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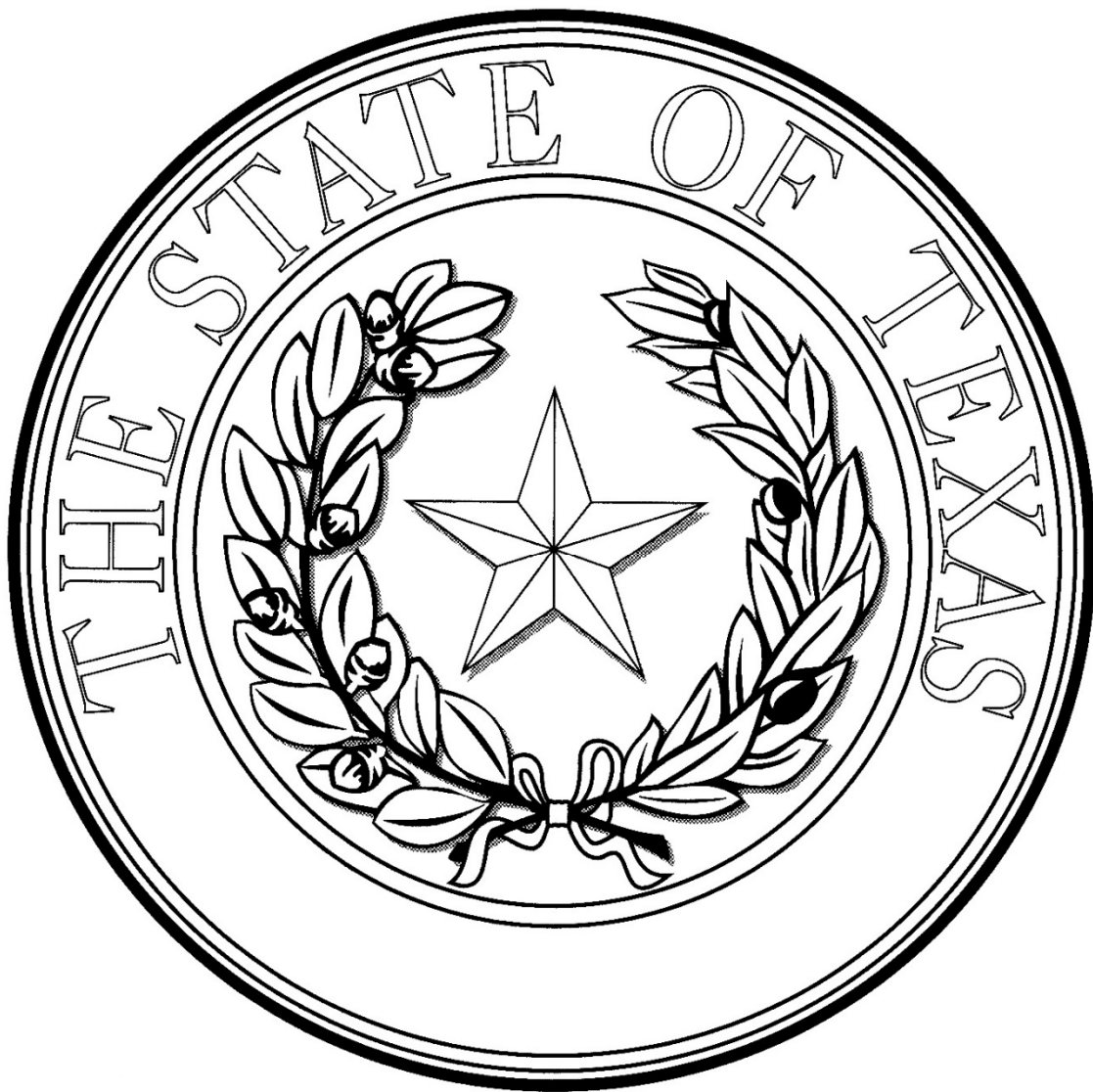
# TEXAS REGISTER

