue of the Texas Register (44 TexReg 311), and the rule amendment will not be republished.

One comment was received after publication of the proposed rule amendment during the official comment period. Bresnen Associates provided a written comment on behalf of the Association of Dental Support Organizations supporting the adoption of the rule as proposed. The Board agreed with this comment, and no changes to the proposed rule were made as a result of this comment.
This rule is adopted under Texas Occupations Code §258.0511(c), requiring the Board to adopt rules regarding the designation and duties of a dental custodian of records.

This rule amendment implements the requirements of Texas Occupations Code §258.0511(c).

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 28, 2019.

TRD-201900704
Alex Phipps
General Counsel
State Board of Dental Examiners
Effective date: March 20, 2019
Proposal publication date: January 18, 2019
For further information, please call: (512) 305-9380

CHAPTER 107. DENTAL BOARD PROCEDURES
SUBCHAPTER C. DISPOSITION OF COMPLAINTS

22 TAC §107.206

The State Board of Dental Examiners (Board) adopts new rule 22 TAC §107.206, concerning public disciplinary and non-disciplinary actions of the Board. This rule incorporates portions of the Board’s existing disciplinary matrix into rule format. The purpose of this rule is to clarify the structure of the Board’s public actions and enable greater transparency for the Board’s disciplinary process. This new rule is adopted with changes to the proposed text as published in the January 18, 2019, issue of the Texas Register (44 TexReg 312) and will be republished.

After publication in the Texas Register, Board staff has changed the proposed text of the rule to reflect updated references to Board rules in subsections (c)(1) and (c)(2) of the new rule. No other changes were made to the proposed text.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a)-(b), 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, and permits the Board to adopt rules regarding its proceedings.


(a) Purpose. The purpose of this section is to outline the Board’s disciplinary and non-disciplinary actions issued under Chapter 263 of the Texas Occupations Code.

(b) Definitions. In this rule section, the following terms shall apply:

(1) "Administrative Fine" is a monetary fine assessed pursuant to Texas Occupations Code §263.002(a) in connection with the issuance of a disciplinary action by the Board that is not an administrative penalty. Administrative fines shall not be assessed when issuing a Remedial Plan. The Board shall not assess an administrative fine without the issuance of a Warning, Reprimand, Probated Suspension, or Enforced Suspension.

(2) "Administrative Penalty" is a monetary penalty assessed as a disciplinary action pursuant to Texas Occupations Code §263.002(a). An administrative penalty is a public disciplinary action of the Board. An administrative penalty shall not be issued in conjunction with the issuance of a Warning, Reprimand, Probated Suspension, Enforced Suspension, or Remedial Plan. An administrative penalty that is issued subject to an agreement between the parties during informal settlement shall be referred to as an "agreed administrative penalty."

(3) "License" means a license, certificate, or registration that is issued by the Board.

(4) "Licensee" means a person who holds a license, certificate, or registration that is issued by the Board.

(c) Public Actions. The Board shall utilize the public actions identified in this subsection to resolve the investigation of a complaint against a Licensee. The public actions of the Board listed in subsection (c)(1) through (c)(7) of this section are listed in order of increasing severity. These public actions shall be imposed by agreed settlement or final order of the Board against the Licensee held by the Licensee. Nothing in this rule section shall be construed to prohibit or restrict the Board from dismissing a complaint or imposing an injunction or cease and desist order under Chapter 264, Subchapter B, of the Texas Occupations Code, where appropriate.

(1) Remedial Plan. The Board may issue a non-disciplinary Remedial Plan pursuant to Texas Occupations Code §263.0077 and Board rule in §107.204 of this title (relating to Remedial Plans).

(2) Administrative Penalty. The Board may issue an Administrative Penalty pursuant to the procedures of Chapter 264, Subchapter A of the Texas Occupations Code, and Board rule in §107.201 of this title (relating to Procedures for Assessment of Administrative Penalties in Informal Complaint Resolution). An administrative penalty is a disciplinary action.

(3) Warning. A Warning is a disciplinary action and may be accompanied by the imposition of an Administrative Fine.

