

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 7. BANKING AND SECURITIES

PART 7. STATE SECURITIES BOARD

CHAPTER 115. SECURITIES DEALERS AND AGENTS

7 TAC §115.18

The Texas State Securities Board adopts an amendment to §115.18, Special Provisions Relating to Military Applicants, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7469). The amended rule will not be republished.

The amendment implements House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amend state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

Several changes are made to §115.18 to align with state law requirements. The section is amended to remove certain refund and waiver conditions imposed on military applicants. The time limits for Agency staff to issue registrations or recognitions for military applicants are reduced. The section's provisions relating to recognition of out-of-state licenses are amended to change the documentation requirements and extend the duration of recognition periods for military service members and spouses. A publishing error is corrected, and other changes are made for clarity and consistency.

Subsection (a) is amended to change the definitions for "current registration" and "good standing" to align with amended Texas Occupations Code §55.0042.

Subsection (b)(2) is amended to require Registration staff to register military applicants who have requested expedited review to be registered within five business days of their request for expedited review.

Previously, military applicants who were new to the industry (i.e., those who have not been previously registered in another state) were not eligible for refunds or waivers of initial registration fees or fees for the Texas securities law examination. Subsection (c), which concerns waivers and refunds of fees, is amended to remove those qualifying conditions set forth in (c)(1)(A) and (B). This change slightly increases the number of military applicants who are eligible for and would benefit from the waivers and refund provisions in this section.

The caption for subsection (h) is amended to re-insert the missing word "of" after the word "Recognition" that was recently re-

moved from the official rule text due to a publishing error. Paragraph (1) of subsection (h) is amended to pluralize the word "procedure" for consistency and clarity.

Paragraph (2) of subsection (h) is amended to add language to extend the duration of the recognition period of a military spouse (which is for as long as the military spouse is located in Texas), and to state the duration of the recognition period of a former military spouse (which is for as long as the former military spouse is located in Texas but only until the third anniversary of the recognition date). The three-year limit on the duration of the recognition period for military service members and spouses residing in Texas in the previous rule is removed. This change extends the duration of the "free" recognition period for eligible military applicants who are recognized under this subsection, which consequently results in the waiver or refund of the applicants' annual renewal fees owed during the duration of this recognition period.

Paragraph (4) of subsection (h) concerning Option 2, is amended to align with amended Occupations Code §55.0041, which removed certain requirements for recognition, including a requirement for Registration staff to verify out-of-state licensure good standing, and replaced them with different requirements, including a new requirement for the applicant to submit a notarized affidavit as to licensure good standing status. As a result of this change to Occupations Code §55.0041, the applicant may incur a small economic cost to obtain the required notarization.

Paragraph (4)(C)(ii) of subsection (h) is amended to reduce the number of days that action must be taken on a request for recognition from 30 days to 10 business days.

Paragraph (4)(D) of subsection (h) is amended to make conforming amendments to the renewal of the recognition status.

Finally, new paragraph (4)(E) of subsection (h) is added for clarity and consistency with subsection (b), which relates to expedited review of applications. The new paragraph clarifies that individuals shall be recognized despite having pending or deficient items and would address how deficiencies are to be treated and resolved.

The rule is consistent with and conforms to the applicable military occupational licensing requirements under state law.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing

different requirements for different classes. The amendment is also adopted under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The adoption affects the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

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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State Securities Board

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For further information, please call: (512) 305-8303



CHAPTER 116. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

7 TAC §116.18

The Texas State Securities Board adopts an amendment to §116.18, Special Provisions Relating to Military Applicants, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7472). The amended rule will not be republished.

The amendment implements House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amend state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

Several changes are made to §116.18 to align with state law requirements. The section is amended to remove certain refund and waiver conditions imposed on military applicants. The time limits for Agency staff to issue registrations or recognitions for military applicants are reduced. The section's provisions relating to recognition of out-of-state licenses are amended to change the documentation requirements and extend the duration of recognition periods for military service members and spouses. Other changes are made for clarity and consistency.

Subsection (a) is amended to change the definitions for "current registration" and "good standing" to align with amended Texas Occupations Code §55.0042.

Subsection (b)(2) is amended to require Registration staff to register military applicants who have requested expedited review to be registered within five business days of their request for expedited review.

Previously, military applicants who were new to the industry (i.e., those who have not been previously registered in another state) were not eligible for refunds or waivers of initial registration fees or fees for the Texas securities law examination. Subsection (c), which concerns waivers and refunds of fees, is amended to remove those qualifying conditions set forth in (c)(1)(A) and (B). This change slightly increases the number of military applicants who are eligible for and would benefit from the waivers and refund provisions in this section.

Paragraph (1) of subsection (h) is amended to pluralize the word "procedure" for consistency and clarity.

Paragraph (2) of subsection (h) is amended to add language to extend the duration of the recognition period of a military spouse (which is for as long as the military spouse is located in Texas), and to state the duration of the recognition period of a former military spouse (which is for as long as the former military spouse is located in Texas but only until the third anniversary of the recognition date). The three-year limit on the duration of the recognition period for military service members and spouses residing in Texas in the previous rule is removed. This change extends the duration of the "free" recognition period for eligible military applicants who are recognized under this subsection, which consequently results in the waiver or refund of the applicants' annual renewal fees owed during the duration of this recognition period.

Paragraph (4) of subsection (h) concerning Option 2, is amended to align with amended Occupations Code §55.0041, which removed certain requirements for recognition, including a requirement for Registration staff to verify out-of-state licensure good standing, and replaced them with different requirements, including a new requirement for the applicant to submit a notarized affidavit as to licensure good standing status. As a result of this change to Occupations Code §55.0041, the applicant may incur a small economic cost to obtain the required notarization.

Paragraph (4)(C)(ii) of subsection (h) is amended to reduce the number of days that action must be taken on a request for recognition from 30 days to 10 business days.

Paragraph (4)(D) of subsection (h) is amended to make conforming amendments to the renewal of the recognition status.

Finally, new paragraph (4)(E) of subsection (h) is added for clarity and consistency with subsection (b), which relates to expedited review of applications. The new paragraph clarifies that individuals shall be recognized despite having pending or deficient items and would address how deficiencies are to be treated and resolved.

The rule is consistent with and conforms to the applicable military occupational licensing requirements under state law.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The amendment is also adopted under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state

licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The adoption affects the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

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

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CHAPTER 133. FORMS

7 TAC §133.19, §133.23

The Texas State Securities Board adopts the repeal of two rules, concerning forms adopted by reference. Specifically, the State Securities Board adopts the repeal of §133.19, a form concerning Waiver or Refund Request by a Military Applicant; and §133.23, a form concerning Request for Recognition of Out-Of-State License or Registration Pursuant to Occupations Code §55.0041, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7475). The repealed rules will not be republished.

The repealed forms have been replaced with new forms being concurrently adopted to correspond with amendments to §115.18 and §116.18, which have been concurrently adopted to implement House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amended state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplified the process for military applicants who seek occupational licenses in Texas.

The two existing forms have been eliminated so they can be replaced with two new forms that comply with statutory requirements. Concurrent with this adopted repeal is the adoption of new forms §133.19 and §133.23.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The repeals are also adopted under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818,

which requires state agencies to promptly issue recognitions and licenses to military applicants.

The repeals affect the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

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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7 TAC §133.19, §133.23

The Texas State Securities Board adopts two new rules, concerning forms adopted by reference, without changes to the proposed text as published in the November 21, 2025, issue of the *Texas Register* (50 TexReg 7476). Specifically, the Texas State Securities Board adopts new §133.19, which adopts by reference a form concerning Waiver or Refund Request by a Military Applicant; and new §133.23, which adopts by reference a form concerning Request for Recognition of Out-Of-State License or Registration Pursuant to Occupations Code §55.0041. The new rules will not be republished.

The new sections adopt by reference forms that reflect amendments to §115.18 and §116.18, which have been concurrently adopted to implement House Bill 5629 and Senate Bill 1818 (89th Legislature, Regular Session (2025)) which amended state law relating to occupational licensing and recognition of out-of-state occupational licenses for military service members, military veterans, and military spouses (collectively, "military applicants"). The changes further expedite and simplify the process for military applicants who seek occupational licenses in Texas.

New Form 133.19 performs the same function as the existing form, but certain requirements for waiver or refund eligibility are removed to implement the requirements of Occupations Code §55.009 as amended by HB 5629.

New Form 133.23 performs the same function as the existing form but requires the applicant to provide a notarized affidavit as to the applicant's good standing status in another jurisdiction as well as to require military orders, in lieu of providing proof of Texas residency and a military identification card, and, as applicable, a marriage license.

Eligible military applicants can complete the forms adopted by reference to either obtain a waiver or refund or to practice securities business in Texas without being registered. Concurrent with this adoption is the repeal of existing forms §133.19 and §133.23.

No comments were received regarding adoption of the new rules.

The new rules are adopted under the authority of the Texas Government Code, §4002.151, as adopted by HB 4171, 86th Legis-

lature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. The new rules are also adopted under Chapter 55 of the Texas Occupations Code, as amended by HB 5629, which requires state agencies that issue licenses to adopt rules for the recognition of out-of-state licenses for military applicants, and as amended by SB 1818, which requires state agencies to promptly issue recognitions and licenses to military applicants.

The new rules affect the following sections of the Texas Securities Act, Texas Government Code Chapter 4004, Subchapters B through F, and §§4006.001, 4006.057, and 4007.105.

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 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 6. COMMUNITY AFFAIRS PROGRAMS

SUBCHAPTER B. COMMUNITY SERVICES BLOCK GRANT

10 TAC §6.204

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §6.204 Use of Funds, which applies to the Community Services Block Grant Program (CSBG) with changes to the proposed text as published in the December 26, 2025 issue of the *Texas Register* (50 TexReg 8450). The rule will be republished. The purpose of the amendment is to specify how households receiving benefits through CSBG will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness program's subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based

on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this rule provide that necessary specificity for the CSBG Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.

2. The amendment may require additional work that may create new employee positions, but those costs are federal eligible reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.

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

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

5. The amendment is not creating a new regulation, but clarifying an existing regulation.

6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.

7. The amendment increases the number of individuals subject to the rule's applicability.

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

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable

programs. No entities will bear any unreimbursable expenses to comply.

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

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

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

e. **PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

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

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn.

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA, even before "new guidelines" are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

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

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims' access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees "ensure that no person is denied services because of actual or perceived immigration status."

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are

prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits.

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients- because they do not have direct access to the SAVE system used for verification - did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities- including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit - but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance.

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practi-

cal implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide - or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation.

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access.

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals.

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance.

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance.

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

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

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

§6.204. Use of Funds and Requirements for Establishing Household Eligibility.

(a) CSBG funds are contractually obligated to Eligible Entities, and accessed through the Department's web-based Contract System. Prior to executing a Contract for CSBG funds, the Department will verify that neither the entity, nor any member of the Eligible Entity's Board is federally debarred or excluded. Unless modified by Contract, the annual allocation has a beginning date of January 1 and an end date of December 31, regardless of the Eligible Entity's fiscal year. Eligible Entities may use the funds for administrative support and/or for direct services such as: education, employment, housing, health care, nutrition, transportation, linkages with other service providers, youth programs, emergency services, i.e., utilities, rent, food, Shelter, clothing, etc.

(b) Eligible Entity shall determine Household income eligibility in compliance with §6.4 of this chapter (relating to Income Determination). The Household income eligibility level must be at or below 125% of the federal poverty level in effect at the time the customer makes an application for services.

(c) U.S. Citizen, U.S. National or Qualified Alien. Only U.S. Citizens, U.S. Nationals and Qualified Aliens are eligible to receive CSBG benefits. In accordance with §1.410(f) of this Part (relating to Determination of Alien Status for Program Beneficiaries), Eligible Entities must document U.S. Citizen, U.S. National, and Qualified Alien status for each household member using the Department approved form. Populations that are documented by the Administrator

as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance. Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection. Qualified Alien status must also be verified and documented using SAVE. Household eligibility shall be determined as follows:

- (1) Count income for all Household members eighteen years of age and older, including Unqualified Aliens; and
- (2) Calculate Household size for determining eligibility or benefits to exclude all Unqualified Aliens.

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 6, 2026.

TRD-202601117

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Effective date: March 26, 2026

Proposal publication date: December 26, 2025

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



CHAPTER 7. HOMELESSNESS PROGRAMS

SUBCHAPTER B. HOMELESS HOUSING AND SERVICES PROGRAM (HHSP)

10 TAC §7.28

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §7.28 Program Participant Eligibility and Program Participant Files, which applies to the Homeless Housing and Services Program (HHSP) with changes to the text previously published in the December 26, 2025 issue of the *Texas Register* (50 TexReg 8451). The rule will be republished. The purpose of the amendment is to specify how households receiving benefits through HHSP will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the HHSP Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which exempts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
 2. The amendment may require additional work that may create new employee positions, but those costs are federal eligible reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
 3. The amendment does not require additional future legislative appropriations.
 4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
 5. The amendment is not creating a new regulation, but clarifying an existing regulation.
 6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
 7. The amendment increases the number of individuals subject to the rule's applicability.
 8. The amendment will not negatively or positively affect the state's economy.
- #### b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

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

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn.

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they de-

scribe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA, even before "new guidelines" are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal,

as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

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

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims' access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees "ensure that no person is denied services because of actual or perceived immigration status."

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family

Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits.

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients- because they do not have direct access to the SAVE system used for verification - did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities - including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit - but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance.

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims

of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handled; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients' ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process that has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide - or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation.

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access.

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals.

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance.

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients' ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance.

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

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

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

§7.28. *Program Participant Eligibility and Program Participant Files.*

(a) A Program Participant must satisfy the eligibility requirements by meeting the appropriate definition of Homeless or At-risk of Homelessness in this Chapter, relating to Homelessness Programs, including but not limited to applicable income requirements.

(b) A Program Participant who is Homeless qualifies for emergency shelter, Transitional Living Activities, case management, essential services, and homeless assistance.

(c) A Program Participant who is At-risk of Homelessness qualifies for case management, essential services, and homeless prevention.

(d) The Subrecipient shall establish income limits that do not exceed the moderate income level pursuant to Tex. Gov't Code §2306.152 in its written policies and procedures, and may adopt the income limit calculation method and procedures in HUD Handbook 4350 to satisfy this requirement.

(e) Recertification. Recertification is required for Program Participants receiving homelessness prevention and homelessness assistance within 12 months of the assistance start date. Subrecipient's written policies may require more frequent recertification. At a minimum, recertification includes that Program Participants receiving homelessness prevention or homelessness assistance:

(1) meet the income eligibility requirements as established by the Subrecipient, if such limits are implemented in the Subrecipient's policies and procedures and required to be reviewed at Recertification; and

(2) lack sufficient resources and support networks necessary to retain housing without assistance.

(f) Break in service. The Subrecipient must document eligibility before providing services after a break in service. A break in service occurs when a previously assisted household has exited the program and is no longer receiving services through Homeless Programs.

Upon reentry into HHSP, the Household is required to complete a new intake application and provide updated source documentation, if applicable. The Subrecipient would not need to document further eligibility for HHSP if the Program Participant is currently receiving assistance through ESG.

(g) Program participant files. Subrecipient or their Subgrantees shall maintain Program Participant files, for non-emergency activities providing direct subsidy to or on behalf of a Program Participant that contain the following:

(1) an Intake Application, including the signature or legally identifying mark of all adult Household members certifying the validity of information provided, an area to identify the staff person completing the intake application, and the language as required by Tex. Gov't Code §434.212;

(2) certification from the Applicant that they meet the definition of Homeless or At-risk of Homelessness. The certification must include the Program Participant's signature or legally identifying mark;

(3) documentation of income eligibility, if applicable, which may include a DIS if documentation is unobtainable;

(4) documentation of annual recertification, as applicable, including income eligibility determination and verification that the Program Participant lacks sufficient resources and supports networks necessary to retain housing without assistance;

(5) documentation of determination of ineligibility for assistance when assistance is denied. Documentation must include the reason for the determination of ineligibility;

(6) copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by Program Participants;

(7) documentation of the monthly allowance for utilities used to determine compliance with the rent restriction;

(8) documentation that the Dwelling Unit for Program Participants receiving rental assistance complies with the Housing Standards in this Chapter, relating to Homelessness Programs; and

(9) documentation of U.S. Citizen, U.S. National, or Qualified Alien status for each household member receiving direct assistance, including:

(A) verification of eligible immigration or citizenship status consistent with §1.410 of this title;

(B) any determinations of ineligibility or mixed Household status; and

(C) records of proration calculations applied under subsection (h)(2) of this section, if applicable.

(h) Implementation of HHSP activities involving direct assistance to Program Participants is subject to §1.410 of this title, relating to Determination of Alien Status for Program Beneficiaries.

(1) Each Household member receiving direct assistance under Homeless Prevention or Homeless Assistance must be verified for eligibility in accordance with §1.410 of this title (relating to Determination of Alien Status for Program Beneficiaries) prior to receiving assistance.

(2) Direct assistance may be prorated utilizing a fraction based on Household eligibility, calculated by multiplying the full benefit amount by a fraction in which the numerator is the number of eli-

gible Household members, and the denominator is the total number of Household members.

(3) Activities that do not provide direct housing or financial assistance, such as Emergency Shelter, case management, and Street Outreach, and in-kind disaster relief are not subject to paragraphs (1) and (2) of this subsection.

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

(5) Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

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 6, 2026.

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Effective date: March 26, 2026

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



SUBCHAPTER C. EMERGENCY SOLUTIONS GRANTS (ESG)

10 TAC §7.44

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §7.44 Program Participant Eligibility and Program Participant Files, which applies to the Emergency Solutions Grant Program (ESG) with changes to the text previously published in the December 26, 2025 issue of the *Texas Register* (50 TexReg 8453). The rule will be republished. The purpose of the amendment is to specify how households receiving benefits through ESG will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the ESG Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligibly reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

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

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn.

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they de-

scribe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA, even before "new guidelines" are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal,

as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

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

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims' access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees "ensure that no person is denied services because of actual or perceived immigration status."

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family

Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits.

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients- because they do not have direct access to the SAVE system used for verification - did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities- including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit - but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance.

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims

of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide - or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation.

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access.

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals.

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance.

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance.

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

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

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

§7.44. Program Participant Eligibility and Program Participant Files.

(a) Program participants must meet the applicable definitions of Homeless or At-risk of Homelessness. Proof of the eligibility or ineligibility for Program Participants must be maintained in accordance with 24 CFR §576.500, Recordkeeping and reporting requirements. The Applicant must retain income documentation for Program Participants receiving homelessness prevention and Program Participants receiving rapid re-housing that require annual Recertification. Program Participant income eligibility must be calculated and documented in accordance with the Requirements of HUD Handbook 4350, except that the Department's DIS form may be utilized if income cannot be documented in accordance with 24 CFR §576.500(e)(4). A DIS must be completed and signed by Program Participants whom are subject to income eligibility determination.

(b) The Subrecipient must document eligibility before providing services after a break-in-service. A break-in-service occurs when a previously assisted Household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry, the Household is required to complete a new intake application and provide updated source documentation, if applicable.

(c) The Subrecipient must utilize the rental assistance agreement promulgated by the Department if providing rental assistance. The rental assistance agreement does not take the place of the lease agreement between the landlord/property manager and the tenant.

(d) The Subrecipient must retain a copy of the signed Disclosure Information on Lead Based Paint and/or Lead-Based Hazards for housing built before 1978 in the Program Participant's file in accordance with 24 CFR §576.403(a).

(e) Implementation of ESG activities involving direct assistance to Program Participants is subject to §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries).

(1) Each Household member receiving direct assistance (including Homelessness Prevention or Rapid Re-Housing upon

annual recertification) must be verified for eligibility in accordance with §1.410 of this Part prior to receiving assistance.

(2) Direct assistance may be prorated utilizing a fraction based on Household eligibility, calculated by multiplying the full benefit amount by a fraction in which the numerator is the number of eligible Household members, and the denominator is the total number of Household members.

(3) Activities that do not provide direct housing or financial assistance, such as Emergency Shelter, case management, and Street Outreach, and in-kind disaster assistance are not subject to paragraphs (1) and (2) of this subsection.

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

(5) Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

(f) The Subrecipient must document the U.S. Citizen, U.S. National, or Qualified Alien status for each Household member receiving non-PWORA exempt direct assistance including:

(1) verification of eligible immigration or citizenship status consistent with §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries);

(2) any determinations of ineligibility or mixed Household status; and

(3) records of proration calculations applied under paragraph (e)(2) of this subsection, if applicable.

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 6, 2026.

TRD-202601119

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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



CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER J. HOUSING FINANCE CORPORATION COMPLIANCE MONITORING

10 TAC §§10.1201 - 10.1207

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring §§10.1201 - 10.1207 with changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8455). The rules will be republished. The purpose of the new rules, in compliance with Tex. Gov't Code §2306.053, is to implement the requirements of HB 21 (89th Regular Legislature), which

tasks the Department with the compliance monitoring oversight of all Housing Finance Corporation (HFC) multifamily residential developments. The new rules provide guidance on auditing and reporting requirements for HFC multifamily residential developments that are required to be audited no later than June 1, 2026, and the results reviewed and published by the Department.

Tex. Gov't Code §2001.0045(b) does not apply to the new rule adopted for action because it is necessary to implement the requirements of new legislation, HB 21.

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

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

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

1. The adopted new rule does not create or eliminate a government program but clearly outlines the audit report and monitoring requirements for Responsible Parties of Housing Finance Corporations and their Sponsors.

2. The adopted new rule will change the number of employees of the Department. The enactment of HB 21 included an appropriation for one full time employee for fiscal year 2026 to perform work associated with implementation of HB 21 and this rule.