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# IN THIS ISSUE

## **PROPOSED RULES**

### **TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS**

#### **RULES OF PRACTICE**

22 TAC §465.2.....	5127
22 TAC §465.34.....	5129

### **TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS**

#### **PROFESSIONAL COUNSELORS**

22 TAC §681.91.....	5131
22 TAC §681.93.....	5132

### **TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS**

#### **LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS**

22 TAC §801.44.....	5134
22 TAC §801.142.....	5136
22 TAC §801.143.....	5138

### **TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**

#### **APPLICATIONS AND LICENSING**

22 TAC §882.1.....	5141
22 TAC §882.2.....	5142
22 TAC §882.21.....	5143

### **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

#### **PUBLIC NOTICE**

30 TAC §39.1.....	5150
30 TAC §§39.402, 39.403, 39.405, 39.407, 39.409, 39.411, 39.412, 39.419, 39.420, 39.422, 39.423, 39.425, 39.426 .....	5151
30 TAC §§39.501, 39.503, 39.509, 39.510.....	5166
30 TAC §39.551, §39.553.....	5170
30 TAC §§39.601, 39.603 - 39.606 .....	5173
30 TAC §39.651.....	5177
30 TAC §39.707.....	5180
30 TAC §§39.803, 39.804, 39.807 - 39.810 .....	5180
30 TAC §39.902, §39.903.....	5182
30 TAC §§39.1003, 39.1005, 39.1009, 39.1011 .....	5184

#### **REQUESTS FOR RECONSIDERATION AND CONTESTED CASE HEARINGS; PUBLIC COMMENT**

30 TAC §55.103.....	5188
30 TAC §§55.152, 55.154, 55.156.....	5189

30 TAC §§55.200, 55.201, 55.203, 55.209 - 55.211.....	5192
30 TAC §§55.250, 55.251, 55.254.....	5196

## **WITHDRAWN RULES**

### **HEALTH AND HUMAN SERVICES COMMISSION**

#### **LICENSING**

26 TAC §745.8802.....	5199
-----------------------	------

## **ADOPTED RULES**

### **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

#### **UNIFORM MULTIFAMILY RULES**

10 TAC §10.406.....	5201
---------------------	------

### **TEXAS DEPARTMENT OF LICENSING AND REGULATION**

#### **ELECTRICIANS**

16 TAC §73.110.....	5202
---------------------	------

#### **BARBERS**

16 TAC §§82.1, 82.10, 82.20, 82.80, 82.120.....	5203
---	------

#### **BARBERS AND COSMETOLOGISTS**

16 TAC §§83.2, 83.20, 83.80, 83.120, 83.200, 83.201.....	5206
16 TAC §§83.10, 83.15, 83.20, 83.22, 83.23, 83.25, 83.28, 83.72, 83.80, 83.202.....	5206

### **TEXAS HIGHER EDUCATION COORDINATING BOARD**

#### **AGENCY ADMINISTRATION**

19 TAC §1.131.....	5207
19 TAC §1.138.....	5207
19 TAC §1.145.....	5208
19 TAC §1.152.....	5208
19 TAC §§1.270 - 1.277 .....	5208