(4) Reprimand. A Reprimand is a disciplinary action and may be accompanied by the imposition of an Administrative Fine.

(5) Probated Suspension. A Probated Suspension is a heightened level of disciplinary action issued for a period of years as identified in the Board’s order; however, a Licensee under a Probated Suspension may continue to practice. A Probated Suspension may be accompanied by the imposition of an Administrative Fine.

(6) Enforced Suspension. An Enforced Suspension is a heightened level of disciplinary action. An Enforced Suspension may be issued for a period of years as identified in the Board’s order. A Licensee may not practice while under an Enforced Suspension. An Enforced Suspension may be accompanied by the imposition of an Administrative Fine.

(7) Revocation. Revocation is the highest level of disciplinary action taken by the Board. After the Board imposes an order of Revocation upon a Licensee, the Licensee must cease the practice authorized under the License that has been revoked. A person whose License has been revoked by Board order must apply for the issuance of a new License pursuant to Board requirements.

(d) Imposition of Conditions and Restrictions on Practice. The Board may impose other conditions or restrictions on the practice of a Licensee through an agreed order between the Board and the Licensee.
resulting in a disciplinary action, or through a final order of disciplinary action issued by the Board after a contested case hearing at the State Office of Administrative Hearings. These conditions may include, but are not limited to, surrender, suspension, or revocation of a Licensee’s sedation/anesthesia permits or other authorizations issued by the Board.

(c) Restitution. The Board may order a Licensee to pay restitution to a patient as provided in an agreed settlement or final order of the Board, instead of or in addition to any administrative fine or administrative penalty. The Board may reduce the amount assessed as an administrative fine or administrative penalty upon a showing that the Licensee has paid, or by agreed settlement will pay, an amount of restitution to the patient. The amount of restitution ordered may not exceed the amount the patient paid to the Licensee for the service or services from which the complaint arose. The Board shall not require payment of other damages or make an estimation of harm in any order for restitution.

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 28, 2019.

TRD-201900705
Alex Phippas
General Counsel
State Board of Dental Examiners
Effective date: March 20, 2018
Proposal publication date: January 18, 2018
For further information, please call: (512) 305-9380

CHAPTER 110. SEDATION AND ANESTHESIA

22 TAC §110.13

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §110.13, concerning the Board’s requirements for a checklist to be completed by dentists administering nitrous oxide and levels 1 through 4 of sedation/anesthesia. This amendment to the existing rule clarifies the responsibilities and obligations for licensees completing the checklist, and the applicable requirements for each level of sedation/anesthesia permit. This amendment is adopted with changes to the proposed text as published in the January 18, 2019, issue of the Texas Register (44 TexReg 313) and will be republished.

After publication in the Texas Register, Board staff changed the proposed text of the rule to reflect updated references to Texas Occupations Code §258.001(4), Board rule 22 TAC §108.8 in subsections (a) and (b), and Board rules 22 TAC §§110.3 - 6 in subsection (c) of the amended rule. No other changes were made to the proposed text.

Two comments were received after publication of the proposed rule amendment during the official comment period.

The Texas Dental Association offered a comment in support of the rule as proposed, and notes in part that auscultation is not required to be performed on every patient prior to administering nitrous oxide, and the anesthesia-specific physical examination is specific to the level of sedation/anesthesia being administered, permitting dentists to exercise their judgement when documenting the adequate patient evaluation prior to the delivery of sedation/anesthesia. The Board agrees with this comment and has made no changes to the proposed text as a result of this comment.

The Texas Academy of General Dentistry offered a comment requesting clarification that changes to the rule by the proposed amendment would no longer require providers administering nitrous oxide/oxygen inhalation sedation to auscultate patients. The Board notes that subsection (c)(5) of the rule text as proposed states that a provider must conduct an "anesthesia-specific physical examination including documentation of the following as necessary for the level of sedation/anesthesia administered," but does not require auscultation of all patients. As a result, the Board feels that the text as proposed is clear in permitting patient observation if appropriate under the level of sedation/anesthesia administered, and has made no changes to the proposed text as a result of this comment.

This rule is adopted under Texas Occupations Code §258.153(b)(7) which requires the Board to adopt rules to establish the minimum components required to be included in a preoperative checklist to be used before administering sedation/anesthesia to a patient.