3. The adopted new rule will require additional future legislative appropriations. The new rule is in effect because the Texas Legislature in its 89th Regular Session passed House Bill 21. The Department was appropriated an additional \$228,228 per year of the biennium from General Revenue funds to implement the provisions of the legislation and received one new FTE. It is expected that the appropriation would continue in subsequent biennia to continue implementing the provisions.

4. The adopted new rule will increase fees paid to the Department. Each HFC multifamily residential development must submit an annual service fee in the amount of \$35 per restricted unit, limited to the file sample size; the minimum fee shall not be less than \$500.

5. The adopted new rule is creating a new regulation in order to implement the requirements of HB 21.

6. The adopted new rule will not limit or repeal an existing regulation but can be considered to "expand" the existing regulations on this activity because the adopted new rule is necessary to ensure compliance with HB 21 and for the Department to establish rules.

7. The adopted new rule will not increase nor decrease the number of individuals subject to the rule's applicability; and

8. The adopted new rule will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this new rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.053.

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

2. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities because these rules apply to all Housing Finance Corporation multifamily residential developments effective May 28, 2025.

3. The Department has determined that because these rules apply only to Housing Finance Corporation multifamily residential developments there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

The Department has evaluated the new rule as to its possible effects on local economies and has determined that for the first five years the new rule will be in effect the adopted new rule creates provisions for a new procedure for monitoring Housing Finance Corporation multifamily residential developments that are generally exempt from ad valorem taxation. There will be economic cost to these developments required to comply with the new rule because a fee will be collected by the Department to perform compliance monitoring on Housing Finance Corporations multifamily residential developments. In addition, HFCs will be required to hire third party auditors to complete the annual audits.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the new rule on employment in each geographic region affected by this new rule..." Considering that no impact is expected on a statewide basis, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule will be to provide a new procedure of monitoring Housing Finance Corporations multifamily residential developments that are generally exempt from ad valorem taxation.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new rule is in effect, enforcing or administering the new rule does have some foreseeable implications related to costs or revenues of the state or local government. The Department was appropriated an additional \$228,228 per year of the biennium from General Revenue funds to implement the provisions of the legislation and received one new FTE.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between December 26, 2025, through January 26, 2026. Comment was received from 10 commenters. Comments regarding the proposed new rules were accepted in writing by mail and e-mail with comments received from:

1. Megan Cano, President, Texas Affiliation of Affordable Housing Providers (TAAHP); Chris Newton, Executive Vice President, Texas Apartment Association (TAA) and Benjamin Davis, Presi-

dent, Texas Chapter of National Association of Housing and Re-development Officials (TXNAHRO).

2. Deletta Dean, Director, Austin Housing
3. Gary Gates, State Representative, House District 28
4. Paige Mebane, Director, Coats Rose
5. Celine M Williams, President, Celine M. Williams Services
6. Cynthia L. Bast, Partner, BakerHostetler
7. Braxton Parsons, Senior Vice President, Hilltop Securities Inc.
8. Matt Vara, Mesa Assurance
9. Dianna Grey, Executive Director, Strategic Housing Finance Corporation of Travis County
10. Timothy Clark, President, Riverside Dwell, LP

Purpose and Applicability

Rule Section §10.1201

COMMENT SUMMARY: Commenter 9 appreciates confirmation that Housing Finance Corporation (HFC) multifamily residential developments with Low Income Housing Tax Credit (LIHTC) are excluded from this rule in accordance with HB 21. Commenter 2 seeks confirmation that an HFC ground lease when the borrower is not claiming a tax exemption under Chapter 394, Local Government Code is not subject to an Audit or Rent Reduction calculation. In addition, Commenter 2 states that Permanent Supportive Housing (PSH) that are not financed with Low Income Housing Tax Credits (LIHTC) that receive a partial tax exemption should be exempt from reporting since these developments serve chronically homeless individuals.

STAFF RESPONSE: Staff confirmed that HFC multifamily residential developments that are allocated LIHTC with a current Land Use Restriction Agreement (LURA) are exempt from reporting under statute and this rule. The rule cannot be revised in response to Commenter 2's requests because in accordance with HB 21, Section 394.9026(a)(10)(b) the only exception for a HFC multifamily residential development not to report that it is benefiting from a tax exemption under Chapter 394, Local Government Code, is a development that is a recipient of a LIHTC allocation. A Development not claiming an exemption is not required to report.

DEFINITIONS

Rule Section §10.1202(1)

COMMENT SUMMARY: Commenter 6 suggests the following words be deleted "or compliance expert" in the definition. They believe this is redundant since the definition of an Auditor includes a compliance expert.

STAFF RESPONSE: The Department accepted the recommendation and has removed the words "or compliance expert" from this section.

Rule Section §10.1202(2)

COMMENT SUMMARY: Commenters 1, 4 and 5 request the same modification to the definition of "Auditor" by striking the following words from the definition "a business entity that primarily performs audits and." Commenters 1, 4 and 5 state that statute is written in a manner that speaks to individual auditors as opposed to business entities. They believe that the Department is exceeding what is in statute by adding this clause. The commenters discussed the implication of this clause on the rota-

tional requirements relating to using new independent auditors and Commenters 1 and 5 expressed concern that limiting audit firms would result in challenges for HFC Users to find auditors which could result in a cost increase due to the limited supply of auditors. Commenter 5 also recommends the term "Auditor" should be the same definition that is in the Public Facilities Corporation (PFC) rule.

STAFF RESPONSE: Staff has removed the words "a business entity that primarily performs audits and" from the Auditor definition.

Rule Section §10.1202(8) and (14)

COMMENT SUMMARY: Commenter 3 indicates there is a conflict in language regarding ownership structure between §10.1202(8) and §10.1202(14). It is suggested that definition (14) for "Multifamily Residential Development" should be revised to align with definition (8) for "Housing Finance Corporation User" and the statutory language of HB 21. Commenter 2 supports the language in the proposed rule that multiple developments meeting the requirements stipulated in §10.1202(14) will be considered as one singular Multifamily Residential Development.

STAFF RESPONSE: In response to Commenter 3, staff has revised the definition of Multifamily Residential Development in §10.1202(14) by removing "owned by a Housing Finance Corporation," from the. Staff appreciates Commenter 2's support.

Rule Section §10.1202(11)

COMMENT SUMMARY: Commenter 5 recommends clarifying that the "average annual Rent" be a point in time average of each Unit Type and not a 12-month average of every single unit.

STAFF RESPONSE: The Department did not implement the recommendation as it deviates from the definition of Maximum Market Rent in HB 21, which states, "the average annual rent charged."

Rule Section §10.1202(15)

COMMENT SUMMARY: Commenter 7 suggests removing the word "partnership" from the definition as it could cause confusion.

STAFF RESPONSE: Staff has removed the word "partnership" from the definition of Regulatory Agreement.

Rule Section §10.1202(16)

COMMENT SUMMARY: Commenter 3 indicates how rent is defined deviates from HB 21 in two material ways. First, pest control fees are not excluded in HB 21 and should be counted towards max rent. Additionally, fees for utilities are recurring and should be included in the definition of rent. Commenter 5 recommends clarifying that recurring fees for utilities include trash and should not be included in the rent calculation. Commenter 1 and 4, like Commenter 5 recommends adding "trash" as one of the exceptions to max rent. Commenter 7 suggests a phrasing change to clarify that any fees that are optional, may be excluded from rent.

STAFF RESPONSE: Staff has accepted Commenter 3 recommendation since it aligns with the definition of "Rent" in HB 21. Staff did not accept the proposed changes suggested by Commenters 1, 4 and 5 since "trash" is specifically not excluded in the definition of rent in HB 21. Staff also did not implement phrasing changes suggested by Commenter 7 as it deviates from the text in HB 21.

Reporting Requirements

Rule Section §10.1203(1)(B)

COMMENT SUMMARY: Commenter 3 does not agree that the Department should allow an extension up to 120 days for audit submissions and believes the extension time is excessive. Commenter 3 suggests that the Department should only allow a maximum of 60 days. Commenter 4 suggests that requiring all extension requests be submitted by May 1 of each reporting year is likely to place an undue burden on HFC Users.

STAFF RESPONSE: The Department has accepted Commenter 3's suggestion to shorten the extension timeframe from 120 days to 60 days. Staff disagrees with Commenter 4 that the May 1 deadline is an undue burden, because Audit Reports are due by June 1 and HFC Users should be able to determine by May 1, if an extension is needed.

Rule Section §10.1203(1)(C)

COMMENT SUMMARY: Commenter 1 stated that the documents listed as required to be submitted with the first Audit Report may not be available for HFC multifamily residential developments that were initiated prior to HB 21. Commenter 1 also submitted a redline version of the rule with suggested proposed changes. Commenter 7 made similar suggestions to differentiate what documents were due with the first Audit Report.

STAFF RESPONSE: Staff has incorporated the formatting changes and the suggested language changes with the exception of the Commenter's suggested removal of this sentence, "These items being submitted are the responsibility of the HFC User; if the Auditor indicates in their Audit Report that the HFC User has not provided the documents required in this subparagraph, a compliance finding will be issued." Staff is not deleting this sentence because it is the HFC User's responsibility to comply with HB 21 and the HFC rules.

Rule Section §10.1203(1)(D)

COMMENT SUMMARY: Commenters 1 and 4 both suggested adding the exact same language to clarify when the first Audit Report is due for submission from a Development that is acquired prior to May 28, 2025, and is refinanced etc.

STAFF RESPONSE: Staff included the suggested additional language in Section 10.1203(1)(D)(iii) to add clarity on when a Development must submit their first annual Audit Report if that Development was refinanced, had a conveyance of fee or leasehold title, or was a sale or transfer of a majority of the beneficial ownership interest in a Development.

Rule Section §10.1203(3)(A)

COMMENT SUMMARY: Commenter 5 recommends that the reporting year not be required to include the full prior year, and that flexibility be added for HFC developments that are in lease up or in the process of implementing regulatory requirements. They suggest that the end date of December 31 be a recommendation, rather than a requirement.

STAFF RESPONSE: Staff did not accept the recommendation because having a reporting year end date of December 31, and which covers the full prior year, provides guidance and uniformity in Audit Reports.

Rule Section §10.1203(4)

COMMENT SUMMARY: Commenter 1 recommends that the compliance fee structure and amount of the fee be changed from \$20 per Restricted Unit to \$35 per Restricted Unit and be limited to the file sample size. Commenter 5 agrees with Commenter 1, that the annual compliance fee structure be limited to file sample size. Commenter 5 also suggested the fee amount be \$20 per Restricted Unit.

STAFF RESPONSE: As suggested, staff has increased the fee amount per Restricted Unit, while now limiting the fee amount calculation to the sample size of units. Staff also included Commenter 5 recommendation of limiting the fee amount to the sample size but did not include the recommendation of \$20 per Restricted Unit because staff accepted all of Commenter 1's suggested changes for the fee amount to be increased but limited to sample size only.

Rule Section §10.1203(5)

COMMENT SUMMARY: Commenter 3 recommends replacing the current phrase "A copy of the summary notice" with "A copy of the summary of the Audit Report" for clarity. Additionally, the reference to providing notice to "the Development" should be removed and only refer to "Responsible Parties" as it is more appropriate and aligns with HB 21.

STAFF RESPONSE: The Department has implemented the changes.

Rule Section §10.1203(6)(A) and (B)

COMMENT SUMMARY: Commenter 3 indicates there is a material divergence from HB 21. The proposed rule improperly expands noncompliance to Section 394.9026. Per Commenter 3, Section 9026(d) of HB 21 only directs the agency to provide an option for corrective action for a finding of noncompliance with Section 394.9026(c). Commenter 6 requests that 10.1203(6)(B) follow statute and defined terms and replace "appropriate appraisal district" with "Chief Appraiser" since it is not required by statute. Commenter 4 suggests adding an additional 60-day extension to the 180-day statutorily required corrective action period outlined in HB 21.

STAFF RESPONSE: Staff accepted Commenter 3 suggestions and has implemented the changes to the rule. Staff also accepted Commenter 6's revision. Staff did not incorporate Commenter 4's recommendation as it deviates from HB 21 statutory requirements and the Department does not have the authority to provide an extension for corrective action beyond 180 days.

Rule Section §10.1204(1)

COMMENT SUMMARY: Commenters 2 and 10, recommend expanding the language to clarify that bridge, or short-term (less than 5 years), would not be considered a refinancing. Commenter 9 appreciates that inclusion having already been in the rule. Commenter 7 provided an example of when a Development is refinanced and when the first Audit Report would be initially due.

STAFF RESPONSE: The Department appreciates the support from Commenters 2, 9 and 10 on the language. The current published rule included the suggestions outlined by the Commenters; it is possible that Commenters 2 and 10 were referring to the previous published version. The Department accepted the example provided by Commenter 7 and has implemented the changes.

Rule Section §10.1204(2)

COMMENT SUMMARY: Commenter 1 recommends adding the word, "Restricted" to Unit, to make clear that the number of files selected for review by the Auditor is limited to the number of Restricted Units, including when a Development is leasing up.

STAFF RESPONSE: The Department has implemented the change in the rule.

Rule Section §10.1204(3)(B)

COMMENT SUMMARY: Commenter 3 recommends that the Department require photographic documentation that restricted units have comparable finishes, equipment and access and that a written certification alone is insufficient. Commenter 10 recommended that "Units" be capitalized when referring to "Restricted Units" in the rule. Commenter 10 also suggested the following language be deleted, "significant variations in floor plans and square footage will be considered non-compliance" due to circumstances where Developments with live-work units with commercial space are utilized by residents who operate a business, and their income exceeds the affordable thresholds. These live-work units are part of the "non-income restricted" units on the Development and no comparable floorplans exist in the Restricted Units.

STAFF RESPONSE: As suggested by Commenter 3, staff added photographic evidence as an additional requirement in the rule. Staff did not accept Commenter 10's suggested revisions because the requirement that the income-restricted residential units in the development have the same unit finishes, equipment and access to community amenities and programs as residential units that are not income-restricted is required in HB 21.

Rule Section §10.1204(3)(C)

COMMENT SUMMARY: Commenter 10 recommends revising this section to: "Unit Types shall be allocated proportionally across each income restricted category." They recommend this to allow for minor discretion necessary due to rounding and instances where Unit Types cannot be exactly spread across multiple categories.

STAFF RESPONSE: Staff has not made the recommended revisions to comply most closely with HB 21.

Rule Section §10.1204(3)(D)

COMMENT SUMMARY: Commenter 5 recommends the "Department-approved Income Certification form" required in the rule also include the "Verification of Income" form as referenced in most HFC Regulatory Agreements.

STAFF RESPONSE: Staff declines to include the "Verification of Income" form as the form does not reflect the current statutory or rule requirements to verify and document a restricted household's income and assets.

Rule Section §10.1204(3)(D)(i)

COMMENT SUMMARY: Commenter 6 expressed appreciation for the next available unit example in the rule, but also suggested including that the HFC User can charge the household the rent at their applicable income designation. Commenter 7 suggests that very few HFCs have rents at the 160 percent level and including 160% in the example may result in additional HFC Users seeking to pursue this higher limit.

STAFF RESPONSE: Staff has accepted Commenter 6 addition to the example to make clear that households may be charged rent at their current income designation. Staff also accepted the

suggestion by Commenter 7 to change the income and rent designation from 160 percent to 120 percent in the example.

Rule Section §10.1204(3)(F)

COMMENT SUMMARY: Commenter 3 requests that the website disclosure should be on the home page of the Development's website, to prevent the disclosure from being buried elsewhere and difficult to find.

STAFF RESPONSE: The rule has been revised to reference the home page of the Development's website.

Rule Section §10.1204(3)(K)(i)

COMMENT SUMMARY: Commenter 1 suggests adding "imputed person per bedroom adjustment" language to clarify the rent limit calculation and removing "adjustment for family." Commenter 3 suggest that the current language relating to adjustments for family size improperly directs an Auditor to defer to regulatory agreements when determining rent limits, rather than actual operating practices.

STAFF RESPONSE: The Department declined to make these requested revisions from Commenters 1 and 3. The Department has provided technical clarity to HFC Users and Auditors on the definition of Rent that are used in practice when adjustment for family size is unclear. Commenter 1's recommendation of using "imputed persons per bedroom" in lieu of "adjustment for family size" deviates from HB 21 and is not revised.

Rule Section §10.1204(3)(L)

COMMENT SUMMARY: Commenter 1 requested that clarifying language be added to identify that it is the HFC User that is responsible for determining the Rent Reduction comparison.

STAFF RESPONSE: Staff included the clarifying language.

Rule Section §10.1204(3)(L)(i)

COMMENT SUMMARY: Commenter 1 is requesting a change to the Rent Reduction calculation language, to use "average of the Rent charged" instead of "annual Rent charged". Commenter 3 suggests that the allowable methodologies to determine Maximum Market Rent in a development that is one-hundred percent restricted are too broad and provide excessive discretion to the HFC User. Commenter 3 also recommends adding specific parameters to the rule for the market study and leasing survey methods, for example, it was suggested that Class C properties should not be compared to Class A properties and that Fair Market Rents are not suitable to use for small areas because they are not sufficiently localized.

STAFF RESPONSE: The Department did not accept Commenter 1 recommendation to include the term, "average the rent charged as of December 31" as statute does not allow for an average when calculating the difference between the annual Rent charged for each restricted unit and the estimated annual Maximum Market Rent that could be charged. While staff agrees that added specificity could be beneficial in the methodologies for estimating Maximum Market Rent, the suggestions by Commenter 3 likewise add ambiguity; some of the suggested terms, like Class C and Class A properties are not defined terms. Additionally, to add greater specificity at this point in the rulemaking process would not have allowed the public to make comment on those additions. Staff will proceed with the rule as is, but with the understanding that as the rule is implemented and Audit Reports are received, it will evaluate actual report submissions of HFC Developments that are one hundred percent restricted

to identify the challenges in estimating Maximum Market Rents and if any additional parameters will be needed.

Rule Section §10.1204(3)(L)(i)(I)

COMMENT SUMMARY: Commenters 1 and 4 submitted the exact same comments and they are requesting to add new language regarding the timing of submission of the first annual Audit Report and Rent Reduction calculation for Developments that were acquired prior to May 28, 2025, which undergo refinancing etc.

STAFF RESPONSE: The Department has included the new language in the rule to add clarity to the timing of reporting requirements.

Rule Section §10.1204(3)(L)(ii)(II)

COMMENT SUMMARY: Commenters 2 and 9 appreciate that the rule addresses the treatment of voucher holders for purposes of the Rent Reduction calculation. Commenter 3 suggests that only including the tenant paid portion of rent for a voucher holder in the Rent Reduction Calculation is problematic because this would allow federal subsidies to be counted toward the requirement that 50% of property tax savings be used to lower rents and shifts responsibility for funding rent reductions from the User to the federal government.

STAFF RESPONSE: The Department staff acknowledges Commenters 2 and 9 in support of how voucher holder rent is used to calculate the rent reduction. Regarding Commenter 3's concern, staff would like to clarify that not including the voucher holder's rental assistance amount and only including the voucher holder's tenant paid portion of rent results in a deeper rent saving for households. Excluding the voucher holder's rental assistance amount means it will not be counted toward the Development's 50% property tax saving calculation. For example, if a voucher holder tenant pays \$300 per month toward their rent and the rental assistance payment of rent is \$1,000, then the rental assistance payment of \$1,000 per month would be excluded for purposes of calculating the Rent Reduction.

Rule Section §10.1204(3)(L)(i)(II)(b-)

COMMENT SUMMARY: Commenter 3 suggested replacing the word "charged" with "that would be charged."

STAFF RESPONSE: Staff has made the recommended revision.

Rule Section §10.1204(3)(L)(i)(III)

COMMENT SUMMARY: Commenter 1 and Commenter 3 suggested adding clarifying language to align with statute when there are multiple taxing jurisdictions.

STAFF RESPONSE: Staff accepted the suggestion as it adds clarity to the rule.

Rule Section §10.1204(3)(L)(ii)(II)

COMMENT SUMMARY: Commenter 10 suggests deleting the first sentence of this section because the first sentence is repetitive and possibly conflicting with the definition of Rent Reduction.

STAFF RESPONSE: Staff did not incorporate this change into the rule. The sentence adds clarity, and the action required to complete the public benefit calculation.

Rule Section §10.1204(3)(L)(ii)(II)(a-)

COMMENT SUMMARY: Commenter 5 suggests, the average rent charged for market rate units, and the average rent for restricted units should be used to reflect an accurate public benefit

test. Commenter 5 indicates the maximum permitted rent for restricted units may be much higher than the average restricted rent the development is actually charging. Using the permitted rent instead of the average rent charged for restricted units may inflate the rents and not accurately reflect the Rent Reduction calculation. Commenter 10 recommends replacing "maximum permitted Rent" with "advertised rent" because the language penalizes a property that offers an advertised rent below what is permitted in the Regulatory Agreement. Commenter 10 also suggests the current language as drafted would be punitive and discourages affordability. Commenter 8 suggests that the first public benefit test calculation be based on when the exemption was received and not when the Development was acquired by the HFC. For example, a Development acquired in December 2024 but lacks the exemption would not have to complete the public benefit determination until 2026.

STAFF RESPONSE: The Department declines comments from Commenters 5 and 10, as HB 21 specifies that the public benefit calculation is on charged rent. The rent that could be charged on a vacant Restricted Unit is the permitted rent limit. In response to Commenter 8, staff has added an additional example to the rule in §10.1204(3)(L)(ii)(I)(-c-) regarding when a HFC development is acquired and when the HFC User must report.

Rule Section §10.1204(3)(L)(ii)(IV)(a-)

COMMENT SUMMARY: Commenter 3 would like clear guardrails added for the escalation factor to remove unnecessary discretion.