#### **ACADEMIC AND WORKFORCE EDUCATION**

19 TAC §§2.263, 2.268, 2.269.....	5209
19 TAC §2.268.....	5210

#### **RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS**

19 TAC §4.32.....	5210
-------------------	------

#### **DEGREE GRANTING COLLEGES AND UNIVERSITIES OTHER THAN TEXAS PUBLIC INSTITUTIONS**

19 TAC §7.52, §7.57.....	5211
--------------------------	------

#### **PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES**

19 TAC §§9.21 - 9.27, 9.30 - 9.32 .....	5212
---	------

19 TAC §§9.51 - 9.54 .....	5212
19 TAC §§9.141 - 9.144, 9.146, 9.147 .....	5213
FINANCIAL PLANNING	
19 TAC §13.1 .....	5213
19 TAC §13.101 .....	5214
19 TAC §13.108 .....	5214
19 TAC §§13.120, 13.121, 13.123 - 13.128 .....	5214
19 TAC §§13.140 - 13.143 .....	5215
STUDENT SERVICES	
19 TAC §21.4, §21.7 .....	5216
19 TAC §§21.2230 - 21.2232 .....	5216
PROGRAMS OF STUDY	
19 TAC §§26.101 - 26.107 .....	5217
19 TAC §§26.121 - 26.127 .....	5217
19 TAC §§26.141 - 26.147 .....	5217
19 TAC §§26.161 - 26.167 .....	5217
19 TAC §§26.181 - 26.187 .....	5218
19 TAC §§26.201 - 26.207 .....	5218
19 TAC §§26.221 - 26.227 .....	5218
19 TAC §§26.241 - 26.247 .....	5218
19 TAC §§26.261 - 26.267 .....	5219
19 TAC §§26.281 - 26.287 .....	5219
19 TAC §§26.301 - 26.307 .....	5219
19 TAC §§26.321 - 26.327 .....	5219
19 TAC §§26.341 - 26.347 .....	5219
19 TAC §§26.361 - 26.367 .....	5220
19 TAC §§26.381 - 26.387 .....	5220
19 TAC §§26.401 - 26.407 .....	5220
TEXAS EDUCATION AGENCY	
COMMISSIONER'S RULES CONCERNING EDUCATOR STANDARDS	
19 TAC §149.1001 .....	5221
19 TAC §149.1001 .....	5222
HEALTH AND HUMAN SERVICES COMMISSION	
LICENSING	
26 TAC §§745.8801, 745.8803, 745.8805, 745.8807, 745.8809, 745.8811, 745.8813, 745.8815 .....	5230
26 TAC §745.8835 .....	5231
TEACHER RETIREMENT SYSTEM OF TEXAS	
HEALTH CARE AND INSURANCE PROGRAMS	
34 TAC §41.12 .....	5231

## ***RULE REVIEW***

### **Proposed Rule Reviews**

Department of State Health Services .....	5235
Texas Health and Human Services Commission .....	5235

### **Adopted Rule Reviews**

Texas Higher Education Coordinating Board .....	5236
Department of State Health Services .....	5236
Texas Health and Human Services Commission .....	5237

## **TABLES AND GRAPHICS**

.....	5239
-------	------

## **IN ADDITION**

### **Office of Consumer Credit Commissioner**

Notice of Rate Ceilings .....	5243
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### **Texas Education Agency**

Request for Applications Concerning the 2025-2026 Charter School Program (Subchapter C and D) Grant .....	5243
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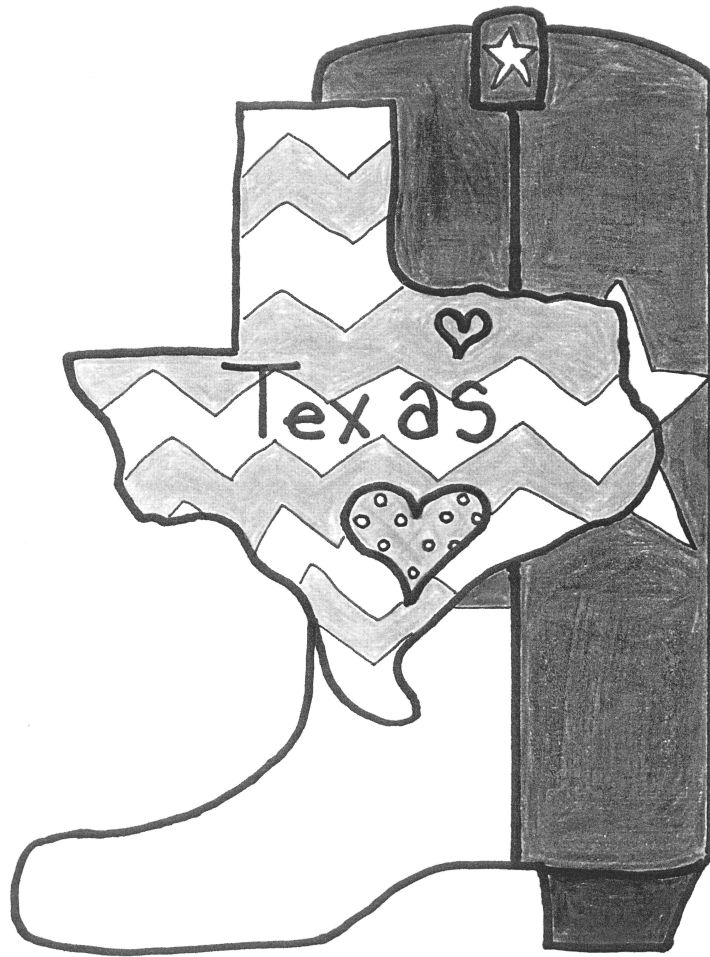
### **Texas Commission on Environmental Quality**