This rule implements the requirements of Texas Occupations Code §258.153(b)(7).

§110.13. Required Preoperative Checklist for Administration of Nitrous Oxide and Levels 1, 2, 3, and 4 Sedation/Anesthesia

(a) A dentist administering nitrous oxide or Level 1, 2, 3, or 4 sedation/anesthesia must create, maintain, and include in the patient's dental records required by §108.8 of this title (relating to Records of the Dentist) a document titled "preoperative sedation/anesthesia checklist." The checklist must be completed prior to commencing a procedure for which the dentist will administer nitrous oxide or Level 1, 2, 3, or 4 sedation/anesthesia. The checklist may be paper or electronic.

(b) A dentist delegating the administration of sedation/anesthesia to another provider in accordance with Texas Occupations Code §258.001(4), must maintain in the patient's dental records required by §108.8 of this title (relating to Records of the Dentist), a document titled "preoperative sedation/anesthesia checklist." The checklist must be completed by the sedation/anesthesia provider, or by the dentist delegating the procedure with information provided by the sedation/anesthesia provider as necessary, prior to commencing a procedure for which the dentist has delegated another provider to administer the sedation/anesthesia. The checklist may be paper or electronic.

(c) At a minimum, the preoperative checklist must include documentation of the following as applicable for each level of sedation/anesthesia administered, consistent with the requirements of §§110.3 - 110.6 of this chapter (relating to Sedation and Anesthesia):

(1) Medical history, including documentation of the following:

(A) review of patient medical history;
(B) review of patient allergies;
(C) review of patient surgical and/or anesthesia history;
(D) review of family surgical and/or anesthesia history; and
(E) review of patient medications and any modifications;

(2) Confirmation that written and verbal preoperative and post-operative instructions were delivered to the patient, parent, legal guardian, or care-giver;
(3) Medical consultations, as needed;

(4) Physical examination, including documentation of the following:

(A) American Society of Anesthesiologists Physical Status Classification (ASA) classification;

(B) NPO status; and

(C) Preoperative vitals, including height, weight, blood pressure, pulse rate, and respiration rate;

(5) Anesthesia-specific physical examination including documentation of the following as necessary for the level of sedation/anesthesia administered:

(A) Airway assessment, including Mallampati score and/or Brodsky score as necessary for adequate patient evaluation; and

(B) Ventilation and respiratory rate obtained through patient observation, auscultation, or capnography;

(6) Confirmation of pre-procedure equipment readiness check;

(7) Confirmation of pre-procedure treatment review (correct patient and procedure); and

(8) Special preoperative considerations as indicated for sedation/anesthesia administered to pediatric or high risk patients.

(d) The preoperative checklist must include documentation of the reason for omission of any items required by subsection (c) of this section.

(e) The information required in subsection (c) of this section may be gathered at any time, but the dentist administering or delegating the administration of sedation/anesthesia must verify that the information is current and correct prior to the administration of sedation/anesthesia.

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 28, 2019.

TRD-201900708
Alex Phipps
General Counsel
State Board of Dental Examiners
Effective date: March 20, 2019
Proposal publication date: January 18, 2019
For further information, please call: (512) 305-9380

22 TAC §110.14

The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §110.14, concerning the Board’s requirements for dentists administering nitrous oxide or levels 1 through 4 of sedation/anesthesia to create, maintain, and annually update emergency preparedness policies and procedures. This amendment to the existing rule clarifies that licensees must annually review and update the relevant emergency policies and must keep a copy of these policies and procedures for two years to be available for inspection by the Board when necessary. This amendment is adopted with changes to the proposed text as published in the January 18, 2019, issue of the Texas Register (44 TexReg 315) and will be republished.

After publication in the Texas Register, Board staff changed the proposed text of the rule to reflect an updated reference to Texas Occupations Code §258.1557 in subsection (a). No other changes were made to the proposed text.

Two comments were received after publication of the proposed rule amendment during the official comment period.

The Texas Dental Association offered a comment in support of the rule as proposed. The Board agrees with this comment and has made no changes to the proposed text as a result of this comment.