STAFF RESPONSE: The Department appreciates Commenter 3's concerns regarding the calculation of escalation factors; however, the Department believes that most appraisal districts publish or will provide the necessary values that HFC Users needs to complete the public benefit calculation. The Department will also post the Public Benefit Test Owner Certification form along with the Summary, to ensure transparency of its review of all aspects of the submitted Audit Reports. The Department will review all 2026 Audit Reports and based on submissions may initiate new rule making to provide more specific parameters in establishing escalation factor amounts.

Rule Section §10.1204(3)(L)(ii)(IV)(b-) and (-c-)

COMMENT SUMMARY: Commenter 3 would like the language to prioritize the use of officially published appraisal district values when determining property tax appraisals and only reserve alternative methods for cases in which no published appraisal district valuation is provided.

STAFF RESPONSE: Staff updated the rule to reflect these changes.

Income and Rent Calculations

Rule Section §10.1205(5)

COMMENT SUMMARY: Commenter 8 requests that in lieu of verifying income and assets, that HFC Users be allowed to use the "Verification of Income" statement. If not fully approved, at least allow the form to be used for the 2025 tax year because collection of the full verification of income from an in-place tenant would be very challenging for Sponsors.

STAFF RESPONSE: The Department did not accept the suggested change as the "Verification of Income" statement referred to in some HFC Regulatory Agreements does not verify, or document required income and assets to demonstrate a household eligible for a Restricted Unit.

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

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

§10.1201. Purpose and Applicability.

The purpose of this Subchapter is to:

(1) Establish rules governing Developments owned or sponsored by a Housing Finance Corporation (HFC) that are subject to Sections 394.9026 and 394.9027 of the Texas Local Government Code.

(2) Enable the Department to communicate with Responsible Parties and persons with an interest in the Development, regarding the results of the Audit Report.

(3) Establish qualifications for Auditors and reporting standards and formats.

(4) Implement compliance requirements, tenant protections, and affirmative marketing requirements, as required by Sections 394.9026 and 394.9027 of the Texas Local Government Code.

(5) This rule is not applicable to a Development that is a recipient of Federal Low Income Housing Tax Credits. For purposes of this rule, a recipient of Federal Low Income Housing Tax Credits is any Development or HFC User that has received a Commitment Notice, or Determination Notice for an allocation of Federal Low Income Housing Tax Credits from the Department. During the time the Development is under construction or Rehabilitation, it will be considered to be a recipient of Housing Tax Credits, unless more than five years have passed since the Commitment Notice or Determination Notice was issued and the Development Owner has not yet entered into the Land Use Restriction Agreement. Upon conclusion of the construction or Rehabilitation, the Development must have an executed Land Use Restriction Agreement (LURA) with the Department that covers all the Residential Units. Then, the Development is considered to be a recipient of Federal Low Income Housing Tax Credits for the term of the LURA between the Department and the Development Owner.

§10.1202. Definitions.

The capitalized terms or phrases used herein are defined in this title. Any other capitalized terms in the subchapter shall have the meaning defined in Chapter 2306 of the Texas Government Code, Chapter 394, Texas Local Government Code, and other state or Department rules, as applicable. Defined terms, when not capitalized, are to be read in context and construed according to common usage.

(1) **Audit Report**--A report required by Section 394.9027 of Texas Local Government Code completed by an Auditor in a manner and format prescribed by the Department.

(2) **Auditor**--An individual who is an independent auditor or a compliance expert with an established history of providing similar audits on housing compliance matters, meeting the criteria established herein.

(3) **Board**--The governing board of the Texas Department of Housing and Community Affairs.

(4) **Chief Appraiser**--The chief appraiser of any appraisal district in which a Development is located.

(5) **Department**--The Texas Department of Housing and Community Affairs.

(6) **Housing Choice Voucher Program**--The housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437(f)).

(7) **Housing Finance Corporation (HFC)**--A public, non-profit corporation created under Chapter 394, of the Texas Local Government Code. This includes an instrumentality created by the HFC.

(8) **Housing Finance Corporation User or HFC User**--A Housing Finance Corporation; or for a Multifamily Residential Development that is not owned directly by a Housing Finance Corporation, a public-private partnership entity or a developer or other person or entity that has an ownership interest or a leasehold or other possessory interest in a Multifamily Residential Development financed or supported by a Housing Finance Corporation.

(9) **HUD**--The United States Department of Housing and Urban Development.

(10) **Lower Income Housing Unit**--A residential unit reserved for occupancy by an individual or family earning not more than 60 percent of the area median income, adjusted for family size.

(11) **Maximum Market Rent**--With respect to a particular Restricted Unit Type, the average annual Rent charged for all non-income-restricted units in the Development having the same or substantially similar floor plan as the Restricted Unit Type.

(12) **Middle Income Housing Unit**--A residential unit reserved for occupancy by an individual or family earning not more than 100 percent of the area median income, adjusted for family size.

(13) **Moderate Income Housing Unit**--A residential unit reserved for occupancy by an individual or family earning not more than 80 percent of the area median income, adjusted for family size.

(14) **Multifamily Residential Development**--(also called Development) Any residential development consisting of four or more residential units intended for occupancy as rentals, regardless of whether the units are attached or detached. If multiple Developments are owned by the same HFC with the same HFC User under one single-purpose ownership entity, are within the same jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code, and are bound under one Regulatory Agreement, it will be considered as one singular Multifamily Residential Development.

(15) **Regulatory Agreement**--A Land Use Restriction Agreement (LURA), Ground Lease, Deed Restriction, or any similar restrictive instrument that is recorded in the real property records of the county in which the Development is located or an agreement between the HFC and HFC User which is not recorded in the real property records.

(16) **Rent**--Any recurring fee or charge a tenant is required to pay as a condition of occupancy, including a fee or charge for the use of a common area, amenity, or facility reasonably associated with the residential rental property. The term does not include fees for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking. For Developments acquired prior to May 28, 2025, starting with reporting year 2026, the Development must comply with this rent definition.

(17) **Rent Reduction**--The projected difference between the annual Rent charged for a Restricted Unit and the Maximum Market Rent that could be charged for that same unit without the income restrictions.

(18) **Responsible Parties**--The Housing Finance Corporation that owns or is associated with the Development, the Housing Fi-

nance Corporation User of the Development, the Texas Comptroller, and the governing body of the Sponsor.

(19) Restricted Unit--A residential unit in a Multifamily Residential Development that is reserved for or occupied by a household meeting certain income limitations established in the Regulatory Agreement, in accordance with Section 394.9026(c)(1) of Texas Local Government Code, with Rent for such unit restricted as set forth in these rules. Restricted Units may float in a Development and need not be permanently fixed.

(20) Sponsor--A municipality, county or collection of municipalities and counties that causes a corporation to be created to act in accordance with Chapter 394, of the Texas Local Government Code.

(21) Substantially Similar Floor Plan--Means a Unit Type.

(22) Tax Year--Is a calendar year. For the purposes of all provisions within the rule, the terms "Tax Year" and "Calendar Year" shall have the same meaning and shall be interchangeable.

(23) Unit Type--Means the type of unit determined by the number of bedrooms.

(24) Very Low Income Housing Unit--A residential unit reserved for occupancy by an individual or family earning not more than 50 percent of the area median income, adjusted for family size.

§10.1203. Reporting Requirements.

The following reporting requirements apply to all Housing Finance Corporation (HFC) Multifamily Residential Developments claiming an ad valorem tax exemption under Section 394.905 of the Texas Local Government Code and to which Sections 394.9026 and 394.9027 of Texas Local Government Code apply, regardless of when approved or acquired.

(1) All Multifamily Residential Developments owned by an HFC as defined by this subchapter must submit an Audit Report as described in this paragraph.

(A) No later than June 1 of each year, with approved extensions as described in subparagraph (B) of this paragraph each HFC User must submit to the Department an Audit Report from an Auditor, obtained at the expense of the HFC User. The Audit Report determines whether the Multifamily Residential Development was in compliance with Sections 394.9026 and 394.9027 of the Texas Local Government Code for the immediately preceding Tax Year.

(B) Audit Report extension requests must be submitted to hfc@tdhca.texas.gov no later than May 1 of each reporting year. The request for an extension must include an explanation of the reason and the requested submission date, not to exceed 60 days from the June 1 reporting deadline. Within seven calendar days of receiving the request, the Department will respond to the request and issue a determination of approval or denial for an extension.

(C) Prior to submission of the first Audit Report for a Development, the HFC User must provide the Auditor with a copy of the following:

(i) Underwriting assessment as published on the HFC website and as conducted pursuant to Section 394.905(b)(3) of Texas Local Government Code, if applicable;

(ii) Resolution or order required by Section 394.031(d) and Section 394.037(a-1)(2), if applicable;

(iii) Board meeting minutes, public hearing transcript or adopted resolution, or other document evidencing approval of the Development, if applicable;

(iv) Regulatory Agreement; and

(v) A one-time exemption application submitted to the Texas Comptroller's office.

(vi) The Auditor will include these with the first Audit Report. These items being submitted are the responsibility of the HFC User; if the Auditor indicates in their Audit Report that the HFC User has not provided the documents required in this subparagraph, a compliance finding will be issued.

(D) The first Audit Report for a Development must be submitted no later than June 1 of the Tax Year following:

(i) The date of acquisition by the HFC for an occupied Development; or

(ii) The date a newly constructed Development first becomes occupied by one or more tenants.

(iii) For a Development acquired prior to May 28, 2025, the first Audit Report must be submitted no later than June 1, 2026.

(2) A Multifamily Residential Development is not entitled to an ad valorem tax exemption for any Tax Year in which the HFC User has not timely submitted the full Audit Report by the deadline, with approved extensions as required by Section 394.9027 of the Texas Local Government Code.

(3) All Audit Reports must comply with subparagraphs (A) to (C) of this paragraph:

(A) be for at least the full prior reporting year ending December 31 and include a rent roll for the same period.

(B) include contact information for all Responsible Parties.

(C) be completed and submitted in the Department prescribed manner.

(4) The HFC User must submit an annual service fee to the Department by June 1 of each year of the greater of \$35 per Restricted Unit that is included in the sample described in §10.1204(2) of this subchapter or \$500 for Developments subject to an Audit Report. This fee shall be tendered by check, money order, or via an online payment system (if provided by the Department), payable to the Texas Department of Housing and Community Affairs. This fee, when received in connection with an Audit Report, is earned and is not subject to refund.

(5) No later than 60 days after the receipt of the Audit Report, the Department will post a summary of the Audit Report on its website including a detailed description of any noncompliance with this rule found by the Auditor and indication that such notice does not constitute a final determination. A copy of the summary of the Audit Report will also be provided to all Responsible Parties.

(6) If noncompliance is identified by the Auditor in the Audit Report, no later than 120 days after receipt of the Audit Report by the Department, the Department will issue a monitoring report notice and make it available on the website. A copy of the monitoring report will also be provided to all Responsible Parties.

(A) The monitoring report will include a detailed description of any noncompliance with Section 394.9026(c) and at least one option for corrective action to resolve the noncompliance. The HFC User will be given 180 days from the issuance of the monitoring report notice to correct the noncompliance. At the end of the 180 days, the Department will post a final report on its website.

(B) If there is any noncompliance with Section 394.9026(c) that is not corrected within the 180-day corrective action period, the Department will notify the Responsible Parties, and Chief

Appraiser, and the Texas Comptroller in writing and recommend a loss of ad valorem tax exemption under Section 394.905 Texas Local Government Code respective to the Tax Year being Audited.

(7) The qualification of the Auditor must be submitted with each Audit Report. Qualifications must include experience auditing housing compliance, a current Certified Occupancy Specialist (COS) certification or an equivalent certification, and resume. The Auditor may not be affiliated with or related to any Responsible Parties. Additionally, a current or previous Management Agent that has or had oversight of the Development or is/was responsible for reviewing and approving tenant files does not qualify as an Auditor under these rules. HFC Users may not engage the same individual as Auditor for a particular Development for more than three consecutive years. After the third consecutive Audit Report by the same Auditor, the HFC User must engage a new Auditor for the submission of at least two annual Audit Reports before re-engaging with a prior Auditor.

(8) Audit Reports and supporting documentation and required forms must be submitted through the Departments File Serve System. To obtain access to this system the HFC User or Auditor must request access by emailing hfc@tdhca.texas.gov.

§10.1204. *Audit Requirements.*

Multifamily Residential Developments must comply with the Audit Report requirements identified in this section:

(1) If the Multifamily Residential Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of paragraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User occurred. For example, 1204(1): If a Development is refinanced on July 15, 2027, the tax year would be 2027, and the second tax year after refinance would be 2028; so the previous Audit Report requirements would be due on June 1, 2028. The above would no longer be exempt for Tax Year 2028 and should be included in the Audit Report submitted June 1, 2029. For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from construction phase to permanent phase or replacement of construction, bridge, or short-term (less than 5 years) financing with permanent financing, will not be considered a refinancing.

(2) The Auditor must use the Department's HFC monitoring forms made available on the website. The review performed by the Auditor may be completed either onsite or electronically. Original records must be made available to the Auditor. The file sample used by the Auditor must contain at least 20% of the total number of Restricted Units for the Development, but no more than a total of fifty (50) household files. The selection of Restricted Units should include at least 75% of households that are newly moved into the Development, but also include at least 10% of households that have recertified, or if 10% of households have not recertified, then units that have recertified. For Developments that are leasing up and not yet fully occupied the percentages reflected in this paragraph should be applied to all occupied Restricted Units.

(3) The Auditor will ensure Development meets the following requirements and will identify any deficiencies in the Audit Report:

(A) The HFC User will provide the Auditor with supporting documentation that the Auditor will submit with the Audit that:

(i) confirms that the Multifamily Residential Development is within its jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code such as a GIS boundary map, recorded legal description, local-government resolution, or other source approved by TDHCA.

(ii) confirms that a Multifamily Residential Development that is outside of the Sponsor's jurisdiction has been approved in accordance with Section 394.031(d) of Texas Local Government Code. For a Development not located within the Sponsor's jurisdictional boundaries, that was acquired on or before September 1, 2025, this requirement does not apply until January 1, 2027, after which this documentation must be submitted.

(B) The Restricted Units in the Development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income restricted. Minor variations in floorplans, colors, and design are acceptable deviations and will not be noted as noncompliance; significant variations in floor plans and square footage will be considered noncompliance. The Auditor may rely on a written certification and photographic evidence from the HFC User to support that a Development has equitable finishes, equipment and access to amenities and programs. Such certification must be submitted with the Audit Report.

(C) The percentage of Restricted Units in each Unit Type and each category of income restriction in the Development must be the same or greater percentage as the percentage of each Unit Type of units that are reserved in the Development as a whole.

(D) Occupants of Restricted Units are required to recertify the income of the household using a Department-approved Income Certification form at lease renewal. If a household exceeds the income limit at annual income recertification, the Available Unit Rule as outlined in Section 42(g)(2)(D) of the Internal Revenue Code will be implemented in the following manner:

(i) Where the household's income exceeds the AMI as designated, the household can be redesignated to the next AMI level in the Regulatory Agreement. The next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(2): Development Regulatory Agreement includes units at 80% and 120%, Unit 101, a one-bedroom Unit Type, is designated as 80%. At the annual income recertification, the household income was determined to exceed 80% AMI but was less than 120% AMI. The unit should be redesignated as 120% at the time the determination is made and the next available one-bedroom Unit Type in the Development must be reserved for and occupied by an 80% household. At the time of determination that the unit should be 120%, with proper notification, the household rent may increase to the new rent designation.

(ii) Where the household's income exceeds the AMI as designated and the household is designated at the highest AMI in the Regulatory Agreement, the next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(3): Development Regulatory Agreement includes units at 80% and 120%. Unit 201, a two-bedroom Unit Type is designated as 120%. At the annual income recertification, household income was determined to exceed 120% AMI, the highest AMI in the Regulatory Agreement. The next two-bedroom Unit Type in the Development, must be reserved for and occupied by a 120% household. Unit 201 retains the 120% status until such time that the Available Unit Rule, as described here, is complied with or violated.

(E) The Development must affirmatively market available Restricted Units and non-Restricted Units to households participating in the Housing Choice Voucher program and notify local housing authorities of their acceptance of voucher program tenants. Evidence of this must be provided to include, but not be limited to, notifications to the local housing authority, advertising that may be posted at the local housing authority properties, or mailings that were sent to local housing authority households.

(F) The home page of the internet website for the Development must include information about the Development and its compliance with Section 394.9026(c)(7), Texas Local Government Code, along with its policies on the acceptance of Housing Choice Voucher holders or any other rental assistance.

(G) Multifamily Residential Developments cannot refuse to rent to an individual or family solely because the individual or family participates in a Housing Choice Voucher program.

(H) Multifamily Residential Developments cannot require a minimum income standard for individuals or families participating in a Housing Choice Voucher program that exceeds two hundred and fifty percent (250%) of the tenant portion of rent.

(I) The Auditor will review the Development's form of tenant lease, lease addendums and leasing policies to ensure the Development meets the following requirements and will report any deficiencies found in the Audit Report. Each residential lease agreement for a Restricted Unit must provide the following:

(i) The landlord may not retaliate against the tenant or the tenant's guests by taking action because the tenant established, attempted to establish, or participated in a tenant organization;

(ii) The landlord may only choose to not renew the lease if the tenant: committed one or more substantial violations of the lease; failed to provide required information on the income, composition, or eligibility of the tenant's household; or committed repeated minor violations of the lease that disrupt the livability of the Development, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related Development facilities, interfere with the management of the Development, or have an adverse financial effect on the Development, including the failure of the tenant to pay rent in a timely manner.

(iii) To non-renew a lease, the landlord must serve a written notice of proposed nonrenewal on the tenant no later than the 30th day before the effective date of nonrenewal.

(iv) Tenants may not waive these protections in a lease or lease addendum.

(J) Income Restrictions. A Development seeking an ad valorem tax exemption must meet the requirements of either clause (i) or (ii) of this subparagraph.

(i) at least 10% of the residential units are reserved as Lower Income Housing Units and at least 40% of the residential units are reserved as Moderate-Income Housing Units or;

(ii) at least 10% of the residential units are reserved as Very Low-Income Housing Units and at least 40% of the residential units are reserved as Middle Income Housing Units.

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. To determine the adjustment for family size, the Auditor will defer to the Development's Regulatory Agreement and/or other operative document.

In the event that the adjustment for family size is unclear, it is the responsibility of the HFC User to provide the Auditor support that the manner in which the adjustment was applied is acceptable by the HFC.

(ii) Notwithstanding the foregoing, if a Restricted Unit is occupied by a household with a Housing Choice Voucher, and the payment standard for that voucher is less than the monthly Rent for the Restricted Unit established pursuant to clause (i) of this subparagraph, the household may be required to pay the difference between the payment standard and the monthly Rent.

(L) Rent Reduction Comparison. It the sole responsibility of HFC User to:

(i) Identify the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted. For Developments where all of the Units are Restricted Units, the HFC User must provide evidence of reasonably comparable Maximum Market Rents, which may be based on market studies, leasing surveys, Fair Market Rents as published by HUD, or other methods acceptable to the Department.

(ii) The Audit Report shall include the following public benefit test:

(I) The Rent Reduction for all Restricted Units at the Development in the preceding Tax Year must not be less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development in the same Tax Year if the Development did not receive the exemption.

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(4): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the first Tax Year after the Tax Year in which construction first begins. Example 1204(5): An Multifamily Residential Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

(II) The Rent Reduction calculation for each Restricted Unit must be the difference between the Maximum Market Rent for the same Unit Type and the Rent on the rent roll for the Rent for the Restricted Unit. Restricted Units occupied by households with Housing Choice Vouchers or rental assistance will utilize the tenant-paid portion of the Rent for the Rent Reduction calculation. Units that are vacant for any portion of the Tax Year will be considered as follows for the for the purposes of the Rent Reduction calculation:

(-a-) for a Restricted Unit the maximum permitted Rent for such unit under the Regulatory Agreement will be utilized for all months of vacancy, and

(-b-) for any market rate unit the Maximum Market Rent that would be charged for that Unit Type will be utilized in the months that the Unit was vacant.

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the

Development the pro rata share of the Rent Reduction shortfall; the pro rata amount will be based on each taxing authorities share of the combined aggregate published millage rate of all applicable taxing authorities. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor Report must include evidence of any payments made by the HFC User to each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development.

(IV) In estimating the ad valorem taxes that would have been imposed, the HFC User may use, but is not limited to, the following:

(-a-) For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on the actual taxes applicable no earlier than the Tax Year prior to the acquisition by the HFC with a stated escalation factor.

(-b-) For occupied Developments acquired by an HFC which already receive a property tax exemption, estimated ad valorem taxes must be based on the public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(-c-) For new construction, estimated ad valorem taxes must be based on public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(4) A Development acquired by an HFC after May 28, 2025, must comply with all requirements in this Subchapter no later than the end of the Tax Year following the year of acquisition.

(5) The Auditor must maintain monitoring records and papers for each Audit Report for three years and must provide the Department and/or the Chief Appraiser a copy of their monitoring records upon request.

§10.1205. *Income and Rent Calculations.*

(a) Annual Income for a household occupying a Restricted Unit shall be determined consistent with the Section 8 Program administered by the U.S. Department of Housing and Urban Development (HUD), using the definitions of annual income described in 24 CFR §5.609 as further described in the HUD Handbook 4350.3 as amended from time to time by publication in the Federal Register.

(b) For purposes of determining income under this subparagraph, payments under section 403 of title 37, United States Code, as basic pay allowance for housing shall be disregarded with respect to any qualified building.

(1) The term "qualified building" means any building located:

(A) in any county in which is located a qualified military installation to which the number of members of the Armed Forces of the United States assigned to units based out of such qualified military installation, as of June 1, 2008, has increased by not less than 20 percent, as compared to such number on December 31, 2005, or

(B) in any county adjacent to a county described in subparagraph (A) of this paragraph.