Agreed Orders .....	5244
Enforcement Orders .....	5246
Notice of an Amendment to a Certificate of Adjudication Application No. 12-2878A .....	5247
Notice of an Amendment to a Certificate of Adjudication Application No. 12-2879A .....	5247
Notice of an Amendment to a Certificate of Adjudication Application No 14034 .....	5248
Notice of District Petition - D-07032025-014 .....	5248
Notice of District Petition - D-07072025-011 .....	5249
Notice of Opportunity to Comment on a Default Order of Administra- tive Enforcement Actions .....	5250
Notice of Opportunity to Comment on Agreed Orders of Administra- tive Enforcement Actions .....	5250
Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Crystal Clear Special Utility Dis- trict SOAH Docket No. 582-25-24321 TCEQ Docket No. 2023-1498- PWS-E .....	5251
Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Owens Excavation LLC SOAH Docket No. 582-25-22145 TCEQ Docket No. 2024-0047-WQ-E 5252	
Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 39 and 55 and Corresponding Revisions to the State Implementation Plan .....	5253
Notice of Public Meeting Amendment Permit No. WQ0010549002 .....	5254
Notice of Public Meeting Cancellation - WQ0016503001 .....	5254

Notice of Water Quality Application - Minor Amendment WQ0011041002 .....	5255
Update to the Water Quality Management Plan (WQMP) .....	5255
<b>General Land Office</b>	
Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program .....	5255
Notice and Opportunity to Comment on the Coastal Management Program Section 309 Assessment and Strategies Draft Report.....	5256
<b>Department of State Health Services</b>	
Correction of Error.....	5256

<b>Texas Department of Insurance</b>	
Company Licensing .....	5256
<b>State Securities Board</b>	
Notice of Public Hearing .....	5257
<b>Texas State Soil and Water Conservation Board</b>	
Request for Proposals for the Fiscal Year 2026 Clean Water Act §319(H) Nonpoint Source Grant Program.....	5257
<b>Supreme Court of Texas</b>	
Final Approval of Amendments to Texas Rule of Judicial Administration 7 .....	5259





# PROPOSED RULES

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

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

## TITLE 22. EXAMINING BOARDS

### PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

#### CHAPTER 465. RULES OF PRACTICE

##### 22 TAC §465.2

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §465.2, relating to Supervision.

**Overview and Explanation of the Proposed Rule.** The proposed amendments would require supervisors to develop a custody plan for all supervision records in the event of death or disability. The amendments would also require supervisors to develop a written remediation plan to address any deficiencies identified in a supervisee's practice skills. The amendments would require supervisees to provide any remediation plan to current and future supervisors, as well as to notify supervisors of any complaint against the supervisee. Finally, the amendments would remove the requirements that supervisors keep documentation of a supervisee's professional liability insurance coverage.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the

proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**Request for Public Comments.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

#### *§465.2. Supervision.*

(a) Supervision in General. The following rules apply to all supervisory relationships.

(1) Licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.

(2) Licensees shall ensure that their supervisees have legal authority to provide psychological services.

(3) Licensees may delegate only those responsibilities that supervisees may legally and competently perform.

(4) All individuals who receive psychological services requiring informed consent from an individual under supervision must be informed in writing of the supervisory status of the individual and how the patient or client may contact the supervising licensee directly.

(5) All materials relating to the practice of psychology, upon which the supervisee's name or signature appears, must indicate the supervisory status of the supervisee. Supervisory status must be indicated by one of the following:

(A) Supervised by (name of supervising licensee);

(B) Under the supervision of (name of supervising licensee);

(C) The following persons are under the supervision of (name of supervising licensee); or

(D) Supervisee of (name of supervising licensee).

(6) Licensees shall provide an adequate level of supervision to all individuals under their supervision according to accepted professional standards given the experience, skill and training of the supervisee, the availability of other qualified licensees for consultation, and the type of psychological services being provided.

(7) Licensees shall utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. No more than fifty percent of the supervision may take place through remote or electronic means. Licensees may exceed fifty percent remote or electronic supervision if supervision is provided through synchronous audiovisual means.