The Texas Academy of General Dentistry offered a comment noting concern that requiring dentists to keep outdated policies and procedures for two years may create confusion regarding which policies are implemented at any given time. The Board notes that retention of the policies for two years is necessary for enforcement through the Board’s inspection program as well as during investigation of complaints filed with the Board. Additionally, during discussion of this requirement and the comment, the Board noted that the two-year requirement was necessary to differentiate these records from the regular retention period required for records of the dentist under 22 TAC §108.8. As a result, the Board disagrees with this comment and feels that the risk of confusion does not present an issue for implementation of the rule as proposed, and has made no changes to the proposed text as a result of this comment.

This rule is adopted under Texas Occupations Code §§258.153(b)(4) and (6), directing the Board to promulgate rules related to emergency procedures, drugs, and equipment, including education, training, and certification of personnel, as appropriate, and including protocols for transfers to a hospital and the period in which protocols or procedures covered by rules of the board shall be reviewed, updated, or amended. This rule is also adopted under Texas Occupations Code §258.1556, directing the Board to adopt rules establishing minimum emergency preparedness standards, and Texas Occupations Code §258.1557(b), directing the Board to adopt rules prescribing the content of emergency preparedness protocols.

This rule implements the requirements of Texas Occupations Code §§258.153(b)(4), (6), 258.1556, and 258.1557(b).


(a) Pursuant to Texas Occupations Code §258.1557, all permit holders, including nitrous oxide/oxygen inhalation sedation permit holders, must develop written emergency preparedness policies and procedures specific to the permit holder’s practice setting that establish a plan for the management of medical emergencies in each practice setting in which the dentist administers sedation/anesthesia.

(b) The emergency preparedness policies and procedures must include written protocols, policies, procedures, and training requirements specific to the permit holder's equipment and drugs for responding to emergency situations involving sedation/anesthesia, including information specific to respiratory emergencies.

(c) The permit holder must annually review the emergency preparedness policies and procedures to determine whether an update is necessary. The permit holder must maintain documentation of the dates of the emergency preparedness policies and procedures' creation, the most recent update, and the most recent annual review.

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(d) Policies and procedures developed by all permit holders must include basic life support protocols, advanced cardiac life support rescue protocols, and/or pediatric advanced cardiac life support rescue protocols if treating pediatric patients, consistent with the requirements of §§110.3 - 110.6 of this chapter (relating to Sedation and Anesthesia), as applied to the permit holder.

(e) Policies and procedures developed by all permit holders must include, at a minimum, the following documents:

(1) Specific protocols for response to a sedation/anesthesia emergency, including specific protocols for advanced airway management techniques;
(2) Staff training log, documenting staff training in emergency prevention, recognition, and response on at least an annual basis;
(3) Emergency drug log documenting annual reviews for assurance of unexpired supply;
(4) Equipment readiness log indicating annual reviews for assurance of function of the equipment required by §110.15 of this chapter (relating to Prevention of and Response to Sedation/Anesthesia Emergencies); and
(5) Individual office staff roles and responsibilities in response to an emergency, including roles and responsibilities specific to a response to a respiratory emergency.

(f) All policies and procedures described in subsections (c), (d), and (e) of this section must be reviewed and updated at least annually, and must be reviewed and updated as soon as possible after the permit holder obtains a higher permit level. Permit holders must maintain versions of the policies and procedures described in subsections (c), (d), and (e) of this section for at least two years after the creation or update of the policies and 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 28, 2019.
TRD-201900709
Alex Phipps
General Counsel
State Board of Dental Examiners
Effective date: March 20, 2019
Proposal publication date: January 18, 2019
For further information, please call: (512) 305-9380

22 TAC §110.15
The State Board of Dental Examiners (Board) adopts an amendment to 22 TAC §110.15, concerning establishment of the Board's minimum emergency preparedness standards and requirements for the administration of sedation/anesthesia, including determining what patient monitoring equipment must be maintained and inspected according to each level of sedation/anesthesia being administered. This amendment to the existing rule clarifies to licensees what equipment licensees must maintain according to their administration of nitrous oxide and/or levels 1 through 4 of sedation/anesthesia. This amendment is adopted with changes to the proposed text as published in the January 18, 2019, issue of the Texas Register (44 TexReg 316) and will be republished.