(2) The term "qualified military installation" means any military installation or facility the number of members of the Armed Forces of the United States assigned to which, as of June 1, 2008, is not less than 1,000.

(c) Income and rent limits will be derived from data released by HUD.

(d) The income and rent limits specified in the Regulatory Agreement will be used to determine if a household's income and rent is restricted.

(e) To document compliance, HFC Users must maintain sufficient documentation to support income eligibility of households which includes an application that screens for all includable sources of income and assets, first hand or third party documentation of income and assets and an Income Certification form signed by all adults in the household.

§10.1206. *Penalties.*

Noncompliance with Sections 394.9026 and or 394.9027 of the Texas Local Government Code, or this Subchapter, continuing after all available notice and corrective action periods, will result in a Department report to the Texas Comptroller and Chief Appraiser, and recommendation of loss of the ad valorem exemption for the Development for the Tax Year in which the Development that is owned by a HFC is determined by the Department based on an Audit Report to not be in compliance with the requirements of Sections 394.9026 and 394.9027.

§10.1207. *Options for Review.*

(a) The HFC User must attempt to address any issues of non-compliance identified in the Audit Report with the Auditor, prior to submission of the Audit Report to the Department.

(b) During any applicable corrective action period, the HFC User may appeal any noncompliance issued as provided for in §1.7 of this title (relating to Appeals). The filing of an appeal does not extend or suspend the 180-day corrective action period, unless the Department authorizes an extension in writing. The HFC User and Auditor, as applicable, must provide all documentation requested by the Department within ten calendar days prior to the meeting.

(c) An HFC User may request alternative dispute resolution in accordance with the Department's rules regarding such resolution set forth at §1.17 of this title (relating to Alternative Dispute Resolution).

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 6, 2026.

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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



CHAPTER 20. SINGLE FAMILY PROGRAMS UMBRELLA RULE

10 TAC §20.4

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §20.4 Eligible Single Family Activities, which applies to the Single Family Programs Umbrella Rule, with changes to the proposed text published in the December 26, 2025 issue of the *Texas Register* (50 TexReg 8460). The rule will be republished. The purpose of the amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the

household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the Single Family programs.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligible reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

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

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn.

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated

that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program

participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA, even before "new guidelines" are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

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

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims' access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states

that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees "ensure that no person is denied services because of actual or perceived immigration status."

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

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits.

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients- because they do not have direct access to the SAVE system used for verification - did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities- including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit - but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification

services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance.

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide - or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation.

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access.

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documenta-

tion due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals.

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance.

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance.

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

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

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

§20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (7) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

- (1) Rehabilitation or new construction of Single Family Housing Units;
- (2) Reconstruction of an existing Single Family Housing Unit on the same site;
- (3) Replacement of existing owner-occupied housing with a new MHU;
- (4) Acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;

(5) Refinance of an existing Mortgage or Contract for Deed mortgage;

(6) Tenant-based rental assistance; and

(7) Any other single family Activity as determined by the Department.

(c) Implementation of Single Family Activities are subject to §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries).

(1) For Tenant-based rental assistance, each Household member must be evaluated prior to submission of the activity to the Department for review in accordance with §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries). Assistance for mixed status Households must be prorated utilizing the method for proration of assistance described in 24 CFR §5.520(c)(2) related to prorated assistance for a Section 8 Housing Choice Voucher tenancy.

(2) For assistance provided as an area benefit or limited clientele activity under the Colonia Self-Help Centers Program related to CDBG, area benefit activities and limited clientele activities are exempt from the verification requirements in §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries) as individual eligibility is not required to be established for these Activity types.

(3) For any other single family housing Activity, any Household member who has or will have an ownership interest in the assisted housing upon completion of the Activity must be verified to be eligible in accordance with §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries), prior to submission of the Activity to the Department for review.

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

(5) Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

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 6, 2026.

TRD-202601120

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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



10 TAC §20.6

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §20.6 Administrator Applicant Eligibility, which applies to the Single Family Programs Umbrella Rule, without changes to the text published in the December 26, 2025 issue of the *Texas Register* (50 TexReg 8462). The rule will not be republished. The purpose of the amendment is to

specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the Single Family programs.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

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

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

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

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligibly reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REG-

ULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

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

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn.

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should

be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA, even before "new guidelines" are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

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

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5)

notes that conditioning victims' access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees "ensure that no person is denied services because of actual or perceived immigration status."

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

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits.

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients - because they do not have direct access to the SAVE system used for verification - did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities - including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit - but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the

option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance.

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide - or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation.

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access.

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals.

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance.

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance.

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

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

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

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

Filed with the Office of the Secretary of State on March 6, 2026.

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Texas Department of Housing and Community Affairs

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

TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

19 TAC §97.1001

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §97.1001(b) is not included in the print version of the Texas Register. The figure is available in the on-line version of the March 20, 2026, issue of the Texas Register.)

The Texas Education Agency (TEA) adopts an amendment to §97.1001, concerning the accountability rating system. The amendment is adopted with changes to the proposed text as published in the December 12, 2025 issue of the *Texas Register* (50 TexReg 7967) and will be republished. The amendment adopts in rule applicable excerpts of the *2027 Accountability Manual*, which include provisions to implement House Bill (HB) 6, 89th Texas Legislature, Regular Session, 2025. Earlier versions of the manuals will remain in effect with respect to the school years for which they were developed.

REASONED JUSTIFICATION: TEA has adopted its academic accountability manual in rule since 2000 under §97.1001. The accountability system evolves from year to year, so the criteria and standards for rating and acknowledging schools in the most current year differ to some degree from those applied in the prior year.

The amendment to §97.1001 adopts excerpts of the *2027 Accountability Manual* into rule as a figure. The excerpts, Chapters 1-12 of the *2027 Accountability Manual*, specify the indicators, standards, and procedures used by the commissioner to determine accountability ratings for districts, campuses, and charter schools. These chapters also specify indicators, standards, and procedures used to determine distinction designations on additional indicators for Texas public-school campuses and districts. Chapter 12 describes the specific criteria and calculations that will be used to assign 2027 Results Driven Accountability (RDA) performance levels. Ratings may be revised as a result of investigative activities by the commissioner as authorized under Texas Education Code (TEC), §39.056 and §39.003.

Following is a chapter-by-chapter summary of the changes for this year's manual. In every chapter, dates and years for which data are considered were updated to align with 2027 accountability and RDA. Edits for clarity regarding consistent language and terminology throughout each chapter are embedded within the proposed *2027 Accountability Manual*.

Chapter 1 gives an overview of the entire accountability system. The "Who is Rated?" section has been adjusted to include the new the Public Education Information Management System (PEIMS) Fall Enrollment Submission, which begins in the 2026-2027 school year. Language was adjusted to reflect four years of data for indicators related to earning an industry-based certification (IBC), dual credit, or an associate degree. The description of the Data Validation System was revised to highlight its role in ensuring education-related programs are implemented with fidelity. Clarification was added at adoption on page 5 to specify that adult charter high schools authorized under TEC, Chapter 12, Subchapter G, are excluded from A-F ratings. PEIMS data language was added at adoption on page 10 to align with statutory changes enacted by HB 8, 89th Legislature, 2nd Called Session, 2025. HB 8 requires TEA to establish processes for the submission and correction of prior-year PEIMS data for accountability purposes.

Chapter 2 describes the "Student Achievement" domain. The College, Career, and Military Readiness component was clarified, including updates to dual course credit criteria and definitions for Level I and Level II certificates. New language was added to outline requirements for dual credit courses, including curriculum crosswalks and annual memorandums of understanding between districts and partnering institutions of higher education. Language was added to reflect updated requirements for IBCs and Programs of Study.

Chapter 3 describes the "School Progress" domain. The Part A: Academic Growth: Annual Growth-Methodology section was revised to clarify annual growth methodology by explicitly stating eligibility rules for the State of Texas Assessments of Academic Readiness (STAAR®) and STAAR® Alternate 2 assessments, adding exclusions for certain score codes and specifying how growth is measured across grade levels and language transitions. Based on public comment, clarification was added at adoption on page 30 to specify that if a student completes English I and English II in the same year, the English to English II growth measure will be applied instead of relying on a prior-year STAAR® result.

Chapter 4 describes the "Closing the Gaps" domain. References to "migrant" were changed to "migratory" to align with TEA guidelines. Language was added to clarify that when a student group meets minimum size but lacks prior-year data or was measured with small numbers analysis, the campus cannot earn one or two points for that component in the current year. The methodology for Academic Achievement-Minimum Size Criteria and Small Numbers Analysis was clarified.

Chapter 5 describes how the overall ratings are calculated. No major changes were made beyond updates for year references.

Chapter 6 describes distinction designations. No major changes were made beyond updates for terminology and year references.

Chapter 7 describes the pairing process and the alternative education accountability (AEA) provisions. Language was added to clarify that paired data from the Closing the Gaps domain are used for School Improvement identification. The phrase "charter school campuses" was removed and replaced with "all" at adoption on page 76 to clarify AEA pairing rules. Language was added at adoption on page 78 to specify that adult charter high schools authorized under TEC, Chapter 12, Subchapter G, are rated using the performance framework adopted specifically for these schools. A correction was made at adoption on page 81,

updating "Closing the Gaps School Progress Domain" to "School Progress Domain."

Chapter 8 describes the process for appealing ratings. Language was added to clarify that campuses cannot appeal identification for comprehensive, targeted, or additional targeted support interventions, but a granted Closing the Gaps appeal can update identification. Additionally, new language for Local Accountability System (LAS) appeals was introduced, effective in 2027, along with clarifications on general considerations and the appeals submission process. Based on public comment, clarification was added at adoption on page 86 to specify acceptable formats for superintendent signatures and the minimum requirements for letterhead.

Chapter 9 describes the responsibilities of TEA, the responsibilities of school districts and open-enrollment charter schools, and the consequences to school districts and open-enrollment charter schools related to accountability and interventions. Language was added to move the campus number request deadline from September 1 to May 31 in alignment with anticipated changes to 19 TAC §97.1066. Language was added at adoption on page 93 to address the responsibilities and consequences for adult charter high schools in TEC, §12.262. Language was also added at adoption on pages 94-95 to clarify campus closure requirements and county-district-campus number (CDCN) reassignment, aligning with anticipated changes to §97.1066.

Chapter 10 provides information on the federally required identification of schools for improvement. The Overview section was updated to clarify the Every Student Succeeds Act (ESSA) alignment for school improvement identification, adding language specifying that campuses paired for state accountability fulfill ESSA requirements for Comprehensive Support and Improvement, Targeted Support and Improvement, and Additional Targeted Support identifications.

Chapter 11 describes LAS. The LAS Appeals section was revised to reference the state accountability appeals process in Chapter 8, including appeal steps for LAS and state ratings.

Chapter 12 describes the RDA system. HB 6, 89th Texas Legislature, Regular Session, 2025 changes were implemented, including the removal of performance level (PL) assignments for discipline indicators and the exclusion of those indicators from determination-level calculations. The federally required significant disproportionality risk ratio threshold has been adjusted from 2.5 to 3.0. Additionally, indicator names were fully updated in accordance with the requirements of the prior 2026 chapter, including revised terminology to "Alternative Methods." Based on public comment, language was added at adoption on page 106 to provide for inclusion of PLs for special education discipline as report only measures. Clarifying edits were made at adoption on pages 105 and 124-125 to ensure consistent use of the terms "bilingual education" and "bilingual program."

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 12, 2025, and ended January 12, 2026. Following is a summary of the public comments received and agency responses.

General Feedback

Comment: The Texas Center for State Accountability (TXCSA) and Texas School Alliance (TSA) expressed appreciation for the inclusion of specific years or current years for describing data that ensures clarity and consistency for all stakeholders.

Response: The agency agrees that including specific years provides clarity and consistency.

Comment: TXCSA and TSA expressed support for the additional details included in the *2027 Accountability Manual* regarding the dual course credit process and the references to industry-based certification versions by year.

Response: The agency agrees that including these additional details provides meaningful clarification and practical guidance for district and charter staff.

Comment: TXCSA and TSA expressed support for the change indicating that federal identification labels can be updated following a successful Closing the Gaps appeal.

Response: The agency agrees that this clarification ensures districts and charter schools understand that federal identification labels can be updated when a Closing the Gaps appeal is granted.

Edits for Clarification

Comment: TXCSA and TSA recommended retaining the term "migrant" within the highly mobile student category.

Response: The agency disagrees. The US Department of Education (USDE) updated the definition of a migrant child and the terminology used in the ESSA, Title 1, Chapter 3, from "education of migrant children" to "education of migratory children." The accountability system and the Texas Education Data Standards have updated the terminology from "migrant" to "migratory" to align terminology with federal legislation.

School Progress Domain

Comment: TXCSA and TSA requested that the proposed statement describing the English II growth calculations be revised to specify whether a student's growth should be determined using the prior year's Grade 8 STAAR® assessment to English I end-of-course (EOC) assessment and/or the current year English I to English II EOC assessment in cases when a student takes English I and II during the same school year.

Response: The agency agrees and has made a clarifying edit in Chapter 3 on page 30 to specify that when a student completes English I and English II within the same year, only the English I to English II growth measure will be used to measure academic growth, not a prior year STAAR® assessment.

Closing the Gaps Targets

Comment: Disability Rights Texas noted that specific methodology used to calculate Closing the Gaps targets is not publicly documented in the manual and requested opportunities for meaningful stakeholder engagement for developing recommendations related to the special education Closing the Gaps targets.

Response: The agency disagrees with including the methodology for calculating Closing the Gaps targets in the accountability manual, as this information is currently published and approved by the USDE in the state's ESSA consolidated plan. However, TEA agrees to work with stakeholders to explore additional communications resources.

District and Campus Ratings

Comment: TXCSA suggested removing the "Campus Overall Ratings 3Ds Rule" and "Campus Overall Ratings 3Fs Rule."

Response: The agency disagrees. The D and F requirements are aligned with the redefinition of acceptable and unacceptable performance in Senate Bill 1365, 87th Texas Legislature, Regular Session, 2021. This consideration for the 2028 accountability refresh cycle was discussed with, and rejected by, the Texas Accountability Advisory Group.

Appeals Process

Comment: TXCSA and TSA requested clarification regarding acceptable forms of superintendent signatures and minimum requirements for letterhead.

Response: The agency agrees that clarification is needed and has made an edit in Chapter 8 on page 86 to indicate that a digital signature can be accepted on official district or charter school letterhead.

Campus Closures

Comment: TXCSA and TSA recommended that TEA maintain the June 30 deadlines as outlined in 19 TAC §97.1066 for districts to complete all outlined compliance requirements.

Response: The agency disagrees. Campus closure decisions should not be based solely on accountability ratings, and the updated May 31 deadline provides districts with adequate time for community engagement and summer planning to support an orderly transition. Changes to §97.1066 are anticipated to be in effect during the summer of 2026 and are, therefore, appropriately reflected in the *2027 Accountability Manual*.

Pairing Campus for Federal Identification Purposes

Comment: TXCSA and TSA requested that paired campuses be identified for federal identification purposes without requiring the implementation of school improvement provisions, noting that without a district-level federal identification process in place, this approach could unintentionally encourage districts to pair non-STAAR®-grade campuses with the district rather than with another campus.

Response: The agency disagrees, as school improvement requirements for paired campuses are beyond the scope of the current rule proposal.

Results-Driven Accountability (RDA)

Comment: TXCSA and TSA requested to include student-level data lists including student identification number, name, demographics, program information, campus number, and student outcome for each indicator in RDA.

Response: The agency disagrees, as this request for a student listing report is beyond the scope of the proposal.

Comment: TXCSA and TSA requested that the term "emergent bilingual education" be used to more accurately reflect the student population served across multiple instructional program models, noting that replacing "bilingual education/English as a second language/emergent bilingual" with "bilingual education" does not accurately represent the full range of students served.

Response: The agency disagrees, as the term "bilingual education" was adopted in the *2026 Accountability Manual* and is consistent with other administrative rules, including 19 TAC §89.1201(a), which defines the state's policy for educating emergent bilingual students and specifies that they shall be provided the opportunity to participate in "bilingual education, to include bilingual and English as a second language (ESL) programs."

Comment: TXCSA, TSA, and Disability Rights Texas recommended continuing to report PLs for special education discipline as report-only measures.

Response: The agency agrees and has added a clarifying edit in Chapter 12 on page 106 to provide for inclusion of PLs for special education discipline as report-only measures.

Comment: TXCSA and TSA suggested expanding the RDA section to include RDA-specific guides, intervention requirements, and submission calendars that are currently available on the RDA web page. They also suggested maintaining the "Monitoring Interventions" section from page 124 and including new changes, such as the new DL 4 special education calculation.

Response: The agency disagrees, as the guides, calendars, and web page materials are outside the scope of the proposal.

Accountability Releases

Comment: TXCSA and TSA recommended including Appendix H in all future rulemaking processes.

Response: The agency disagrees with making this change. Appendices are not part of the rule text adopted under §97.1001 and, therefore, are not included in the rulemaking process. The appendices will be published as soon as feasible after the adoption of the 2027 manual.

Comment: TXCSA and TSA requested that TEA publish preliminary reports such as the Texas Academic Performance Reports (TAPR) and the Texas Performance Reporting System (TPRS) prior to finalizing the data after the appeals process.

Response: The agency disagrees, as the reporting calendars of TAPR and TPRS are outside the scope of the proposal.

2028 Accountability

Comment: A district administrator expressed concerns about the cost of additional assessments required for the 2028 accountability system due to the implementation of through-year testing under House Bill 8, 89th Texas Legislature, 2nd Called Session, 2025. The individual recommended that the state cover the testing cost.

Response: The agency disagrees, as through-year testing is outside the scope of the proposal.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §7.021(b)(1), which authorizes TEA to administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs; TEC, §7.028, which authorizes TEA to monitor as necessary to ensure school district and charter school compliance with federal law and regulations, financial integrity, and data integrity and authorizes the agency to monitor school district and charter schools through its investigative process. TEC, §7.028(a), authorizes TEA to monitor special education programs for compliance with state and federal laws; TEC, §12.056, which requires that a campus or program for which a charter is granted under TEC, Chapter 12, Subchapter C, is subject to any prohibition relating to PEIMS to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter C, as determined by the commissioner; high school graduation under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; and public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, and J, and Chapter 39A; TEC, §12.104, which states

that a charter granted under TEC, Chapter 12, Subchapter D, is subject to a prohibition, restriction, or requirement, as applicable, imposed by TEC, Title 2, or a rule adopted under TEC, Title 2, relating to PEIMS to the extent necessary to monitor compliance with TEC, Chapter 12, Subchapter D, as determined by the commissioner; high school graduation requirements under TEC, §28.025; special education programs under TEC, Chapter 29, Subchapter A; bilingual education under TEC, Chapter 29, Subchapter B; discipline management practices or behavior management techniques under TEC, §37.0021; public school accountability under TEC, Chapter 39, Subchapters B, C, D, F, G, and J, and Chapter 39A; and intensive programs of instruction under TEC, §28.0213; TEC, §29.001, which authorizes TEA to effectively monitor all local educational agencies (LEAs) to ensure that rules relating to the delivery of services to children with disabilities are applied in a consistent and uniform manner, to ensure that LEAs are complying with those rules, and to ensure that specific reports filed by LEAs are accurate and complete; TEC, §29.0011(b), which authorizes TEA to meet the requirements under (1) 20 U.S.C. §1418(d) and its implementing regulations to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the state and in the school districts and open-enrollment charter schools in the state with respect to the (a) identification of children as children with disabilities, including the identification of children as children with particular impairments; (b) placement of children with disabilities in particular educational settings; and (c) incidence, duration, and type of disciplinary actions taken against children with disabilities including suspensions or expulsions; or (2) 20 U.S.C. §1416(a)(3)(C) and its implementing regulations to address in the statewide plan the percentage of schools with disproportionate representation of racial and ethnic groups in special education and related services and in specific disability categories that results from inappropriate identification; TEC, §29.010(a), which authorizes TEA to adopt and implement a comprehensive system for monitoring LEA compliance with federal and state laws relating to special education, including ongoing analysis of LEA special education data; TEC, §29.062, which authorizes TEA to evaluate and monitor the effectiveness of LEA programs and apply sanctions concerning emergent bilingual students; TEC, §29.066, which authorizes PEIMS reporting requirements for school districts that are required to offer bilingual education or special language programs to include the following information in the district's PEIMS report (1) demographic information, as determined by the commissioner, on students enrolled in district bilingual education or special language programs; (2) the number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and (3) the number and percentage of emergent bilingual students who do not receive specialized instruction; TEC, §29.081(e), (e-1), and (e-2), which define criteria for alternative education programs for students at risk of dropping out of school and subjects those campuses to the performance indicators and accountability standards adopted for alternative education programs; TEC, §29.201 and §29.202, which describe the Public Education Grant program and eligibility requirements; TEC, §39.003 and §39.004, which authorize the commissioner to adopt procedures relating to special investigations. TEC, §39.003(d), allows the commissioner to take appropriate action under Chapter 39A, to lower the district's accreditation status or the district's or campus's accountability rating based on the results of the special investigation; TEC, §39.051 and §39.052,

which authorize the commissioner to determine criteria for accreditation statuses and to determine the accreditation status of each school district and open-enrollment charter school; TEC, §39.053, which authorizes the commissioner to adopt a set of indicators of the quality of learning and achievement and requires the commissioner to periodically review the indicators for consideration of appropriate revisions; TEC, §39.054, which requires the commissioner to adopt rules to evaluate school district and campus performance and to assign a performance rating; TEC, §39.0541, which authorizes the commissioner to adopt indicators and standards under TEC, Chapter 39, Subchapter C, at any time during a school year before the evaluation of a school district or campus; TEC, §39.0543, which describes acceptable and unacceptable performance as referenced in law; TEC, §39.0546, which requires the commissioner to assign a school district or campus a rating of "Not Rated" for the 2021-2022 school year, unless, after reviewing the district or campus under the methods and standards adopted under TEC, §39.054, the commissioner determines the district or campus should be assigned an overall performance rating of C or higher; TEC, §39.0548, which requires the commissioner to designate campuses that meet specific criteria as dropout recovery schools and to use specific indicators to evaluate them; TEC, §39.055, which prohibits the use of assessment results and other performance indicators of students in a residential facility in state accountability; TEC, §39.056, which authorizes the commissioner to adopt procedures relating to monitoring reviews and special investigations; TEC, §39.151, which provides a process for a school district or an open-enrollment charter school to challenge an academic or financial accountability rating; TEC, §39.201, which requires the commissioner to award distinction designations to a campus or district for outstanding performance; TEC, §39.2011, which makes open-enrollment charter schools and campuses that earn an acceptable rating eligible for distinction designations; TEC, §39.202 and §39.203, which authorize the commissioner to establish criteria for distinction designations for campuses and districts; TEC, §39A.001, which authorizes the commissioner to take any of the actions authorized by TEC, Chapter 39, Subchapter A, to the extent the commissioner determines necessary if a school does not satisfy the academic performance standards under TEC, §39.053 or §39.054, or based upon a special investigation; TEC, §39A.002, which authorizes the commissioner to take certain actions if a school district becomes subject to commissioner action under TEC, §39A.001; TEC, §39A.004, which authorizes the commissioner to appoint a board of managers to exercise the powers and duties of a school district's board of trustees if the district is subject to commissioner action under TEC, §39A.001, and has a current accreditation status of accredited-warned or accredited-probation; or fails to satisfy any standard under TEC, §39.054(e); or fails to satisfy any financial accountability standard; TEC, §39A.005, which authorizes the commissioner to revoke school accreditation if the district is subject to TEC, §39A.001, and for two consecutive school years has received an accreditation status of accredited-warned or accredited-probation, failed to satisfy any standard under TEC, §39.054(e), or failed to satisfy a financial performance standard; TEC, §39A.007, which authorizes the commissioner to impose a sanction designed to improve high school completion rates if the district has failed to satisfy any standard under TEC, §39.054(e), due to high school completion rates; TEC, §39A.051, which authorizes the commissioner to take action based on campus performance that is below any standard under TEC, §39.054(e); and TEC, §39A.063, which authorizes the commissioner to

accept substantially similar intervention measures as required by federal accountability measures in compliance with TEC, Chapter 39A.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.021(b)(1); 7.028; 12.056; 12.104; 29.001; 29.0011(b); 29.010(a); 29.062; 29.066; 29.081(e), (e-1), and (e-2); 29.201; 29.202; 39.003; 39.004; 39.051; 39.052; 39.053; 39.054; 39.0541; 39.0543; 39.0546; 39.0548; 39.055; 39.056; 39.151; 39.201; 39.2011; 39.202; 39.203; 39A.001; 39A.002; 39A.004; 39A.005; 39A.007; 39A.051; and 39A.063.