(8) Licensees must be competent to perform any psychological services being provided under their supervision.

(9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.

(10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.

(11) A supervisor shall establish a plan for the custody and control of the records of supervision for each supervisee in the event of the supervisor's death or incapacity, or the termination of the supervisor's practice.

(12) Licensees receiving supervision who are informed of a pending complaint must notify their supervisors of the complaint.

(13) Supervisors who identify deficits in a supervisee's skills or competencies necessary for safe or entry-level independent practice must immediately develop and implement a written remediation plan to address those deficiencies. If the supervisee changes supervisors during the supervision period, the supervisee must provide the new supervisor with a copy of the remediation plan.

(b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.

(1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.2525(a)(2)(A), or 501.260(b)(3) of the Occupations Code must be under the supervision of a qualified supervising licensee at all times.

(2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.

(3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Council. A licensee shall inform all supervisees of any disciplinary order restricting the licensee's license and assist the supervisees with finding appropriate alternate supervision.

(4) A supervisor must document in writing a supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.

(5) A supervisor may allow a supervisee, as part of a required practicum, internship, or period of supervised experience re-

quired for licensure under Chapter 501, to supervise others in the delivery of psychological services.

(6) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.

(c) Supervision of Provisionally Licensed Psychologists and Licensed Psychological Associates. The following rules apply to all supervisory relationships involving Provisionally Licensed Psychologists and Licensed Psychological Associates.

(1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice unless the provisional licensee is licensed in another state to independently practice psychology and is in good standing in that state.

(2) A Provisionally Licensed Psychologist may, as part of a period of supervised experience required for licensure as a psychologist, supervise others in the delivery of psychological services.

(3) A supervisor must provide at least one hour of individual supervision per week. A supervisor may reduce the amount of weekly supervision on a proportional basis for supervisees working less than full-time.

(d) Supervision of Licensed Specialists in School Psychology interns and other individuals authorized by §463.9(g)(1) of this title ~~[(relating to Licensed Specialist in School Psychology):]~~. The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and other individuals authorized by §463.9(g)(1) of this title, working toward licensure as a specialist in school psychology.

(1) Supervision within the public schools may only be provided by a Licensed Specialist in School Psychology who has a minimum of 3 years of experience providing psychological services within the public school system without supervision. To qualify, a licensee must be able to show proof of their license, credential, or authority to provide unsupervised school psychological services in the jurisdiction where those services were provided, along with documentation from the public school(s) evidencing delivery of those services.

(2) Supervisors must sign educational documents completed for students by the supervisee, including student evaluation reports, or similar professional reports to consumers, other professionals, or other audiences. It is not a violation of this rule if supervisors do not sign documents completed by a committee reflecting the deliberations of an educational meeting for an individual student which the supervisee attended and participated in as part of the legal proceedings required by federal and state education laws, unless the supervisor also attended and participated in such meeting.

(3) Supervisors shall document all supervision sessions. This documentation must include information about the duration of sessions, as well as the focus of discussion or training. The documentation must also include information regarding:

(A) any contracts or service agreements between the public school district and university school psychology training program;

(B) any contracts or service agreements between the public school district and the supervisee;

~~[(C) the supervisee's professional liability insurance coverage, if any;]~~

(C) ~~[(D)]~~ any training logs required by the school psychology training program; and

~~(D)~~ ~~[(E)]~~ the supervisee's licensure status or legal authority to provide psychological services.

(4) Supervisors must ensure that each individual completing any portion of the internship required for licensure as an LSSP, is provided with a written agreement that includes a clear statement of the expectations, duties, and responsibilities of each party, including the total hours to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.

(5) Supervisors must ensure that supervisees have access to a process for addressing serious concerns regarding a supervisee's performance. The process must protect the rights of clients to receive quality services, assure adequate feedback and opportunities for improvement to the supervisee, and ensure due process protection in cases of possible termination of the supervisory relationship.

(e) The various parts of this rule should be construed, if possible, so that effect is given to each part. However, where a general provision conflicts with a more specific provision, the specific provision shall control.

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502661

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## 22 TAC §465.34

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §465.34, relating to Providing Mental Health Services to Those Served by Others.