After publication in the Texas Register, Board staff has changed the proposed text of the rule to reflect an updated reference to Texas Occupations Code §258.1556 in subsection (a), an updated reference to Texas Occupations Code §258.1555 in subsection (c), and updated references to 22 TAC §§110.3 - 110.6 in subsections (b), (d), and (e). No other changes were made to the proposed text.

Two comments were received after publication of the proposed rule amendment during the official comment period.

The Texas Dental Association offered a comment in support of the rule as proposed. The Board agrees with this comment and has made no changes to the proposed text as a result of this comment.

The Texas Academy of General Dentistry offered a comment requesting clarification that the addition of "capnograph" and the deletion of "precordial/pretracheal stethoscope" only applies to Level 4 permit providers. The Board notes that, per a review of Texas Occupations Code §258.1555 and 22 TAC §§110.3 - 110.6, capnography is only required for Level 4 deep sedation or general anesthesia. As a result, the Board agrees with the comment that the requirement for a capnograph only applies to Level 4 providers, and has made no changes to the proposed text as a result of this comment.

This rule is adopted under Texas Occupations Code §258.153(b)(3), directing the Board to promulgate rules related to the minimum standards for administering anesthesia by a dentist including what dental patient monitoring is to be performed and what equipment to be used during a procedure and during post-procedure monitoring. This rule is also adopted under Texas Occupations Code §258.1556, directing the Board to adopt rules establishing minimum emergency preparedness standards and requirements.

This rule implements the requirements of Texas Occupations Code §§258.153(b)(3) and 258.1556.

§110.15. Prevention of and Response to Sedation/Anesthesia Emergencies.

(a) Pursuant to Texas Occupations Code §258.1556, the Board establishes minimum emergency preparedness standards and requirements for the administration of sedation/anesthesia.

(b) Consistent with the requirements of §§110.3 - 110.6 of this chapter (relating to Sedation and Anesthesia), as applicable to the procedure, at any time a permit holder administers sedation/anesthesia the permit holder must have immediately available:

(1) an adequate and unexpired supply of drugs and anesthetic agents, including but not limited to pharmacologic antagonists and resuscitative drugs appropriate for the type of sedation/anesthesia administered;
(2) an automated external defibrillator, as defined by Section 779.001 of the Texas Health and Safety Code;
(3) a positive pressure ventilation device;
(4) supplemental oxygen; and
(5) appropriate monitors and equipment for the type of sedation/anesthesia administered, including but not limited to:
(A) stethoscope;
(B) sphygmomanometer or automatic blood pressure monitor;
(C) pulse oximeter when required by §§110.4, 110.5, or 110.6 of this chapter (relating to Sedation and Anesthesia);

(D) an oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(E) suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(F) a lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure; and

(G) capnograph, size-and-shape appropriate advanced airway device, intravenous fluid administration equipment, and/or electrocardiogram, when required by §§110.3, 110.4, 110.5, or 110.6 of this chapter (relating to Sedation and Anesthesia).

(c) A permit holder who is administering sedation/anaesthesia for which a Level 4 permit is required must use capnography during the administration of the sedation/anaesthesia, as required by Texas Occupations Code §258.1555.

(d) Each permit holder must conduct an emergency drug inspection for assurance of unexpired supply at least annually. Documentation of emergency drug inspections must be maintained in the permit holder's emergency drug log, required by §110.14 of this chapter (relating to Emergency Preparedness Policies and Procedures).

(e) Each permit holder must conduct an equipment inspection for assurance of function at least annually. Documentation of equipment inspections must be maintained in the permit holder's equipment readiness log, required by §110.14 of this chapter.

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 28, 2019.

TRD-201900711
Alex Phipps
General Counsel
State Board of Dental Examiners
Effective date: March 20, 2019
Proposal publication date: January 18, 2019
For further information, please call: (512) 305-9380

TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

DIVISION 1. PLAN OF OPERATION

28 TAC §5.4021
The Commissioner of Insurance adopts new 28 TAC §5.4021, relating to Texas Windstorm Insurance Association (TWIA) agent requirements. The new section is adopted without changes to the proposed text published in the January 4, 2019, issue of the Texas Register (44 TexReg 58) and will not be republished.