§97.1001. Accountability Rating System.

(a) The rating standards established by the commissioner of education under Texas Education Code (TEC), §§39.052(a) and (b)(1)(A); 39.053; 39.054; 39.0541; 39.0548; 39.055; 39.151; 39.201; 39.2011; 39.202; 39.203; 29.081(e), (e-1), and (e-2); and 12.104(b)(2)(L), shall be used to evaluate the performance of districts, campuses, and charter schools. The indicators, standards, and procedures used to determine ratings will be annually published in official Texas Education Agency publications. These publications will be widely disseminated and cover the following:

- (1) indicators, standards, and procedures used to determine district ratings;
- (2) indicators, standards, and procedures used to determine campus ratings;
- (3) indicators, standards, and procedures used to determine distinction designations; and
- (4) procedures for submitting a rating appeal.

(b) The procedures by which districts, campuses, and charter schools are rated and acknowledged for 2027 are based upon specific criteria and calculations, which are described in excerpted sections of the *2027 Accountability Manual* provided in this subsection. Figure: 19 TAC §97.1001(b)

(c) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.003.

(d) The specific criteria and calculations used in the accountability manual are established annually by the commissioner and communicated to all school districts and charter schools.

(e) The specific criteria and calculations used in the annual accountability manual adopted for prior school years remain in effect for all purposes, including accountability, data standards, and audits, with respect to those school years.

(f) In accordance with TEC, §7.028(a), the purpose of the Results Driven Accountability (RDA) framework is to evaluate and report annually on the performance of school districts and charter schools for certain populations of students included in selected program areas. The performance of a school district or charter school is included in the RDA report through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner.

(g) The assignment of performance levels for school districts and charter schools in the 2027 RDA report is based on specific criteria and calculations, which are described in the *2027 Accountability Manual* provided in subsection (b) of this section.

(h) The specific criteria and calculations used in the RDA framework are established annually by the commissioner and communicated to all school districts and charter schools.

(i) The specific criteria and calculations used in the annual RDA manual adopted for prior school years remain in effect for all purposes, including accountability and performance monitoring, data standards, and audits, with respect to those school years.

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 9, 2026.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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Proposal publication date: December 12, 2025

For further information, please call: (512) 475-1497



TITLE 22. EXAMINING BOARDS

PART 11. TEXAS BOARD OF NURSING

CHAPTER 213. PRACTICE AND PROCEDURE

22 TAC §213.13

Introduction. The Texas Board of Nursing (Board) adopts amendments to 22 Texas Administrative Code §213.13, relating to Complaint Investigation and Disposition, without changes to the proposed text as published in the December 19, 2025 edition of the *Texas Register* (50 TexReg 8153). The rule will not be republished.

Reasoned Justification. The adopted amendments are necessary to align §213.13 with applicable statutory requirements and to ensure that the rule accurately reflects current agency practices related to complaint intake, investigation, and notification. An internal audit conducted in conjunction with the Board's enforcement department identified provisions of the rule that were outdated or inconsistent with current procedures. The amendments address those findings.

The amendments update the complaint submission provisions to reflect the Board's existing intake processes, including submission in writing or through the agency's online complaint portal, and clarify the information required to initiate an investigation. The amendments remove certain information requirements that may not be reasonably available to complainants and that are not necessary at the initial intake stage. The complaint priority system is also amended to reflect current operational practice. The adopted amendments further clarify investigative timeline and notification requirements to ensure consistency with Texas Occupations Code §§301.204 and 301.457. Finally, the amendments remove language requiring a criminal background check at the preliminary stage of an investigation to accurately reflect current procedure. Criminal background checks remain part of agency practice but are not conducted during the initial intake phase.

Section-by-Section Overview. The adopted amendments revise subsection (a) to consolidate complaint submission requirements and clarify the information collected to initiate or conduct an investigation.

Subsection (b) is amended to retain the currently used complaint priority levels and remove the unused Priority 4 category.

Subsection (c) clarifies that, not later than the 30th day after receipt of a complaint, staff must complete a preliminary investigation to determine the identity of the person named or described in the complaint, if necessary, and to assign complaint priority scheduling, which establishes the projected timeline for case completion.

Subsection (d) clarifies notification requirements consistent with Texas Occupations Code §§301.204 and 301.457, including documentation and communication of projected investigative timelines and any subsequent changes. The reference to §301.457 preserves the Board's statutory authority to withhold notice to a licensee when providing such notice would jeopardize an investigation.

Subsections (e) and (f) remove obsolete language and clarify when an investigation is considered complete and when summary data must be provided to the Executive Director for cases extending beyond established timelines.

Public Comment. No comments were received.

Statutory Authority. These amendments are adopted under the authority of Texas Occupations Code §§301.151 and 301.204. Section 301.151 authorizes the Board to adopt and enforce rules necessary to perform its duties, regulate the practice of professional and vocational nursing, and conduct proceedings before the Board. Section 301.204 requires the Board to adopt rules, policies, and procedures governing the investigation and disposition of complaints. In relevant part, §301.204 requires the Board to distinguish between categories of complaints; establish a schedule for each phase of a complaint not later than the 30th day after receipt; notify parties of projected time requirements and any changes to those timelines; and receive notification of complaints that remain unresolved beyond prescribed timeframes.

Cross Reference to Statute. The following statutes are affected by this adoption: Texas Occupations Code §§301.151, 301.204, and 301.457.

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 9, 2026.

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General Counsel

Texas Board of Nursing

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For further information, please call: (512) 305-6879



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 300. MANUFACTURE, DISTRIBUTION, AND RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS or department), adopts the amendments to §§300.100 - 300.103, 300.201 - 300.203, 300.301 - 300.303, 300.402 - 300.404, 300.501, 300.502, 300.601 - 300.606; and new §§300.204 - 300.208, 300.405 - 300.407, 300.701, and 300.702, concerning Manufacture, Distribution, and Retail Sale of Consumable Hemp Products.

Sections 300.100, 300.102, 300.206, 300.404, 300.407, 300.602, 300.604, 300.605, and 300.702, are adopted without changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8486). These rules will not be republished.

Sections 300.101, 300.103, 300.201 - 300.205, 300.207, 300.208, 300.301 - 300.303, 300.402, 300.403, 300.405, 300.406, 300.501, 300.502, 300.601, 300.603, 300.606, and 300.701 are adopted with changes to the proposed text as published in the December 26, 2025, issue of the *Texas Register* (50 TexReg 8486). These rules will be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Executive Order GA-56. House Bill (HB) 1325 (86th Legislature, Regular Session, 2019) established Texas Health and Safety Code (HSC) Chapter 443 for the Manufacture, Distribution, and Sale of Consumable Hemp Products (CHPs). The resulting rules to implement HSC 443 are at 25 Texas Administrative Code (TAC) Chapter 300 and became effective on August 2, 2020.

On September 10, 2025, Governor Greg Abbott issued Executive Order GA-56, directing the department to amend the rules to prohibit the sale of CHPs to minors, to add age verification requirements, to update testing requirements, and to update record keeping requirements.

The adopted rules increase the initial and annual renewal licensing fees for consumable hemp manufacturers to \$10,000 per facility, and the annual registration fees for retailers to \$5,000 per location. The adopted rules add a written consent requirement for Texas Alcoholic Beverage Commission (TABC) to enter the premises to conduct a physical inspection for both manufacturers and retail hemp registrants. The adopted rules also include tetrahydrocannabinol acid (THCA) in the definition of total delta-9 tetrahydrocannabinol (THC) and in the definition of acceptable hemp THC level. The adopted rules update testing, packaging, labeling, and record-keeping requirements.

COMMENTS

The 31-day comment period ended January 26, 2026.

During this period, DSHS received comments regarding the proposed rules from 1,421 commenters. DSHS received comments from Alcohol and Drug Awareness for the Alcohol & Drug for the Concho Valley (ADACCV), GREENT Club, Good Spirits Beverages, Treehouse Dispensary, American Pharmacies, Delta Bros-Twisted Liquors, Cheech and Chong's Apothecaria West Frisco, the Banks Law Firm, LVLX Wellness LLC, Cannabis Retailers Alliance for Texas (CRAFT), Smokin Glassworks, The Happy Cactus, United Wholesale, Price-Catch, American Shaman, Texas Food & Fuel Association, C

Good Staging LLC, Elevated, The CannaShack Co., Pinnacle Essentials, Sunmed CBD, Haus of Jayne, Reggie and Dro, ZAR, A to Z Investments and Wholesale LLC, CannaWise Co., 4K Pharm LLC, PrimeOne Sourcing LLC, Royal Habash LLC, C Better Days Inc, UFORIQ, Restart, Texas Hemp Coalition, Compliance Pros LLC, Hemp Industry and Farmers of America, Chubby's Green, Sacred Leaf, Sublingwell LLC, Happy Clouds, CBD Temptations, Frontline Farms CBD, Coastal Wellness and Gifts, Discount Pharms, 24hr Bud Delivery LLC, American Hemp Co/American Weed Co, Califlower Garden, Medanature LLC, East Texas Hemp Company LLC, American Trade Association for Cannabis and Hemp, Eureka Heights Brewing Co., High Tides LLC, HRD Investment LLC, Lonestar HempWorks, Crescent Canna, Blum Reserve Co, Wild Revival, Green Haus Wellness, Bullfrog Botanicals, Dope Daiquiris, the Green Hit Smoke Shop, DRMZ Brands, SMB Nation, Treeline, Delta Vine, Hummingbird Hemp, The Puebla Group, The Healing Herb, Healing Herbal LLC, Rebel Chef, San Antonio Council on Alcohol and Drug Awareness (SACADA), Hill Country Council on Alcohol and Drug Abuse (HCCADA), Texans for a Safe and Drug Free Youth, Reach Council, Ninja Consultation Group TTX LLC dba Habit Crafted, Rolling & CO Smoke CBD & Vapes, Elevated CBD & Smoke, Austinite Cannabis Co, Ropeace CBD Vape Smoke, Habit CBD, Bahama Mama, Farm Road Wellness, Texas Hemp and Honey, Wyatt Purp, Texas Hemp Business Council (THBC), Smoking Valley LLC, CBD American Shaman East McKinney, Hemp Beverage Alliance, Not Beer, Delta Bros, Waco CBD American Shaman, The Pink Cloud LLC, Eureka Chill LLC, Oak Cliff Cultivators and Ease Up, Texas Package Stores Association, Vitam, The Texas Cannabis Collective, 1937 Apothecary LLC & Custom Botanical Dispensary, Law Office of Susan Hays, High 9ine LLC, The Law Office of Jeffery W. Wells, Fire Holistics LLC, Elevated Stash, Pops Smoke and Vapor, Delta 8 Delton, Serenity Organics, Citizens for a Safe and Healthy Texas, Pheonix House, Jota Living, Total Wine, Jollypop Vape Shop, Bayou City Hemp Company Inc, SBT Law, THC Provisions LLC, MedCanna Ventures LLC dba Happy Hemp Co, Grateful Greens LLC DBA Morning Dew Farms, The Canna Busters, Third Coast Wellness LLC, Willie's Remedy, Solid Foundations, Concho Valley C.A.R.E.S Coalition-Community Coalitions Partnership (CCP), Hopes Family FDN, Fyr Flower, The Vapor Bar, MNG 2005 Inc, Victory Pluz, Mighty Distro, True Life Spirits, North Canna, True Hemp Science, Uniwyze Inc, The Concord, Levotic, VaporScape, Texas Cannabis Policy Center, CBD American Shaman, Public Health Texas Medical Association, ECL Testing, Hill Country Pregnancy Care Center, Oasis Farms, Texas Original, and 1,280 individuals. A summary of comments relating to the rules and DSHS's responses follow.

Comment: Multiple commenters oppose §300.404, which states the restrictions for bulk raw hemp material, isolates, or distillates that have a total delta-9 THC content exceeding THC limits. Commenters argue that imposing restrictions violate Texas Agriculture Code §122.356, which allows transport of hemp plant material in this state if it is produced in compliance with a state or tribal plan approved by the United States Department of Agriculture under 7 United States Code (U.S.C.) §1639p.

Response: DSHS disagrees and declines to revise the proposed rule in response to this comment. DSHS is aware that THC fluctuates during the extraction process, and the extractor must ensure the final extracted product is under 0.3 percent delta-9 THC. Section 300.206 and HSC §443.152 total THC limits apply to products distributed and sold at retail, otherwise introduced into commerce, and transported into Texas for further processing.

HSC Chapter 481, Texas Controlled Substances Act, applies to products that meet the definition of a controlled substance. DSHS does not have the authority to permit products in excess of statutory limitations.

Comment: Most commenters oppose the proposed fees for consumable hemp manufacturers and retailers.

Response: DSHS agrees with this comment. DSHS revised §§300.202(c)(1), 300.202(c)(2)(A), and proposed 300.502(f)(1) (renumbered to subsection (g)(1)) to set the fee for a manufacturer's license at \$10,000 per facility per year, and a retailer's registration at \$5,000 per location per year. HSC §12.0111 authorizes DSHS to collect licensing fees to recover direct and indirect costs of administering and enforcing the program. To set these fees, DSHS made estimates of the costs necessary to support regular inspection of manufacturers and retailers, including inspector salaries and travel, laboratory testing costs, related legal and State Office of Administrative Hearing costs for resulting compliance actions, and assistance from the TABC and the Texas Department of Public Safety (DPS) per Executive Order GA-56. DSHS will reevaluate licensing fees periodically to ensure fees do not exceed the amount required to administer the program.

Comment: Most commenters oppose a ban on hemp.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs. The rules comply with Executive Order GA-56.

Comment: Most commenters oppose a ban on THCA flower.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs. The rules comply with Executive Order GA-56.

Comment: Multiple commenters suggested raising taxes on cannabis dispensaries.

Response: DSHS considers these comments outside the scope of rulemaking for this chapter.

Comment: Multiple commenters suggested revising the age limit to purchase CHPs to 25 years old.

Response: DSHS disagrees and declines to revise the rule in response to this comment. Executive Order GA-56 directed DSHS to set the age limit to 21 years of age.

Comment: Multiple commenters suggested restricting access to a hemp establishment if a person is less than 21 or 25 years old.

Response: DSHS disagrees and declines to revise the rule in response to this comment. Many retailers covered by these regulations offer a variety of non-hemp products and deliver numerous services unrelated to CHPs. Restricting access to their premises as proposed would likely cause substantial economic harm to these businesses and impose potential restrictions on consumers under the age of 21 or 25. Retailers are already required to verify the customer is at least 21 years old before completing any CHP sales or deliveries.

Comment: Many commenters oppose track and trace requirements.

Response: DSHS does not agree with the commenters and declines to revise the rule in response to this comment. These systems are essential to maintain regulatory compliance, up-

hold public safety, and ensure product quality. Furthermore, these systems enable quick, targeted recalls of contaminated or non-compliant products.

Comment: Multiple commenters oppose testing requirements.

Response: DSHS does not agree with the commenters and declines to revise the rule in response to this comment. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs in Texas. This includes developing rules for testing requirements.

Comment: Multiple commenters suggested a grace period to implement rules.

Response: DSHS disagrees and declines to revise the rule in response to this comment. Governor's Executive Order GA-56 tasked DSHS with reviewing and updating rules, especially those prohibiting access to minors. Immediate enforcement is necessary to address the concerns raised by Executive Order GA-56.

Comment: Multiple commenters stated the Texas Compassionate Use program, while well-intentioned, remains out of reach for many due to cost and limited availability.

Response: DSHS considers this comment outside the scope of rulemaking for this chapter.

Comment: Multiple commenters suggested legalizing marijuana.

Response: DSHS considers this comment outside the scope of rulemaking for this chapter. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs in Texas.

Comment: Most commenters oppose total THC reclassification via THCA conversion (§300.101) for both total THC and total delta-9 THC. The commenters suggest the compliance threshold exceeds statutory authority.

Response: DSHS does not agree and declines to revise the rule in response to this comment. The Texas Agriculture Code §121.001 defines hemp to include "all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." The Texas Department of Agriculture rules at 4 TAC §24.26 state that testing methodology should account for the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp to delta-9 tetrahydrocannabinol (THC). HSC Section 443.051 requires rules to be consistent with federal laws and regulations; the federal regulations account for THCA conversion. Furthermore, the test results must accurately represent the total available THC, calculated as the sum of both THC and THCA content. Executive Order GA-56 directed DSHS that testing methods account for THCA conversion to THC.

Comment: Multiple commenters suggested recognizing established third-party compliance programs, training providers, and independent audits as valuable partners in achieving regulatory goals.

Responses: DSHS disagrees and declines to revise the rule in response to this comment. Businesses may conduct third-party compliance programs at their own discretion.

Comment: Multiple commenters suggested restricting cannabidiol (CBD)/THC seltzers to liquor stores or knowledgeable CBD retailers, instead of vape shops or gasoline stations.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HSC Chapter 443 makes no distinction between gas stations, convenience stores, liquor stores, consumable hemp stores, and vape shops. Businesses that sell CHPs are required to obtain a license or registration from DSHS and to comply with HSC Chapter 443, and with 25 TAC Chapter 300.

Comment: Multiple commenters suggested dosing, serving size, and milligram restrictions and guidance.

Response: DSHS disagrees and declines to revise the rule in response to this comment. The label must include the serving size as per 21 Code of Federal Regulation (CFR) 101, declared on the product label. HB 1325 adopts federal food labeling requirements.

Comment: Multiple commenters stated that the proposed rules prohibit transporting hemp.

Response: DSHS disagrees with the commenters and declines to revise the rule. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs. CHPs may be legally transported across state lines and exported to foreign countries in a manner that is consistent with federal law and the laws of respective foreign countries.

Comment: One commenter stated §300.501(b) deletes the limitation that retail registration applies only to products "containing CBD." However, HSC §443.2025(b) requires registration only for retail locations selling "consumable hemp products containing cannabidiol [CBD]," and the fee schedule authority in HSC §443.2025(f) is likewise tied to locations where "consumable hemp products containing cannabidiol [CBD] are sold."

Response: DSHS disagrees with the commenter and declines to revise the rule in response to this comment. HB 1325 ensures Texas has primary regulatory authority over CHPs in this state, not just CBD.

Comment: Multiple commenters stated §300.601(b) purports to count each day a violation continues as a separate violation; however, HSC §443.201 requires the Department to provide fair notice of a potential violation and an opportunity to cure.

Response: DSHS disagrees with the commenters and declines to revise the rule in response to this comment. The department is statutorily required to notify retailers of potential violations and to provide an opportunity to resolve unintentional or negligent violations. Section 300.606(b) is consistent with this requirement. Section 300.601(b) applies to violation of department licensure or registration requirements.

Comment: One commenter suggested clarification that product labels must identify the licensed legal entity, with DBA's requiring additional licenses.

Response: DSHS disagrees with the commenter and declines to revise the rule in response to this comment. HB 1325 only requires the manufacturer's name on the product label. Section 300.201(f)(2), relating to application for license or renewal, requires applicants to list other names under which the firm does business.