Overview and Explanation of the Proposed Rule. The proposed amendment requires a licensee, with the consent of a client, to attempt to form a collaborative relationship with any other mental health service provider seen by that client, rather than establishing a strict requirement that a licensee consult with the other provider.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**Request for Public Comments.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§465.34. Providing Mental Health Services to Those Served by Others.*

Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. If the client consents, a licensee shall inform the other professional and strive to establish a positive and collaborative professional relationship. [Licensees shall consult with the other service providers after appropriate consent has been obtained.]

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502662

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



# PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

## CHAPTER 681. PROFESSIONAL COUNSELORS

### SUBCHAPTER C. APPLICATION AND LICENSING

#### 22 TAC §681.91

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Licensed Professional Counselors proposes amendments to §681.91, relating to LPC Associate License.

**Overview and Explanation of the Proposed Rule.** The proposed amendments clarify rule language regarding supervised LPC Associate practice into more plain, direct language. The amendments confirm that a person cannot provide counseling services without a proper license and that an Associate may own and operate a private practice only under supervision. The amendments require an Associate to notify the Council and their supervisors when changing supervisors. The amendments require Associates to notify the supervisors of any pending complaints against the Associate, and to share a copy of any remediation plan with all current and future supervisors.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not

required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**Request for Public Comments.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for

license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§681.91. LPC Associate License.*

(a) The Council may issue an LPC Associate license to an applicant who has:

- (1) filed all application forms and paid all applicable fees;
- (2) met all of the academic requirements for licensure;
- (3) completed the required examinations with the requisite score as described in §681.72(a)(3) and ~~(4) [(a)(4)] of this title; [(relating to Required Application Materials)]~~
- (4) entered into a supervisory agreement with a Licensed Professional Counselor Supervisor (LPC-S); and
- (5) not completed the supervised experience described in §681.92 of this title. ~~[(relating to Experience Requirements (Internship))].~~

(b) An LPC Associate must comply with all provisions of the Act and Council rules.

(c) ~~A [To practice counseling in Texas, a] person must obtain an LPC Associate license before practicing counseling in Texas under supervision to gain hours toward the supervised experience required for an LPC license. [the person begins an internship or continues an internship.]~~ Hours obtained by an unlicensed person in any setting will not count toward the supervised experience requirements.

(d) An LPC Associate may practice counseling ~~[only as part of his or her internship and]~~ only under the supervision of a Licensed Professional Counselor Supervisor (LPC-S). The LPC Associate shall not engage in independent practice, but may own and operate a private practice while under supervision.

(e) Within 30 days of changing or adding supervisors, an LPC Associate must:

- (1) submit to the Council a new Supervisory Agreement Form for that supervisor, and
- (2) notify their current supervisor(s).

(f) ~~[(e)]~~ An LPC Associate may have no more than two (2) Council-approved LPC supervisors at any given time.

(g) ~~[(f)]~~ An LPC Associate must maintain their LPC Associate license during ~~[his or her]~~ supervised experience.

(h) ~~[(g)]~~ An LPC Associate license will expire 60 months from the date of issuance.

(i) ~~[(h)]~~ An LPC Associate who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure to continue accruing supervised experience.

(j) ~~[(i)]~~ An LPC Associate must continue to be supervised after completion of the 3,000 hours of supervised experience and until the LPC Associate receives an [his or her] LPC license. Supervision is complete upon the LPC Associate receiving the LPC license.

(k) During supervised clinical experience, both the supervisor and the LPC Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules. If an LPC Associate is informed of a pending complaint against them, the LPC Associate must notify each supervisor of the complaint.

(l) ~~[(j)]~~ The possession, access, retention, control, maintenance, and destruction of client records is the responsibility of the person or entity that employs or contracts with the LPC Associate, or in those cases where the LPC Associate is self-employed, the responsibility of the LPC[-]Associate.

(m) ~~[(k)]~~ An LPC Associate must not employ a supervisor but may compensate the supervisor for time spent in supervision if the supervision is not a part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(n) If an LPC Associate receives a remediation plan, as described in §681.93(e) of this title, the Associate must provide a copy of the remediation plan to any other current or future supervisors, as well as any relevant documentation regarding successful completion of the plan.

(o) ~~[(l)]~~ All billing documents for services provided by an LPC Associate must reflect the LPC Associate holds an LPC Associate license and is under supervision.