REASONED JUSTIFICATION. The new section is necessary to implement House Bill 3018, 85th Legislature, Regular Session (2017). HB 3018 added Insurance Code §2210.152(a)(2)(G), mandating that TWIA's plan of operation include "a requirement that a nonresident agent... may not offer or sell a Texas windstorm and hail insurance policy under Chapter 2210 unless the nonresident agent's state of residence authorizes a resident agent licensed in Texas to act in the nonresident agent's state as an agent for that state's residual insurer of last resort for windstorm and hail insurance."

SUMMARY OF COMMENTS. The Texas Department of Insurance (TDI) did not receive any comments on the new section, nor any requests for a public hearing.

STATUTORY AUTHORITY. The Commissioner adopts new §5.4021 under Insurance Code §§2210.008, 2210.151, and 36.001.

Section 2210.008(b) authorizes the Commissioner to adopt reasonable and necessary rules to implement Chapter 2210.

Section 2210.151 authorizes the Commissioner to adopt TWIA's plan of operation.

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

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

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TRD-201900718
Norma Garcia
General Counsel
Texas Department of Insurance
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Proposal publication date: January 4, 2019
For further information, please call: (512) 676-6584

TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 10. TEXAS WATER DEVELOPMENT BOARD

CHAPTER 371. DRINKING WATER STATE REVOLVING FUND

The Texas Water Development Board ("TWDB" or "board") adopts, with no changes from the proposal published in the January 4, 2019, issue of the Texas Register (44 TexReg 61), amendments to 31 Texas Administrative Code (TAC) §371.2, relating to projects and activities eligible for assistance; §371.14,
relating to lending rates; §371.70, relating to financial assistance secured by bonds or other authorized securities; §371.71, relating to financial assistance secured by promissory notes and deeds of trust; and §371.85, relating to final accounting. The adopted amendments will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENTS.

The TWDB adopts amendments to various provisions in 31 TAC Chapter 371 to provide clarity on the TWDB’s procedures to those seeking and receiving financial assistance from the board. The specific adopted amendments and the reasons for those adopted amendments are addressed in more detail below.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

31 TAC §371.2. Projects and Activities Eligible for Assistance.

Section 371.2 is amended to correct the heading of the subsection concerning what applicants are ineligible for assistance.


Section 371.14 is amended to streamline the procedure for setting fixed interest rates for loans with the TWDB’s procedure for setting interest rates for entities adopting bond ordinances or resolutions. Currently, the procedure for loans states that interest rates may not be set earlier than five business days before both the TWDB and the borrower execute the loan agreement. The amendment will change the procedure for loans to clarify that interest rates may be set no earlier than five business days before the borrower’s execution of the loan agreement.

31 TAC §371.70. Financial Assistance Secured by Bonds or Other Authorized Securities.

Section 371.70 is amended to remove the requirement that the partial redemption of bonds or other authorized securities be made in inverse order of maturity.


Section 371.71 is amended to clarify that before closing financial assistance secured by promissory notes and deeds of trust that applicants must establish a dedicated source of revenue for repayment of the financial assistance. This is already a closing requirement for loans and bonds, but the procedure was not in the TWDB rules. This is required by 42 U.S.C.A §300j-12(f)(1)(C).

31 TAC §371.85. Final Accounting.

Section 371.85 is amended to streamline the final accounting provision with the TWDB’s other financial assistance programs. Currently, 31 TAC §363.42 provides that after final accounting any surplus loan funds may be used in a manner as approved by the executive administrator. Section 371.85 is amended to match this procedure.

REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or 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 intent of the rulemaking is to streamline the procedures for those seeking and receiving financial assistance from the board.