Comment: Multiple commenters stated that extensive compliance burdens, such as child-resistant packaging, could be more appropriately addressed through targeted legislation rather than sweeping agency rulemaking.

Response: DSHS disagrees with the commenters and declines to revise the rule in response to this comment. These requirements are essential for public safety, primarily designed to mitigate the risks of accidental ingestion by minors and to comply with state and federal requirements, such as the Poison Prevention Packaging Act (PPPA). The revisions are consistent with Executive Order GA-56.

Comment: Multiple commenters oppose proposed rules in general.

Response: DSHS disagrees with these commenters and declines to revise the rule in response to this comment. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs. The revisions are consistent with Executive Order GA-56.

Comment: Multiple commenters stated testing could be more appropriately addressed through targeted legislation rather than sweeping agency rulemaking.

Response: DSHS disagrees with the commenters and declines to revise the rule in response to this comment. HB 1325 states the executive commissioner shall adopt rules and procedures necessary to administer and enforce this chapter. The revisions are consistent with Executive Order GA-56.

Comment: Multiple commenters stated warning labels could be more appropriately addressed through targeted legislation rather than sweeping agency rulemaking.

Response: DSHS disagrees with the comment and declines to revise the rule in response to this comment. HB 1325 states the executive commissioner shall adopt rules and procedures necessary to administer and enforce this chapter. The revisions are consistent with Executive Order GA-56.

Comment: Multiple commenters stated recall procedures could be more appropriately addressed through targeted legislation rather than sweeping agency rulemaking.

Response: DSHS disagrees with the commenters and declines to revise the rule in response to this comment. HB 1325 states that the executive commissioner shall adopt rules and procedures necessary to administer and enforce this chapter. Recalls are essential because they safeguard the public from products that could cause injury, illness, or even death.

Comment: Multiple commenters asked to clarify that Texas CHP standards apply to out-of-state products sold in Texas.

Response: DSHS agrees with the commenters and revised §300.403 to clarify the standards apply to all out-of-state products sold in Texas.

Comment: One commenter suggested standardizing reporting of the measurement of uncertainty.

Response: DSHS disagrees with the commenter and declines to revise the rule in response to this comment. No mandatory, general-purpose, or maximum bounds are set for the calculation of laboratory measurement uncertainty. Such metrics are instead controlled through laboratory testing performance standards.

Comment: Multiple commenters stated that converted cannabinoids and synthetic products are not addressed directly in the proposed rules, raising product safety concerns.

Response: DSHS disagrees and declines to make the suggested change at this time. The rules are consistent with

Executive Order GA-56. DSHS will consider the requested definition change in a future rulemaking.

Comment: Multiple commenters suggested prohibition of the sale of other intoxicants such as kratom, tianeptine, nitrous oxide, synthetic cannabinoids, hallucinogenic mushrooms, or psilocybin products.

Response: DSHS considers these comments outside the scope of rulemaking for this chapter. The rules are consistent with Executive Order GA-56.

Comment: Three commenters requested that DSHS align Subchapter G with 16 TAC §35.6 adopted by the TABC.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. 16 TAC §35.6 applies only to persons who have a TABC license or permit. HB 1325 applies to firms that manufacture, process, or retail sale CHPs. The rules are consistent with Executive Order GA-56.

Comment: Multiple commenters stated packaging and labeling rules are an undue burden on retailers. Sections 300.402, 300.405, and 300.406 put the burden on retailers to evaluate product labeling and packaging for compliance with Subchapter D and requires the retailers to develop written procedures for doing so. The commenters recommend limiting the task only to "qualified individuals."

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. HB 1325 requires retailers to ensure labeling and packaging requirements comply with this chapter.

Comment: Multiple commenters propose to remove gas chromatography from the total delta-9 THC provision.

Response: DSHS does not agree with this comment and declines to revise the rule in response to this comment. The rule allows, but does not require, the use of gas chromatography.

Comment: One commenter suggested removal of the definition of "marihuana."

Response: DSHS agrees with this comment and has removed §300.101(25), the definition of marihuana. The paragraphs in §300.101 have been renumbered accordingly.

Comment: Most commenters disagree with the hemp definition stating the definition is not the same as the federal definition.

Response: DSHS disagrees with this comment but revised §300.101(20) and §300.203(b), to align with the Texas Agriculture Code definition of hemp. The Texas definition is not required to mirror the Federal definition.

Comment: Multiple commenters oppose the definition of "Facility" to include U.S. Food and Drug Administration (FDA) Facility registration.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. FDA requires all food manufacturers, including consumable hemp manufacturers that manufacture CHPs for ingestion, to register according to the Food Safety Modernization Act (FSMA) unless exempted.

Comment: Multiple commenters oppose the definition of "cannabis" and want it deleted.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. The definition of "cannabis" informs the stakeholders of the type of plant.

Comment: Multiple commenters ask for clarification regarding whether licensing for an approved hemp source applies only to the Texas-based distributor or retailer selling the final, retail-ready products. Do the requirements for the manufacturer or brand apply whether based in or out of state?

Response: DSHS agrees that a clarification is needed and revised §300.101(5) to clarify approved hemp source.

Comment: One commenter states the definition of accredited laboratory should only have one clear standard, ISOIEC 17025 and delete "comparable or successor standard."

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. HB 1325 includes "comparable standard" language.

Comment: One commenter stated that the definition of "Process" includes "intended for incorporation" and could be interpreted too broadly and unintentionally include pilot or experimental batches that never reach consumers. Clarifying that intent applies only to materials reasonably expected to become consumer-ready products would reduce regulatory uncertainty while keeping safety and compliance intact.

Response: DSHS disagrees with the comment and declines to revise the rule in response to this comment. Consistent with HB 1325, Texas Agriculture Code §§121.001-121.020, 25 TAC §§300.101-300.104, and FDA intended-use principles under Federal Food, Drug, and Cosmetic Act (21 U.S.C. §321g, h, and k), materials intended or reasonably expected to be incorporated into CHPs must remain subject to regulatory oversight to prevent gaps in safety and compliance.

Comment: One commenter suggested amendment of the definition of "manufacturer" to clarify the distinction between manufacturing, distribution, and allowed modifications to reduce regulatory risk for lawful hemp-derived products.

Response: DSHS agrees with this comment and revised §300.101(23), (24), and proposed (34) (renumbered to paragraph (33)) to provide a distinction between hemp manufacturers and distributors.

Comment: Multiple commenters suggested halting these rule changes until there is clearer federal guidance and a comprehensive economic impact study on Texas' small businesses.

Response: DSHS disagrees and declines to revise the rule in response to this comment. The revisions are consistent with Executive Order GA-56.

Comment: One commenter stated, "Moving distributor licensing out of the hemp regime is not advisable."

Response: DSHS agrees with this comment and has made clarifying edits to state distributors must obtain a wholesaler license under HSC 431. DSHS clarified the licensing requirements for distributors throughout the rules.

Comment: One commenter suggested an amendment to the definition of "cannabis" to indicate "any plants or plant matters from plants in the genus Cannabis Sativa L."

Response: DSHS agrees with this comment and revised §300.101(8) in response to this comment.

Comment: One commenter suggested that TABC be allowed to access records per §300.203.

Response: DSHS agrees with this comment and revised §300.203(a) in response to this comment.

Comment: One commenter suggested clarification of who approves suppliers and whether the approval process includes all ingredients.

Response: DSHS disagrees and declines to revise the rules in response to this comment. All ingredients used in hemp production must be from approved sources. Approved source is defined in TAC §229.211(7). Unprocessed materials must originate from vendors that adhere to relevant state and federal regulations and are licensed, if appropriate, and evaluated by the governing body responsible for overseeing the processing and distribution of these raw materials.

Comment: One commenter suggested that DSHS require and enforce batch-specific Certificate of Analysis (COA) results.

Response: DSHS agrees with this comment and revised §300.205(2) in response to this comment.

Comment: One commenter stated, "In 25 TAC §300.402(a)(6) consider a QR code rather than a universal resource locator (URL). QR codes are easier for consumers to use (two-clicks rather than trying to read a small font URL then type in the text) and are more expected in the marketplace now."

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. HB 1325 requires the product's label to have a URL linked to the certificate of analysis. A firm has the option to also incorporate a QR code, but the URL is required.

Comment: One commenter suggested consideration of a font size minimum for recommended serving size and servings per container in §300.402(a)(7).

Response: DSHS disagrees and declines to revise the rule in response to this comment. DSHS follows 21 CFR 101.2(c) and (f), which provide guidance on serving size and servings per container.

Comment: Multiple commenters suggested DSHS consider allowing a universal THC symbol.

Response: DSHS disagrees and declines to revise the rule in response to this comment. Currently, there is no standard for a universal THC symbol. However, a firm may add a THC symbol to their label.

Comment: Two commenters suggested removal of "All THC's have psychoactive properties that may produce an effect similar to or greater than the effect of marijuana, a controlled substance" due to tetrahydrocannabinol (THC) not being psychoactive.

Response: DSHS agrees with this comment and has revised §300.402(b)(3).

Comment: One commenter suggested the word "marijuana" within the warning statement is not commonly known to the typical consumer and should be deleted.

Response: DSHS agrees with this comment and has amended §300.402(b)(3).

Comment: Two commenters oppose §300.405(b)(5)(E), which prohibits packaging with images of any celebrities as many are not known to children.

Response: DSHS agrees and has revised §300.405.

Comment: One commenter suggested standardized warnings on dosing, driving, and age restrictions.

Response: DSHS disagrees and considers this comment outside the scope of Executive Order GA-56. DSHS will consider the requested revision in future rulemaking. CHPs are prohibited from being marketed or sold to minors.

Comment: One commenter suggested requiring standard operating procedures as part of the license renewal.

Response: DSHS disagrees and declines to make the suggested change at this time. The rules are consistent with Executive Order GA-56. DSHS will consider the requested revision in future rulemaking.

Comment: One commenter suggested "Remote inspections (Zoom/document audits)" become standard and on-site visits are only triggered by "risk flags."

Response: DSHS does not agree with this comment and declines to revise the rule in response to this comment. Though remote inspections have been used under certain conditions, remote inspections require inspections be announced. This can limit the effectiveness of the inspection.

Comment: One commenter suggested "Licensees upload COAs into a DSHS system or via QR-linked database."

Response: DSHS disagrees and declines to make the suggested change at this time. The rules are consistent with HB 1325 and Executive Order GA-56. DSHS will consider the requested revision in future rulemaking.

Comment: One commenter stated §300.103 is too broad and should require a "defined inspection basis (routine schedule, complaint-driven, follow-up, or targeted risk), require written notice when feasible, and require inspectors to provide a written scope statement at the start of an inspection so licensees know what is being examined and why."

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. Pursuant to HSC Chapters 431 and 443, the department is authorized to conduct unannounced inspections to ensure compliance with consumable hemp requirements. Requiring notice or predefined inspection scope would limit effectiveness of inspections. Regulated entities already receive written inspection findings and enforcement notices upon conclusion of inspections.

Comment: Multiple commenters suggested clarification of §300.204 and §300.205, specifically, who maintains these records, who must have access, or how compliance would be verified, especially for out-of-state suppliers.

Response: DSHS disagrees and declines to revise the rules in response to this comment. Consumable hemp manufacturers are required to comply with §300.204 and §300.205. DSHS must review records to ensure compliance with Chapter 300. Non-resident suppliers are obligated to adhere to all relevant federal regulations as well as the statutory requirements of the destination state.

Comment: Multiple commenters stated the definition for "Approved Hemp Source" is overly broad, internally conflicting, and confusing.

Response: DSHS agrees and revised §300.101(5) in response to this comment.

Comment: One commenter stated recalls should be the responsibility of the manufacturer, not the distributor or retailer.

Response: DSHS disagrees with this comment but revised §300.207 to differentiate the requirements for retailers and manufacturers. Although manufacturers have a significant responsibility for recalls, retailers also need a plan for recalls.

Comment: One commenter stated §300.203 is only appropriate for in-state manufacturers, but is not applicable to farmers, retail shops, or distributors.

Response: DSHS agrees with the comment and declines to revise the rule in response to this comment. Section 300.203 is applicable to manufacturers, not farmers, retail shops, or distributors.

Comment: Multiple commenters suggested complaint files should be the manufacturer's responsibility instead of the store owners.

Response: DSHS agrees with the comment but declines to revise the rule. Section 300.208 relating to complaints only applies to manufacturers and processors.

Comment: One commenter suggested clarifying sampling methodology enforcement.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. DSHS samples are based on whether the inspection is routine, compliance, investigation, or complaint based.

Comment: One commenter opposes §300.402, Packaging and Labeling Requirements, as ambiguous and subjective standards.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. The revisions are consistent with Executive Order GA-56.

Comment: One commenter suggested §300.403, Relating to Retail Sale of Out-Of-State Consumable Hemp Products, is ambiguous.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. Section 300.403 is consistent with federal and state requirements.

Comment: One commenter opposes the term "attractive to children" because it is opinion based.

Response: DSHS agrees and has revised §300.405.

Comment: One commenter opposes §300.406 because it does not define the terms "clear," "sufficient detail," and "qualified individual."

Response: DSHS does not agree with this comment and declines to revise the rule in response to this comment. A "qualified individual" is defined in 25 TAC §229.211(54).

Comment: One commenter suggested deleting §300.407 "Misleading Consumable Hemp Packaging."

Response: DSHS does not agree with this comment and declines to revise the rule in response to this comment. It is important for the consumer to be able to determine whether the package contains a hemp-derived cannabinoid and whether the product is intended for medical purposes. Consumable hemp product packaging must clearly indicate that the package contains a hemp-derived cannabinoid and that the product is not intended for medical purposes. This requirement ensures informed consumers and is consistent with Executive Order GA-56.

Comment: One commenter stated that introduction into commerce is not defined.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. "Commerce" is defined in Texas Business and Commerce Code §17.45(6).

Comment: One commenter opposes §300.701(a) citing that it is too subjective.

Response: DSHS agrees and has revised §300.701(a). The revisions are consistent with Executive Order GA-56.

Comment: One commenter opposes §300.603 and suggested this section allows inspectors to take "full control over business owners" property without checks and balances.

Response: DSHS does not agree with the commenter and declines to revise the rule in response to this comment. The revisions are consistent with Executive Order GA-56 and HSC §443.002, which incorporates recall and embargo authority under HSC §431.048.

Comment: One commenter opposes §300.605, "Correction by Proper Labeling or Processing."

Response: DSHS does not agree with this comment and declines to revise the rule in response to this comment. HSC §431.052 authorizes Correction by Proper Labeling or Processing.

Comment: One commenter suggested recognizing smokable flower and pre-Rolls as "cigar lounge-style products."

Response: DSHS disagrees and declines to make the suggested change at this time. The revisions are consistent with Executive Order GA-56. DSHS will consider the requested revision in a future rulemaking.

Comment: One commenter suggested DSHS require one certified THC Handler per licensed store.

Response: DSHS disagrees and declines to make the suggested change at this time. The revisions are consistent with Executive Order GA-56. DSHS will consider the requested revision in a future rulemaking.

Comment: One commenter suggested a centralized DSHS portal for managing licensee compliance, training, and inspection reports.

Response: DSHS agrees in part and disagrees in part. DSHS has a portal that manages license compliance, and inspection reports. DSHS declines to make the suggested change for a training portal at this time. DSHS will consider the comment in a future rulemaking.

Comment: One commenter suggested the establishment of a Hemp Regulatory Commission.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. DSHS considers this comment outside the scope of rulemaking for this project and Executive Order GA-56.

Comment: Multiple commenters recommend specific penalties for noncompliance, such as: \$500 - \$1,000 per unregistered product, \$10,000/day for unlicensed operation, and \$20,000/day for operation after license revocation. Some commenters suggest the rules "should also include clear, automatic penalties for violations such as falsified certificates of analysis, sales to minors, and distribution of unauthorized products."

Response: DSHS does not agree with the commenter and declines to revise the rule in response to this comment. DSHS relies on an administrative penalty matrix in making enforcement determinations. All enforcement actions taken by DSHS are administrative or civil rather than criminal.

Comment: Multiple commenters suggested banning THC-Infused Foods and Beverages in Violation of Federal Law.

Response: DSHS disagrees with this comment and declines to revise the rule in response to this comment. HB 1325 requires DSHS to develop rules regulating the manufacture, distribution, and sale of CHPs in Texas. The revisions are consistent with Executive Order GA-56.

Comment: Multiple commenters suggested DSHS should establish a cost-recovery grant program to assist local law enforcement and municipal partners in conducting compliance checks, underage stings, and inspections; the best practice already used in tobacco and alcohol enforcement programs. Underage sting operations should be conducted once per quarter with retailers, as a recommended best practice.

Response: DSHS disagrees and declines to revise the rule in response to this comment. DSHS has established fees that will support TABC underage sting operations. TABC has already implemented underage sting operations. DSHS also collaborates with Texas Department of Public Safety, as directed by Executive Order GA-56.

Comment: Multiple commenters suggested aligning with Federal Product Standards, which limit finished products to no more than 0.4 milligrams of total THC per serving.

Response: DSHS disagrees and declines to make the suggested change at this time. DSHS will consider the requested revision in a future rulemaking when the federal amendments take effect.

Comment: Multiple commenters suggested DSHS require Third-Party Lab Testing and QR-Code COAs that include THC content, a complete analyte list, and documentation of the absence of contaminants or adulterants.

Response: DSHS does not agree with this comment and declines to revise the rule in response to this comment. HB 1325 has already incorporated requirements for testing. CHP manufacturers are required to test for, as appropriate, cannabinoids, residual solvents, microbiological contaminants, pesticides, and heavy metals.

Comment: Multiple commenters suggest DSHS incorporate the ability to quickly update prohibited product forms, potency structures, and compliance triggers as the market evolves.

Response: DSHS disagrees and declines to make the suggested change at this time. The revisions are consistent with Executive Order GA-56. DSHS will consider the requested revision in a future rulemaking.

Comment: Multiple commenters suggest strengthening accountability for out-of-state products, including consideration of a distributor or importer responsibility mechanism to prevent retailer only enforcement.

Response: DSHS declines to revise the rule in response to this comment. A consumable hemp product distributor is required to hold a wholesaler license from the department per HSC Chapter 431. Out of state manufacturers' products must comply with Texas statutes and rules in order to be sold in Texas.

Comment: One commenter suggested the DSHS Commissioner include guidance on acceptable forms of identification issued by another country.

Response: DSHS agrees and revised §300.701(c) in response to this comment.

Comment: Multiple commenters oppose the inclusion within the warning statement "...greater effect than marihuana."

Response: DSHS agrees with this comment and has revised §300.402(b)(3).

Comment: Multiple commenters oppose batch date labeling requirements.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HB 1325 requires a batch date.

Comment: Multiple commenters oppose packaging and Child Resistance Requirements for 750ml containers.

Response: DSHS disagrees and declines to revise the rule in response to this comment. Executive Order GA-56 directed the department to implement rules to prevent minors access to all consumable hemp products.

Comment: Multiple commenters stated rules should follow only food Good Manufacturing Practices (GMPs).

Response: DSHS does not agree and declines to revise the rule in response to this comment. HB 1325 provides that a consumable hemp products means food, a drug, a device, or a cosmetic that contains hemp or one or more hemp-derived cannabinoids. Food, drug, device, and cosmetic are defined by HSC §have their own regulations.

Comment: Multiple commenters suggested recordkeeping obligations are often impractical for lawful operators to satisfy, particularly for those whose activities are limited to repackaging, re-labeling, or distribution of finished products manufactured elsewhere.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HSC §431.044 requires records to be kept showing movement in commerce, which includes finished product distribution. Repackaging, relabeling, and private labeling operations are considered manufacturing and are subject to these rules.

Comment: One commenter suggested "approved hemp source" creates confusion about hemp from outside the United States, which complies with federal law.

Response: DSHS agrees and revised §300.101(5) in response to this comment.

Comment: Multiple commenters suggested §300.407 restricts labeling and marketing for medical use or therapeutic benefit but does not clearly distinguish between explicit disease-treatment claims (which are appropriately restricted) and general wellness language or imagery common in food and supplement contexts.

Response: DSHS disagrees and declines to revise the rule in response to this comment. The FDA regulates wellness claims on conventional foods, classifying them into three categories: authorized health claims, nutrient content, and structure/function claims. All such claims require substantiation, must be truthful, and typically highlight a nutrient's specific role in health, like calcium for bone strength, without claiming a cure.

Comment: One commenter opposes random testing in general.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HB 1325 requires DSHS to establish a process for the random testing of CHPs.

Comment: Multiple commentors suggested zoning regulations to be established for specific areas that are distant from schools and churches.

Response: DSHS disagrees and declines to revise the rule in response to this comment. HSC Chapter 443 does not authorize zoning restrictions.

Comment: Multiple commentors suggested proposed rules exceed those authorized under the governor's executive order.

Response: DSHS does not agree and declines to revise the rule in response to this comment. The revisions are consistent with Executive Order GA-56 and HSC §443.002, which incorporates HSC Chapter 431.

Comment: One commenter suggested implementation of a secure purchase environment.

Response: DSHS disagrees and declines to make the suggested change at this time. The revisions are consistent with Executive Order GA-56. DSHS will consider the requested revision in a future rulemaking.

Additionally, DSHS made minor editorial changes to the rules to improve clarity, readability, and to correct an error as follows.

DSHS revised §300.101(15) to improve clarity. DSHS revised §300.101(24) by adding "mixes" to improve clarity. DSHS also revised proposed §300.101(35) (renumbered to paragraph (34)) to remove "or leading" and include "processor" to improve clarity.