Even if the adopted rules were major environmental rules, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies 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. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not 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; and (4) is not adopted solely under the general powers of the agency, but rather is adopted under the authority of Texas Water Code §§15.604, 15.605, and 15.603. Therefore, the adopted amendments do not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

The board evaluated the adopted rules and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the rules is to provide clarity to those seeking and receiving financial assistance from the board. The adopted rules would substantially advance this stated purpose by updating internal references regarding TWDB financial assistance programs and streamlining the procedures across the financial assistance programs.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to the adopted rules because this is an action that is reasonably taken to fulfill an obligation mandated by state and federal law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that provides financial assistance for the construction of water, wastewater, flood control, and other related projects.

Nevertheless, the board further evaluated the adopted rules and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of the adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the adopted regulation does not affect a landowner’s rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, these rules require compliance with state and federal laws regarding financial assistance under the state revolving funds without burdening or restricting or limiting an owner's right to property and reducing its value by 25% or more. Therefore, the adopted rules do not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS

No comments were received.
SUBCHAPTER A. GENERAL PROGRAM REQUIREMENTS

31 TAC §371.2

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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, 2019.

TRD-201900679
Todd Chenoweth
General Counsel
Texas Water Development Board
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Proposal publication date: January 4, 2019
For further information, please call: (512) 463-7686

SUBCHAPTER B. FINANCIAL ASSISTANCE

31 TAC §371.14

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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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Todd Chenoweth
General Counsel
Texas Water Development Board
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For further information, please call: (512) 463-7686

SUBCHAPTER G. LOAN CLOSINGS AND AVAILABILITY OF FUNDS

31 TAC §371.70, §371.71

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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. CONSTRUCTION AND POST-CONSTRUCTION REQUIREMENTS

31 TAC §371.85

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

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 Water Development Board
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CHAPTER 375. CLEAN WATER STATE REVOLVING FUND

The Texas Water Development Board ("TWDB" or "board") adopts the proposed amendments published in the January 4, 2019, issue of the Texas Register (44 TexReg 65). The amendments to 31 Texas Administrative Code (TAC) §375.15, relating to lending rates, §375.18, relating to principal forgive-
ness, §375.91, relating to financial assistance secured by bonds or other authorized securities, §375.92, relating to financial assistance secured by promissory notes and deeds of trust, and §375.106, relating to final accounting, are adopted without changes and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The TWDB adopts amendments to various provisions in 31 TAC Chapter 375 to provide clarity on the TWDB’s procedures to those seeking and receiving financial assistance from the board. The specific adopted amendments and the reasons for those adopted amendments are addressed in more detail below.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

31 TAC §375.15. Lending Rates.

Section 375.15 is amended to streamline the procedure for setting fixed interest rates for loans with the TWDB’s procedure for setting interest rates for entities adopting bond ordinances or resolutions. Currently, the procedure for loans states that interest rates may not be set earlier than five business days before both the TWDB and the borrower execute the loan agreement. The amendment will change the procedure for loans to clarify that interest rates may be set no earlier than five business days before the borrower’s execution of the loan agreement.

31 TAC §375.18. Principal Forgiveness.

Section 375.18 is amended to clarify that the board may provide principal forgiveness for financial assistance in accordance with the federal appropriations acts and for eligible activities as detailed in the TWDB’s Intended Use Plan.

31 TAC §375.91. Financial Assistance Secured by Bonds or Other Authorized Securities

Section 375.91 is amended to remove the requirement that the partial redemption of bonds or other authorized securities be made in inverse order of maturity.

31 TAC §375.92. Financial Assistance Secured by Promissory Notes and Deeds of Trust.

Section 375.92 is amended to clarify that before closing financial assistance secured by promissory notes and deeds of trust, applicants must establish a dedicated source of revenue for repayment of the financial assistance. This is already a closing requirement for loans and bonds, but the procedure was not in the TWDB rules. This is required by 33 U.S.C.A §1383(d)(1)(C).

31 TAC §375.106. Final Accounting.

Section 375.106 is amended to streamline the final accounting provision with the TWDB’s other financial assistance programs. Currently, 31 TAC §363.42 provides that after final accounting, any surplus loan funds may be used in a manner as approved by the executive administrator. Section 375.106 is amended to match this procedure.

REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or 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 intent of the rulemaking is to streamline the procedures for those seeking and receiving financial assistance from the board.