DSHS revised §300.103(a) to clarify that TABC may enter the premises to ensure compliance with this chapter; added the acronym for Texas Health and Safety Code in §300.103(b); corrected a clerical error in §300.103(c) replacing "prescription drug or restricted device" with "consumable hemp products," and updated a citation in §300.103(c)(5)(B).

DSHS revised §300.201 to clarify which license consumable hemp product distributors are required to hold and made minor grammatical revisions to improve clarity.

DSHS revised §300.202(f)(2) by replacing "denied" with "approved" and replacing "denial" with "approval" to be consistent with Texas Government Code Chapter 2005.

DSHS revised §300.203(d) to clarify who must maintain the records and made minor grammatical revisions in subsections (d) and (e) to improve clarity.

DSHS revised §300.204(b) to remove proposed paragraph (4) to eliminate a duplicate ingredient measurement requirement. The paragraphs were renumbered accordingly.

DSHS revised §300.208 and §300.402 to include "processor" to provide clarity. The title of §300.208 was revised to "Complaints" for clarity.

DSHS revised §300.301(c) to spell out "certificate of analysis" and §300.301(d)(2) to include "hemp processor" to provide clarity. DSHS also revised subsection (e) removing "with the intent to deceive" to be consistent with HSC 431.

DSHS revised §300.302(a) by removing "section" and replaced with "chapter" to clarify low-THC cannabis does not apply to 25 TAC Chapter 300.

DSHS revised §300.303 language to clarify who is responsible for complying with each requirement. DSHS revised §300.303(b) to include "retailer" as also responsible for providing testing results. This section was also revised to include the "consumer" and "Texas Alcoholic Beverage Commission" be provided testing results upon request. DSHS deleted proposed §300.303(c) since these requirements are now reflected in §300.303(b) and renumbered the subsections accordingly. DSHS revised proposed §300.303(g) - (i) (renumbered to subsections (f) - (h)) by replacing "or" with "and" to clarify what is required by stakeholders.

DSHS revised §300.403(3) to clarify out of state consumable hemp products must comply with acceptable hemp THC levels.

DSHS revised §300.406(b) to correct punctuation and §300.501(a) by removing "section" and replacing with "chapter" to correct a clerical error.

DSHS revised §300.502(b)(7) to include "sold" to provide clarity. DSHS updated §300.502 for consistency with §300.202 by revising subsection (c); adding subsections (d) and (h); revising proposed subsection (f)(2) (renumbered to subsection (g)(2)) and adding paragraphs (3) - (4). The subsections were renumbered accordingly.

DSHS revised §300.601(a)(1) to include "processing" to improve clarity.

DSHS revised §300.603 and §300.606(g) - (i) by making minor grammatical changes to improve clarity.

SUBCHAPTER A. GENERAL PROVISIONS

25 TAC §§300.100 - 300.103

STATUTORY AUTHORITY

The amended sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.101. Definitions.

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

(1) Acceptable hemp THC level--A total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3% or less.

(2) Accredited laboratory--A laboratory, including at an institution of higher education, accredited in accordance with the International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard.

(3) Act--House Bill 1325, 86th Legislature, Regular Session, 2019, relating to the production and regulation of hemp in Texas, codified in Texas Health and Safety Code Chapter 443.

(4) Analyte--A chemical, compound, element, bacteria, yeast, fungus, mold, or toxin identified and measured by accredited laboratory analysis.

(5) Approved hemp source--Hemp and hemp products for human use and consumption must be grown under a state or compatible federal, foreign, or Tribal plan. These plans must be approved by the United States Department of Agriculture under 7 United States Code (U.S.C.) Chapter 38, Subchapter VII, or Texas Agriculture Code Chapter 121. The products must comply with federal law and the laws of respective foreign jurisdictions.

(6) Batch date--The date a product batch was made, used for tracking and quality control. This is also called the lot date.

(7) Batch ID number--A number that identifies a specific amount of raw or processed hemp product that meets standards for identity, strength, purity, and composition. Each batch ID number must include the manufacturer's, processor's, or distributor's number and a sequence for inventory, traceability, and identification of the plant batches used in making consumable hemp products. This is also called the lot number.

(8) Cannabis--A type of flowering plant in the Cannabaceae family. Any plants or plant matters from plants in the genus Cannabis Sativa L.

(9) Cannabidiol (CBD)--A phytocannabinoid produced by cannabis.

(10) Certificate of Analysis (COA)--An official document from an accredited laboratory available to the manufacturer, processor, distributor, retailer, public, or department. The COA shows the concentrations of cannabinoid analytes and other measurements required by the department, including data on THC levels, and states whether a sample passed or failed content analysis limits.

(11) Consumable hemp product (CHP)--Any product processed or manufactured for consumption that contains hemp, including food, a drug, a device, and a cosmetic, as defined by Texas Health and Safety Code §431.002. The definition excludes any hemp product containing a hemp seed or hemp seed-derived ingredient that the FDA has designated as Generally Recognized as Safe (GRAS).

(12) Consumable hemp products license--A license issued to a person or facility engaged in the act of manufacturing, extracting, or processing consumable hemp products for human consumption or use.

(13) Decarboxylation--The removal or elimination of a carboxyl group from a molecule or organic compound.

(14) Delta-9 tetrahydrocannabinol (d-9 THC)--A tetrahydrocannabinol isomer known as the primary psychoactive component of cannabis.

(15) Department--The Texas Department of State Health Services.

(16) Distributor--A person who distributes consumable hemp products for resale, either through a retail outlet owned by that person or through sales to another retailer. A distributor is required to hold a wholesaler license per Texas Health and Safety Code Chapter 431.

(17) Facility--A place of business engaged in manufacturing, processing, or distributing consumable hemp products subject to the requirements of this chapter and Texas Health and Safety Code Chapter 431. A facility includes a domestic or foreign facility required to register under the Federal Food, Drug, and Cosmetic Act, Section 415 in accordance with the requirements of 21 Code of Federal Regulations Part 1, Subpart H.

(18) FDA--The United States Food and Drug Administration or its successor agency.

(19) Federal Act--Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. 301 et seq.).

(20) Hemp--The plant, Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(21) Hemp-derived cannabinoid product--Any intermediate or final product derived from hemp (other than industrial hemp), that:

(A) contains cannabinoids in any form; and

(B) is intended for human or animal use through any means of application or administration, such as inhalation, ingestion, or topical application.

(22) Independent contractor--A person or entity contracted to perform work or sales for a registrant.

(23) License holder--The person who is legally responsible for the operation as a consumable hemp manufacturer or processor and possesses a valid license.

(24) Manufacturer--A person who makes, mixes, extracts, processes, packages, or repackages consumable hemp product from one or more ingredients. The definition includes synthesizing, preparing, treating, modifying, or manipulating hemp, hemp crops, or ingredients to create a consumable hemp product. It also includes private-labeling. For farmers and persons with farm mixed-type facilities, manufacturing and processing do not include activities related to growing, harvesting, packing, or holding raw hemp product. Manufacturers may only distribute products they manufactured.

(25) Measurement of uncertainty--The parameter, associated with the results of an analytical measurement that characterizes the dispersion of the values that could reasonably be attributed to the quantity subjected to testing measurement. For example, if the reported total d-9 THC content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured total d-9 THC content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance.

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

(27) Non-consumable hemp processor--A person who intends to process hemp products not for human consumption and who is registered with the Texas Department of Agriculture.

(28) Non-consumable hemp product--As defined by Texas Agriculture Code §122.001(8), means a product that contains hemp, other than a consumable hemp product as defined by Texas Health and Safety Code §443.001. The term includes cloth, cordage, fiber, fuel, paint, paper, particleboard, construction materials, and plastics derived from hemp.

(29) Pathogen--A microorganism of public health significance, including molds, yeasts, Listeria monocytogenes, Campylobacter, Salmonella, E. coli, Yersinia, or Staphylococcus.

(30) Person--An individual, business, partnership, corporation, or association.

(31) Private labeling--When a person or manufacturer labels a CHP with the person's name and address, thereby representing itself as responsible for the purity and labeling of a CHP.

(32) Process--Extraction of a component of hemp, including CBD or another cannabinoid, that is:

- (A) sold as a consumable hemp product;
- (B) offered for sale as a consumable hemp product;
- (C) incorporated into a consumable hemp product; or
- (D) intended for incorporation into a consumable hemp product.

(33) Processor--A person who operates a facility that processes raw agriculture hemp into consumable hemp products for manufacture, distribution, and sale. A hemp processor is required to hold a consumable hemp products license.

(34) QR code--A quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing a user to product information regarding manufacturer or processor data and accredited laboratory COA.

(35) Raw hemp--An unprocessed hemp plant, or any part of the plant, in its natural state.

(36) Registrant--A person who sells consumable hemp products directly to consumers, and who submits a complete registration form to the department for purposes of registering the place of business to sell consumable hemp products at retail to the public.

(37) Reverse distributor--A person registered with the federal Drug Enforcement Agency as a reverse distributor that receives controlled substances from another person or entity for return of the products to the registered manufacturer or to destroy adulterated or impermissible THC products.

(38) Smoking--Burning or igniting a substance and inhaling the resultant smoke or heating a substance and inhaling the resulting vapor or aerosol.

(39) Supplier--A person or entity that manufactures or processes a material used in the processing or manufacturing of hemp. This term also includes a person or entity that manufactures hemp-derived cannabinoids or sells products containing hemp-derived cannabinoids to retailers.

(40) Tetrahydrocannabinol (THC)--A cannabinoid found in cannabis and considered the primary psychoactive component of the cannabis plant.

(41) Tetrahydrocannabinolic acid (THCA)--A precursor to all tetrahydrocannabinols (THC).

(42) Texas Department of Agriculture--The state agency responsible for regulation of planting, growing, harvesting, and testing of hemp as a raw agricultural product.

(43) Texas.gov--The online registration system for the State of Texas found at <https://www.texas.gov>.

(44) Total THC--The value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total tetrahydrocannabinol content derived from the sum of all THC isomers and THCA content and reported on a dry weight basis. This technique requires the use of the following conversion: [Total THC = (0.877 x THCA) + THC], which calculates the potential total THC in a given sample.

(45) Total delta-9 THC--The value is determined after decarboxylation or by applying a conversion factor if the testing method

does not include decarboxylation. This shows the potential total delta-9 THC content from the sum of delta-9 THC and THCA, reported on a dry weight basis. The post-decarboxylation value of delta-9 THC can be calculated using a chromatograph technique with heat, like gas chromatography, which converts THCA. This test calculates the potential total delta-9 THC in a sample. The total delta-9 THC can also be calculated using a liquid chromatograph technique, which keeps THCA intact. This technique uses the conversion: [Total delta-9 THC = (0.877 x THCA) + delta-9 THC]. This test calculates the potential total delta-9 THC in a sample.

§300.103. *Inspections.*

(a) Authorized employees of the department or the Texas Alcoholic Beverage Commission, after showing proper credentials to the owner, operator, or person in charge, may:

(1) enter the premises at reasonable times, conduct inspections, collect samples, and take photographs to determine compliance with this chapter and Texas Health and Safety Code (HSC) Chapters 431 and 443;

(2) enter a vehicle being used to transport or hold a consumable hemp product in commerce; or

(3) inspect at reasonable times, within reasonable limits, and in a reasonable manner, the facility or vehicle and all equipment, finished and unfinished materials, containers, and labeling of any item and obtain samples necessary for the enforcement of this chapter.

(b) The inspection of a facility where consumable hemp products are manufactured, processed, distributed, packed, repackaged, sold, or held, for introduction into commerce must undergo inspection to determine if the consumable hemp product is:

(1) adulterated or misbranded; or

(2) manufactured, processed, held, distributed, packed, or sold in violation of this chapter or HSC Chapters 431 and 443.

(c) An inspection of a facility where a consumable hemp product is being manufactured, processed, packed, or held for introduction into commerce under subsection (b) of this section must not extend to:

(1) financial data;

(2) sales data other than shipment data;

(3) pricing data;

(4) personnel data other than data relating to the qualifications of technical and professional personnel performing functions under this chapter; or

(5) research data other than data:

(A) relating to new consumable hemp products; and

(B) subject to reporting and inspection under 21 United States Code (U.S.C.) §§355, 360i, or 360j.

(d) The inspector must start and complete the inspection under subsection (b) of this section with reasonable promptness.

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

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SUBCHAPTER B. MANUFACTURE, PROCESSING, AND DISTRIBUTION OF CONSUMABLE HEMP PRODUCTS

25 TAC §§300.201 - 300.208

STATUTORY AUTHORITY

The amendments and new sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.201. *Application for License or Renewal.*

(a) A person must hold a consumable hemp products license issued by the department before engaging in manufacturing or processing of consumable hemp products. A person must hold a wholesaler license per Texas Health and Safety Code (HSC) Chapter 431 before engaging in the distribution of consumable hemp products.

(b) A person must apply for a consumable hemp products license by submitting an application to the department for each location engaged in manufacturing or processing consumable hemp products. The application must include:

(1) a legal description of each location, including the global positioning system coordinates for the perimeter of each location:

(A) where the applicant intends to manufacture or process consumable hemp products; and

(B) where the applicant intends to store consumable hemp products;

(2) written consent from the applicant or property owner, if the applicant is not the property owner, for the department, the Department of Public Safety, Texas Alcoholic Beverage Commission, and any other state or local law enforcement agencies to enter all premises where consumable hemp is manufactured, processed, or delivered for physical inspection or to ensure compliance with this chapter; and

(3) a fingerprint-based criminal background check from each applicant at the applicant's expense.

(c) If the applicant has been convicted of a felony relating to a controlled substance under federal law or the law of any state within 10 years before the date of application, the department must not issue a consumable hemp products license under this subchapter.

(d) If the department receives information that a license holder has been convicted of a felony relating to a controlled substance under federal law or the law of any state within 10 years before the license was issued, the department must revoke the consumable hemp products license.

(e) A person holding a consumable hemp products license under this subchapter must undergo a fingerprint-based criminal background check at the person's own expense.

(f) Applications must contain the following information:

(1) the name of the license applicant;

(2) the business name, if different from the applicant's name, and any other names under which the firm does business, if applicable;

(3) the mailing address of the business;

(4) the street address of the facility;

(5) the primary business contact telephone number;

(6) the personal email address of the applicant; and

(7) the email address of the business, if different than the applicant's email address.

(g) If a person owns or operates two or more facilities, each facility must have a separate license with its own application form, listing the name and address of each facility.

(h) Applicants must submit an application for a consumable hemp products license request under this subchapter electronically through www.Texas.gov. The department is authorized to collect fees to recover costs associated with application and renewal application processing through www.Texas.gov.

(i) All fees required by the department must be submitted with the application.

(j) Applicants must provide any additional information required by the department, as specified on the application forms.

(k) The facility must display the consumable hemp products license issued by the department in an obvious and conspicuous public location.

§300.202. *License Term and Fees.*

(a) A consumable hemp product license is valid for one year from the date displayed on the license and must be renewed annually. An expired license is not current or valid. A person must not process hemp or manufacture a consumable hemp product without a valid license.

(b) The department must issue and renew a license if the license holder:

(1) is eligible to obtain a license under §300.201 of this subchapter (relating to Application for License or Renewal);

(2) submits a license fee to the department;

(3) does not owe outstanding fees to the department;

(4) possesses testing results of consumable hemp products before manufacture, distribution, or sale into commerce, and provides those testing results upon department request;

(5) has not been convicted of a felony relating to a controlled substance under federal law or the law of any state in the 10 years before the date of renewal of the license;

(6) submits a complete application; and

(7) has not had a consumable hemp products license revoked for sale to a minor in the preceding five years from the date on which an application is submitted to the department.

(c) Fees.

(1) Before manufacturing or processing consumable hemp products, a license holder must pay a fee of \$10,000 per facility. License renewal fees are \$10,000 per facility.

(2) For each facility, a license holder must pay:

(A) a \$10,000 fee for an amendment to a new license due to a change of ownership of the licensed facility; or

(B) a \$125.00 fee for any amendment during the licensure period due to minor changes, such as change of location, change of name, or change of address.

(3) Fees are not prorated.

(4) A person who files a renewal application after the expiration date of the current license must pay an additional delinquency fee of \$1,000.

(d) An application for an amendment of a consumable hemp product license is complete when the department has received, reviewed, and found acceptable the application information and fee required by subsection (c) of this section.

(e) An initial and renewal application for a consumable hemp product license must be processed in the following time periods:

(1) the first time period of 45 calendar days begins on the date the department receives a completed application. If the department receives an incomplete application, the period ends on the date the department issues a written notice that the application is incomplete. The department must issue the written notice within 60 calendar days after receiving the incomplete application and describe the specific information or fee required before the application is considered complete;

(2) the second time period of 45 calendar days begins on the date the department receives a completed application and ends on the date the department issues the license or issues a written notice that the application is being proposed for denial; and

(3) the third time period of 135 calendar days begins on the date the department issues the written notice to the applicant as described in paragraph (1) of this subsection. If the applicant fails to submit the requested information or fee within this period, the department considers the application withdrawn.

(f) Reimbursement of fees:

(1) in the event the application is not processed within the time periods stated in subsection (e) of this section, the applicant has the right to make a written request within 30 business days after the end of the second time period that the department shall reimburse in full the fee paid in that application process; and

(2) if the department finds that good cause does not exist for exceeding the established periods, the request shall be approved, and the department shall notify the applicant in writing of the approval of the reimbursement within 30 business days after the department's decision.

§300.203. *Access to Records.*

(a) A person who is required to maintain records under this chapter or 21 United States Code (U.S.C.) §360i or §360j must maintain records on site for immediate inspection. Upon request by the department or the Texas Alcoholic Beverage Commission, the person must provide access to records for review or copying to verify that consumable hemp products are being produced in accordance with United States Department of Agriculture under 7 U.S.C. Chapter 38, Subchapter VII, or Texas Agriculture Code Chapter 121.

(b) A person regulated under Texas Agriculture Code Chapter 122 must provide the department with test results of hemp or hemp

products upon request. These results must show that the total delta-9 tetrahydrocannabinol concentration is not more than 0.3 percent on a dry weight basis.

(c) Records described in this chapter must be maintained for a period of no less than three years after the date the records are created.

(d) A consumable hemp manufacturer or processor must maintain the following records, as applicable:

(1) certificate of analysis (COA) of raw hemp and hemp ingredients in accordance with §300.301(b)(1) - (3) and §300.301(c) of this chapter (relating to Testing Required);

(2) COA of finished hemp products by batch number;

(3) source of ingredients, including:

(A) receiving records with address and contact information from suppliers, distributors, warehouses, or any person engaged in the business of making a consumer product directly or indirectly; or

(B) licensing documentation, if applicable, from the supplier's respective hemp or food regulating authority;

(4) batch production records;

(5) recalled product information;

(6) consumer complaints;

(7) other records required by the department, including corrective action logs, destruction logs, equipment calibration records, or other accurate reproductions of the original records, or electronic records; and

(8) master production records.

(e) Records must contain actual values and observations. Records must be accurate, permanent, legible, and created concurrently with performance of the activity documented. Records can be electronic. Records must be detailed enough to provide a history of work performed, and include:

(1) the name and, if more than one, the location of the plant or facility;

(2) the date and time of the documented activity

(3) the signature or initials of the person performing the activity; and

(4) the identity of the product and the batch number.

§300.204. *Master Production Records.*

(a) To ensure uniformity from batch to batch, one person must prepare, date, and sign with full handwritten signature, the master production records for each consumable hemp product, including batch size. A second person must independently check, date, and sign these records. The preparation of master production and control records must be described in a written procedure that the firm must follow.

(b) Master production records must include:

(1) the name and weight or measure of each ingredient;

(2) a complete list of ingredients;

(3) a statement of any calculated excess of a by-product; and

(4) complete manufacturing instructions and specifications.

§300.205. *Batch Production Records.*

Batch production records must be prepared for each batch of consumable hemp product produced and must include complete information regarding each batch. These records must include, if applicable:

- (1) the appropriate master product record, checked for accuracy, dated, and signed; and
- (2) documentation that each step in the manufacture, processing, packaging, or holding of the batch was accomplished, including:
 - (A) dates;
 - (B) identity of individual major equipment and lines used;
 - (C) weight and measure of ingredients;
 - (D) in-process results;
 - (E) laboratory control results, if applicable;
 - (F) inspection of the packaging and labeling area before and after use;
 - (G) statement of the actual yield;
 - (H) complete labeling records, including copies of all labeling used;
 - (I) any sampling performed;
 - (J) any investigation conducted;
 - (K) any destruction of tetrahydrocannabinol;
 - (L) any rework conducted; and
 - (M) certificate of analysis of hemp or hemp derivative used in the manufacture of a consumable hemp product.

§300.207. Recalls.

(a) Recall Procedures. All facilities engaged in the manufacture, processing, distribution, or retail sale of consumable hemp products must maintain written recall procedures. The recall procedures must describe the steps, assign responsibility, and include at a minimum:

- (1) identification of recalled products;
- (2) immediate removal and segregation of recalled products from sale and active inventory;
- (3) return holding, or disposal of recall products; and
- (4) notification to the public about any hazards presented by the product to protect public health.

(b) Recall plan. Manufacturers, distributors, or processors must establish a recall plan. The recall plan must include the following procedures:

- (1) directly notify the direct consignees of the hemp product, including how to return or dispose of the affected product;
- (2) notify the public about any hazards presented by the product to protect public health;
- (3) conduct effectiveness checks to verify that the recall is carried out; and
- (4) dispose of recalled product appropriately by reprocessing, reworking, diverting to a safe use, or destroying the product.

§300.208. Complaints.

(a) Each manufacturer or processor must maintain complaint files relating to product safety. Each manufacturer or processor must

establish and maintain procedures for receiving, reviewing, and evaluating complaints. The procedures must ensure that:

- (1) all complaints are processed in a uniform and timely manner;
- (2) oral complaints are documented upon receipt; and
- (3) complaints are evaluated to determine whether the complaint represents an event that must be reported to the FDA and the department.

(b) Each manufacturer or processor must review and evaluate all complaints to determine whether an investigation is necessary. All safety-related complaints must be investigated. If no investigation is made, the manufacturer or processor must maintain a record that includes the reason for not investigating and the name of the individual responsible for the decision.

(c) Any complaint about labeling or packaging not meeting specifications must be reviewed, evaluated, and investigated, unless a similar complaint has already been investigated and another investigation is not needed.

(d) The record of the investigation must include:

- (1) the name of the product;
- (2) the date the complaint was received;
- (3) the batch number and batch date of product used;
- (4) the name, address, and phone number of the complainant;
- (5) the nature and details of the complaint;
- (6) the dates and results of the investigation;
- (7) any corrective action taken; and
- (8) any reply to the complainant.

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. TESTING OF CONSUMABLE HEMP PRODUCTS

25 TAC §§300.301 - 300.303

STATUTORY AUTHORITY

The amended sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the

administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.301. Testing Required.

(a) Before a hemp plant is processed or otherwise used in the manufacture of a consumable hemp product, a representative sample must be tested to determine:

- (1) the concentration and identity of the cannabinoids, including all acids in the plant;
- (2) the presence and quantity of heavy metals, pesticides, microbial contamination, and other substances prescribed by the department;
- (3) the presence and concentration of d-9 THC, total d-9 THC, and total THC; and
- (4) a total delta-9 tetrahydrocannabinol concentration of 0.3% or less on a dry weight basis.

(b) Before a consumable hemp product, including hemp-derived ingredients used for further processing into another consumable hemp product, is sold at retail, distributed, or otherwise introduced into commerce in this state, a representative sample must be tested to determine:

- (1) the presence, concentration, and identity of cannabinoids;
- (2) the presence and concentration of d-9 THC, total d-9 THC, and total THC;
- (3) the presence and quantity of residual solvents, heavy metals, pesticides, and harmful pathogens; and
- (4) the total delta-9 tetrahydrocannabinol concentration is 0.3% or less on a dry weight basis.

(c) A certificate of analysis (COA) documenting tests conducted under this subchapter must:

- (1) be made available to the department upon request in an electronic format before manufacture, processing, or distribution into commerce; and
- (2) include measurement of uncertainty analysis parameters.

(d) The COA must contain, at a minimum, the following information:

- (1) laboratory name, address, and contact information;
- (2) hemp cultivator, hemp processor, or hemp manufacturer's name and address;
- (3) sampler identification;
- (4) sample identifying information, including matrix type;
- (5) lot identification number of sample;
- (6) sample received date and the dates of sample analyses and corresponding testing results;
- (7) units of measure;
- (8) analytical methods, analytical instrumentation used, and corresponding limits of detection (LOD) and limits of quantitation (LOQ);
- (9) expiration date;

(10) QR code on the COA verifying the authenticity of testing conducted at an accredited laboratory;

(11) measurement of uncertainty analysis parameters; and

(12) results of all requested analyses performed for the sample, including percentage of delta-9 THC, total delta-9 THC, and total THC per container.

(e) It is a violation if a person forges, falsifies, or alters the results of a laboratory test authorized or required by this chapter. Consumable hemp products found in violation of this subsection must be retested and are subject to detention or embargo under Texas Health and Safety Code §431.048.

(f) Expired COAs are not valid. Consumable hemp products with expired COAs must be retested and are subject to detention or embargo under Texas Health and Safety Code §431.048.

§300.302. Sample Analysis of Consumable Hemp Products.

(a) This chapter does not apply to low-THC cannabis regulated under Texas Health and Safety Code Chapter 487.

(b) Regardless of any other law, a person must not sell, offer for sale, possess, distribute, or transport a consumable hemp product in this state if the consumable hemp product contains any material extracted or derived from the plant *Cannabis sativa L.*, other than from hemp produced in compliance with 7 United States Code (U.S.C.) Chapter 38, Subchapter VII, and:

(1) a representative sample of the consumable hemp product has been tested by an accredited laboratory and found to have a total delta-9 THC concentration of 0.3% or less on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3% or less; and

(2) testing results are provided to the department upon request.

(c) The department must conduct random testing of consumable hemp products at various retail and other facilities that sell or distribute products to ensure the products:

- (1) do not contain harmful ingredients;
- (2) are produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII; and

(3) have a total delta-9 THC content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3% or less.

(d) Upon request by the department, the manufacturer, processor, distributor, or retailer of consumable hemp products must provide representative raw or finished consumable hemp product samples to the department. These samples must be provided at the licensee's or registrant's expense.

§300.303. Provisions Related to Testing.

(a) A consumable hemp product that exceeds the acceptable hemp THC level or is adulterated in a manner harmful to human consumption must not be sold at retail or otherwise introduced into commerce in this state.

(b) A hemp manufacturer, processor, distributor, and retailer must provide the results of testing required by §300.301 of this subchapter (relating to Testing Required) to the consumer, the Texas Alcoholic Beverage Commission, and department upon request.

(c) A license holder must not use an independent testing accredited laboratory unless the license holder:

- (1) has no ownership interest in the accredited laboratory; or
- (2) holds 10 percent or less ownership interest in the accredited laboratory if the accredited laboratory is a publicly traded company.

(d) A manufacturer, processor, or retailer must pay the costs of raw and finished hemp product testing in an amount prescribed by the accredited laboratory selected by the license holder.

(e) The department may require that a copy of the test results be sent directly to the department.

(f) A manufacturer, processor, and retailer must retain results from samples for at least three years from the date that testing results are received.

(g) A manufacturer and processor of consumable hemp products must conduct sampling and testing using acceptance criteria determined by the department.

(h) A manufacturer, processor, and retailer must ensure all products are tested for the most current list of analytes maintained by the department.

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SUBCHAPTER D. RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

25 TAC §§300.402 - 300.407

STATUTORY AUTHORITY

The amendments and new sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.402. *Packaging and Labeling Requirements.*

(a) All consumable hemp products marketed as containing cannabinoids must, in addition to the requirements of §300.102 of this chapter (relating to Applicability of Other Rules and Regulations), be labeled in the manner provided by this section with the following information:

- (1) batch number;
- (2) batch date;
- (3) product name;
- (4) name of the product's manufacturer or processor;
- (5) telephone number and email address of manufacturer or processor;
- (6) a uniform resource locator (URL) that provides or links to a certificate of analysis (COA) for the product or each hemp-derived ingredient of the product, including the amount of cannabinoid in each serving or unit of the product, the amount of total THC, and total delta-9 THC. The URL must:

- (A) be conspicuously marked; and
- (B) directly link to a webpage where the required COA may be found in three or fewer steps; and
- (7) recommended serving size in milligrams and servings per container.

(b) Labels must include the following specific warnings:

- (1) keep out of reach of children;
- (2) product may contain tetrahydrocannabinol (THC) and can cause a user to fail a drug test;
- (3) all THCs have psychoactive properties;
- (4) pregnant or nursing women should consult a healthcare provider before use; and
- (5) this product has not been evaluated by the FDA.

(c) The label required by this section must appear on the outer packaging of each product intended for individual retail sale.

§300.403. *Retail Sale of Out-Of-State Consumable Hemp Products.*

A person selling consumable hemp products in Texas, that are processed or manufactured outside of Texas must comply with this chapter, and upon request, submit to the department evidence that the products were processed or manufactured in another state or a foreign jurisdiction in compliance with:

- (1) a state or tribal or jurisdiction's plan approved by the United States Department of Agriculture under 7 United States Code (U.S.C.) §1639p;
- (2) a plan established under 7 U.S.C. §1639q if that plan applies to the state or jurisdiction; or
- (3) the laws of a foreign jurisdiction if the products are tested in accordance with §300.301 of this chapter (relating to Testing Required), comply with acceptable hemp THC levels, and comply with federal regulations.

§300.405. *Packaging Requirements.*

Before selling or distributing a consumable hemp product, the product must be prepackaged or, at the time of sale, placed in packaging or a container that is:

- (1) tamper-evident;
- (2) child resistant; and
- (3) resealable, if the product contains multiple servings or includes multiple products purchased in one transaction, while keeping the child-resistant mechanism intact.

§300.406. *Packaging and Labeling Control.*

(a) There must be clear written procedures describing in sufficient detail the process for receipt, identification, storage, handling, and examination of labeling and packaging materials.

(b) Labeling and packaging materials must be examined upon receipt and before use in packaging or labeling of a consumable hemp product. All labels and packaging material meeting appropriate written criteria must be approved by a qualified individual as defined in 25 TAC §229.211(54) (relating to Definitions) and released for use. Any labeling or packaging materials that do not meet such criteria must be rejected to prevent use in unsuitable operations.

(c) Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, and whether accepted or rejected.

(d) Obsolete or rejected labeling and other packaging must be destroyed.

(e) Labeling materials issued for a batch must be carefully examined for identity and conformity to the labeling specified in the master production records.

(f) Labeling not currently being applied must be stored in a manner to prevent mix-ups with active labeling and ensure appropriate use.

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

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Cynthia Hernandez

General Counsel

Department of State Health Services

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For further information, please call: (512) 719-3521



SUBCHAPTER E. REGISTRATION FOR RETAILERS OF CONSUMABLE HEMP PRODUCTS

25 TAC §300.501, §300.502

STATUTORY AUTHORITY

The amended sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.501. *Registration Required for Retailers of Certain Products.*

(a) This chapter does not apply to:

(1) low-THC cannabis regulated under Texas Health and Safety Code Chapter 487; or

(2) products approved by the FDA, or recognized by the FDA under 21 Code of Federal Regulations Part 182, Substances Generally Recognized as Safe (GRAS).

(b) A person must not sell consumable hemp products at retail in Texas unless the person registers each location with the department. This includes any location owned, operated, or controlled by the person where consumable hemp products are sold.

(c) A person is not required to register with the department under subsection (b) of this section if the person is:

(1) an employee of a registrant; or

(2) an independent contractor of a registrant who sells the registrant's products at retail.

§300.502. *Application.*

(a) A person must register under this subchapter by submitting an application in the manner prescribed by the department.

(b) The owner, operator, or owner designee must submit an application that contains the following information:

(1) the name under which the business is operated;

(2) the mailing address of the facility;

(3) the street address of each location;

(4) the primary business contact telephone number;

(5) the phone number for each location;

(6) the primary business email address; and

(7) the written consent from the applicant or property owner, if the applicant is not the property owner, for the department, Department of Public Safety, Texas Alcoholic Beverage Commission, and other state or local law enforcement agencies to enter all premises where consumable hemp is manufactured, processed, sold, or delivered for physical inspection or to ensure compliance with this chapter.

(c) A retail hemp registration is valid for one year from the date displayed on the registration and must be renewed annually. An expired registration is not current or valid. A person must not sell at retail or offer to sell a consumable hemp product without a valid registration.

(d) An initial and renewal application for a retail hemp registration must be processed in the following time periods.

(1) The first time period of 45 calendar days begins on the date the department receives a completed application. If the department receives an incomplete application, the period ends on the date the department issues a written notice that the application is incomplete. The department must issue the written notice within 60 calendar days after receiving the incomplete application and describe the specific information or fee required before the application is considered complete.

(2) The second time period of 45 calendar days begins on the date the department receives a completed application and ends on the date the department issues the license or issues a written notice that the application is being proposed for denial.

(3) The third time period of 135 calendar days begins on the date the department issues the written notice to the applicant as described in paragraph (1) of this subsection. If the applicant fails to submit the requested information or fee within this period, the department considers the application withdrawn.

(e) Proof of registration from the department must be prominently displayed in a conspicuous location visible to the public.

(f) Applicants must submit an application for registration electronically through www.Texas.gov.

(g) All fees required by the department must be submitted with the application.

(1) A retail hemp registration or renewal fee of \$5,000 for each location is required before the sale of consumable hemp product.

(2) A person who files a renewal application after the expiration date of the current registration must pay an additional delinquency fee of \$1,000.

(3) A \$125 fee is required for any amendment during the registration period due to minor changes, such as change of location, change of name, or change of address.

(4) Fees are not prorated.

(h) Reimbursement of fees:

(1) in the event the application is not processed within the time periods stated in subsection (d) of this section, the applicant has the right to make a written request within 30 business days after the end of the second time period that the department reimburse in full the fee paid in that application process; and

(2) if the department finds that good cause does not exist for exceeding the established periods, the request shall be approved, and the department shall notify the applicant in writing of the approval of the reimbursement within 30 business days after the department's decision.

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. ENFORCEMENT

25 TAC §§300.601 - 300.606

STATUTORY AUTHORITY

The amended sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.601. *Violation of Department License or Registration Requirement.*

(a) A person commits a violation if the person manufactures, processes, distributes, sells, or otherwise introduces a consumable

hemp product into commerce without a license or registration required by the department under:

(1) §300.201 of this chapter (relating to Application for License or Renewal) for manufacturing, processing, or distribution of consumable hemp products; or

(2) §300.502 of this chapter (relating to Application) for the retail sale of consumable hemp products.

(b) Each day a violation continues or occurs counts as a separate violation when calculating an administrative penalty.

§300.603. *Detained or Embargoed Article.*

The department must attach a tag or other appropriate marking to an article that is a food, drug, device, cosmetic, or consumer commodity that gives notice that the article is, or is suspected of being, adulterated or misbranded. The department tags or marks any detained or embargoed article if the department finds or has probable cause to believe the article:

(1) is adulterated;

(2) is misbranded so that the article is dangerous or fraudulent under this chapter; or

(3) is in violation of Texas Health and Safety Code §431.084, §431.114, or §431.115.

§300.606. *Administrative Penalty.*

(a) The department may impose an administrative penalty against a person who violates this chapter.

(b) The department must notify a retailer of consumable hemp products of a potential violation and provide the registrant an opportunity to resolve unintentional or negligent violations after being notified by the department.

(c) The department assesses administrative penalties based upon one or more of the following criteria:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) the efforts to correct the violation; and

(5) any other matter that justice may require in relation to the violation.

(d) If the department determines that a violation has occurred, the department must issue a notice of violation. The notice must state the facts on which the determination is based. The notice must include an assessment of the penalty.

(e) The notice of violation must be in writing and be sent to the license holder or registrant by certified mail. The notice must include a summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person of a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 business days after the date the person receives the notice of violation, the person in writing may accept the determination and recommended penalty of the department or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty, the department issues an order imposing the recommended penalty.

(h) If the person charged with the violation does not respond in writing within 20 business days after the date the person receives the notice of violation, the department may determine that a violation occurred and assesses the penalty. The department must issue an order requiring that the person pay the penalty.

(i) If the person requests a hearing, the department refers the matter to the State Office of Administrative Hearings.

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. RESTRICTIONS ON SALE TO MINORS

25 TAC §300.701, §300.702

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, HSC §1001.075, which authorizes the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and for the administration of HSC Chapter 1001, Texas Government Code §524.0005, and HSC §12.001, HSC Chapter 431, and HSC Chapter §443.051.

§300.701. *Restriction on Sale to Minors.*

(a) A person is prohibited from delivering, selling, or offering to sell a consumable hemp product to a minor.

(b) A person who sells CHP must verify each purchaser's age by reviewing a valid proof of identification before completing the sale of any CHP.

(c) A valid proof of identification may include a driver's license issued by Texas or another state, a passport, or an identification card issued by a state or government agency. A valid proof of identification must meet the following criteria:

- (1) include a physical description and a photograph that matches the person's appearance;
- (2) provide the individual's date of birth;
- (3) be issued by a government agency; and
- (4) is not expired.

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 20. STATEWIDE PROCUREMENT AND SUPPORT SERVICES

SUBCHAPTER E. SPECIAL CATEGORIES OF CONTRACTING

DIVISION 1. STATE SUPPORT SERVICES - MAIL AND PRINTING

34 TAC §20.382

The Comptroller of Public Accounts adopts amendments to §20.382, concerning printing, without changes to the proposed text as published in the January 9, 2026, issue of the *Texas Register* (51 TexReg 195). The rule will not be republished.

The comptroller amends subsection (a) to remove unnecessary language that merely recites the statute. The revised language provides that §20.382 does not apply to institutions of higher education. The revised language aligns this section with Government Code, §2172.003(d).

The comptroller amends subsection (b) to streamline language. The revised language provides that the comptroller may assess and evaluate printing operations of state agencies and make recommendations to increase productivity and cost-effectiveness.

The comptroller amends subsection (c) to remove the outdated Council on Competitive Government's (CCG) Cost Methodology as a baseline for evaluating and comparing cost of state agency printing operations. CCG has been abolished. The new language provides all state agency print shops in Travis County shall operate under an interagency contract, and an interagency contract is the sole method through which the comptroller will authorize a state agency in Travis County to operate a print shop.

The comptroller amends subsection (d) to provide that the comptroller's review of print shop equipment purchases under §20.382 is optional. Subsection (d) now states that the comptroller may review state agency requisitions for new print shop equipment, including copiers and other printing devices. The new language also provides instruction on how to initiate the review, and lists written documentation the state agency may provide the comptroller for review. It eliminates items the comptroller will no longer review, because it is duplicative or irrelevant to the comptroller's

review. The amendment renumbers the paragraphs in subsection (d) to adjust for the deleted language.

The comptroller amends subsection (f) to describe the comptroller's internet portal for obtaining quotes from print shops. Because the print shop portal has replaced the print shop roster formerly maintained by the comptroller, the amended subsection (f) no longer mentions the roster. The amended subsection (f) also provides that institutions of higher education and agencies with print shops outside Travis County may participate in the portal by entering an interagency agreement with the comptroller.

The comptroller deletes subsection (g). The comptroller maintains the online Centralized Master Bidders List as described in §20.107 of this title. Maintaining a printed listing as described in the former subsection (g) would merely duplicate the same information in a less useful format.

The amendment renumbers former subsection (h), to subsection (g).

The comptroller did not receive any comments regarding adoption of the amendment.

These amendments are adopted under Government Code, §2172.003 which provides that the comptroller shall adopt rules for state agencies to implement Chapter 2172 regarding printing activities; and assess and evaluate those activities.

These amendments implement Government Code Chapter 2172.

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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Comptroller of Public Accounts

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

CHAPTER 704. PREVENTION AND EARLY INTERVENTION SERVICES

The Department of Family and Protective Services (DFPS) adopts the repeal of Title 40, Texas Administrative Code (TAC), Chapter 704, relating to Prevention and Early Interventions Services including §§704.1, 704.3, 704.201, 704.203, 704.205, 704.207, 704.209, 704.601, 704.603, 704.701, 704.703, 704.801, 704.803. The proposal was published in the January 30, 2026, issue of the *Texas Register* (51 TexReg 539). The repeals of the rules are adopted without changes to the proposed text and will not be republished.

BACKGROUND AND JUSTIFICATION

In 2023, Senate Bill 24 of the 88th Regular Legislative Session transferred the Prevention and Early Intervention (PEI) Services Division from DFPS to the Health and Human Services Commission (HHSC). Chapter 704 contains the rules previously adopted by DFPS to govern the former PEI Division. As DFPS no longer oversees this program, the rules in Chapter 704 are no longer necessary.

COMMENTS

The 30-day comment period ended March 1, 2026. During this period, DFPS did not receive any comments regarding the rules repealed.

SUBCHAPTER A. PURPOSE AND DEFINITIONS

40 TAC §704.1, §704.3

STATUTORY AUTHORITY

The repeals are adopted under Texas Human Resources Code §40.027 which provides that DFPS shall oversee the development of rules relating to matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department. Additionally, Senate Bill 24 (88th Regular Legislative Session) transferred the statutory provisions governing PEI from the Family Code and Human Resources Code into a new Human Resources Code Chapter, Chapter 137, to be administered by HHSC.

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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Department of Family and Protective Services

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For further information, please call: (512) 945-5978



SUBCHAPTER C. PREVENTION AND INTERVENTION PRIMARY RESPONSIBILITIES

40 TAC §§704.201, 704.203, 704.205, 704.207, 704.209

STATUTORY AUTHORITY

The repeals are adopted under Texas Human Resources Code §40.027 which provides that DFPS shall oversee the development of rules relating to matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department. Additionally, Senate Bill 24 (88th Regular Legislative Session) transferred the statutory provisions governing PEI from the Family Code and Human Resources Code into a new Human Resources Code Chapter, Chapter 137, to be administered by HHSC.

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SUBCHAPTER G. INFANT MORTALITY PREVENTION AND EDUCATION PROGRAM

40 TAC §704.601, §704.603

STATUTORY AUTHORITY

The repeals are adopted under Texas Human Resources Code §40.027 which provides that DFPS shall oversee the development of rules relating to matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department. Additionally, Senate Bill 24 (88th Regular Legislative Session) transferred the statutory provisions governing PEI from the Family Code and Human Resources Code into a new Human Resources Code Chapter, Chapter 137, to be administered by HHSC.

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SUBCHAPTER H. COMMUNITY-BASED FAMILY SERVICES GRANT PROGRAM

40 TAC §704.701, §704.703

STATUTORY AUTHORITY

The repeals are adopted under Texas Human Resources Code §40.027 which provides that DFPS shall oversee the development of rules relating to matters within the department's

jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department. Additionally, Senate Bill 24 (88th Regular Legislative Session) transferred the statutory provisions governing PEI from the Family Code and Human Resources Code into a new Human Resources Code Chapter, Chapter 137, to be administered by HHSC.

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SUBCHAPTER I. CHILDREN'S TRUST FUND

40 TAC §704.801, §704.803

STATUTORY AUTHORITY

The repeals are adopted under Texas Human Resources Code §40.027 which provides that DFPS shall oversee the development of rules relating to matters within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department. Additionally, Senate Bill 24 (88th Regular Legislative Session) transferred the statutory provisions governing PEI from the Family Code and Human Resources Code into a new Human Resources Code Chapter, Chapter 137, to be administered by HHSC.

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