Even if the adopted rules were major environmental rules, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies 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. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any federal law; (2) does not exceed an express requirement of state law; (3) does not 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; and (4) is not adopted solely under the general powers of the agency, but rather is adopted under the authority of Texas Water Code §§15.604, 15.605, and 16.093. Therefore, the adopted amendments do not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

The board evaluated the adopted rules and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the rules is to provide clarity to those seeking and receiving financial assistance from the board. The adopted rules would substantially advance this stated purpose by updating internal references regarding TWDB financial assistance programs and streamlining the procedures across the financial assistance programs.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to the adopted rules because this is an action that is reasonably taken to fulfill an obligation mandated by state and federal law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency which provides financial assistance for the construction of water, wastewater, flood control, and other related projects.

Nevertheless, the board further evaluated the adopted rules and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of the adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the adopted regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. In other words, these rules require compliance with state and federal laws regarding financial assistance under the state revolving funds without burdening or restricting or limiting an owner's right to property and reducing its value by 25% or more. Therefore, the adopted rules do not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS
No comments were received.

SUBCHAPTER B. FINANCIAL ASSISTANCE
31 TAC §375.15, §375.18

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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-201900686
Todd Chenoweth
General Counsel
Texas Water Development Board
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For further information, please call: (512) 463-7686

SUBCHAPTER G. LOAN CLOSINGS AND AVAILABILITY OF FUNDS
31 TAC §375.91, §375.92

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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. CONSTRUCTION AND POST CONSTRUCTION REQUIREMENTS
31 TAC §375.106

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State, and also under the authority of Texas Water Code §§15.604, 15.605, and 16.093.

Chapters 15 and 16 of the Texas Water Code are affected by this rulemaking.

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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Todd Chenoweth
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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 2. ENVIRONMENTAL REVIEW OF TRANSPORTATION PROJECTS

SUBCHAPTER I. MEMORANDUM OF UNDERSTANDING WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

The Texas Department of Transportation (department) adopts the repeal of §§2.301 - 2.308, concerning Memorandum of Understanding with the Texas Commission on Environmental Quality, and its simultaneous replacement with new §§2.301 - 2.308. The repeal of §§2.301 - 2.308 and the simultaneous adoption of new §§2.301 - 2.308 are adopted without changes to the proposed text as published in the November 30, 2019, issue of the Texas Register (43 TexReg 7756) and will not be republished.

EXPLANATION OF ADOPTED REPEAL AND NEW SECTIONS

Transportation Code, §201.607 requires the department to adopt a memorandum of understanding (MOU) with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historic or archeological resources. Transportation Code, §201.607 also requires the department to adopt the MOU and all revisions to it by rule, and to periodically evaluate and revise the MOU. In order to meet the legislative intent and to ensure that the protection of the natural environment is given full consideration in accomplishing the
department's activities, the department has evaluated its MOU with the Texas Commission on Environmental Quality (TCEQ), adopted in 2013, and finds it necessary to repeal existing 43 TAC Chapter 2, Subchapter I and simultaneously replace it with a new Subchapter I, §§2.301 - 2.308.

The provisions of Chapter 2, new Subchapter I have been agreed on by the TCEQ and the department in order to update the current MOU. This replacement is adopted to better explain both agencies' responsibilities. The changes include modifications to the triggers for coordination, the methods of coordination, and the required content for environmental review documents. The changes simplify and clarify both agencies' obligations under the coordination process.

COMMENTS

No comments on the proposed repeal and new sections were received.

43 TAC §§2.301 - 2.308

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.607, which directs the department and the Texas Commission on Environmental Quality to examine and revise their memorandum of understanding.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.607.

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 28, 2019.
TRD-201900706

Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Effective date: March 20, 2019
Proposal publication date: November 30, 2019
For further information, please call: (512) 463-8630

43 TAC §§2.301 - 2.308

STATUTORY AUTHORITY

The new sections are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §201.607, which directs the department and the Texas Commission on Environmental Quality to examine and revise their memorandum of understanding.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §201.607.

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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Joanne Wright
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Texas Department of Transportation
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