(p) ~~[(m)]~~ The LPC Associate must not represent himself or herself as an independent practitioner. The LPC Associate's name must be followed by a statement such as "supervised by (name of supervisor)" or a statement of similar effect, together with the name of the supervisor. This disclosure must appear on all marketing materials, billing documents, and practice related forms and documents where the LPC Associate's name appears, including websites and intake documents.

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502663

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## 22 TAC §681.93

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Licensed Professional Counselors proposes amendments to §681.93, relating to Supervisor Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendment requires an LPC supervisor to document the duration of supervision sessions and the locations at which an Asso-

ciate will practice as part of their supervision file. The amendments also clarify the actions a supervisor must take if their supervisor status is revoked.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**Request for Public Comments.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7-300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§681.93. Supervisor Requirements.*

(a) A supervisor must keep a written record of each supervisory session in the file for the LPC Associate.

(1) The supervisory written record must contain:



(A) a signed and dated copy of the Council's supervisory agreement form for [each of] the LPC Associate; [~~Associate's supervisors;~~]

(B) a copy of the LPC Associate's online license verification noting the dates of issuance and expiration;

(C) fees and record of payment;

(D) the date and duration of each supervisory session;

(E) a record of an LPC Associate's leave of one month or more, documenting the supervisor's approval and signed by both the LPC Associate and the supervisor;

(F) a record of any concerns the supervisor discussed with the LPC Associate, including a written remediation plan as prescribed in subsection (e) of this section; [~~and~~]

(G) a record of acknowledgement that the supervisee is self-employed, if applicable; and [-]

(H) a record of all locations at which the LPC Associate will practice.

(2) The supervisor must provide a copy of all records to the LPC Associate upon request.

(b) Both the LPC Associate [~~LPC-Associate~~] and the [~~supervising~~] LPC supervisor [~~LPC-S~~] are fully responsible for the professional counseling activities of the LPC Associate [~~LPC-Associate~~]. The LPC supervisor [~~LPC-S~~] may be subject to disciplinary action for violations that relate only to the professional practice of counseling committed by the LPC Associate [~~LPC-Associate~~] which the LPC supervisor [~~LPC-S~~] knew about or due to the oversight nature of the supervisory relationship should have known about.

(1) Supervisors must review all provisions of the Act and Council rules in this chapter during supervision.

(2) The supervisor must ensure the LPC Associate is aware of and adheres to all provisions of the Act and Council rules.

(c) The supervisor must avoid any relationship that impairs the supervisor's objective, professional judgment.

(1) The supervisor may not be related to the LPC Associate within the second degree of affinity or within the third degree of consanguinity.

(2) The supervisor may not be an employee of his or her LPC Associate.

(d) The supervisor must submit to the Council accurate documentation of the LPC Associate's supervised experience within 30 days of the end of supervision or the completion of the LPC Associate's required hours, whichever comes first.

(e) If a supervisor determines the LPC Associate may not have the counseling skills or competence to practice professional counseling under an LPC license, the supervisor will develop and implement a written plan for remediation of the LPC Associate, which must be reviewed and signed by the LPC Associate and maintained as part of the LPC Associate's file.

(f) The supervisor must ensure the supervised counseling experience of the LPC Associate were earned:

(1) after the LPC Associate license was issued; and

(2) in not less than 18 months of supervised counseling experience.

(g) A supervisor whose license has expired is no longer an approved supervisor and:

(1) must immediately inform all LPC Associates under their [~~his or her~~] supervision and assist the LPC Associates in finding alternate supervisors; and

(2) must refund all supervisory fees for supervision after the expiration of the supervisor status.

(3) Hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.

(h) Upon execution of a Council order for probated suspension, suspension, or revocation of the LPC license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked:

(1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and

(2) must refund all supervisory fees for supervision after the date the supervisor status is revoked; and

(3) hours accumulated under the person's supervision after the date the supervisor status is revoked [~~of license expiration~~] may not count as acceptable hours.

(i) Supervision of an LPC Associate without having Council approved supervisor status is grounds for disciplinary action

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502664

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

### CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

#### SUBCHAPTER B. RULES OF PRACTICE

##### 22 TAC §801.44

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapist proposes amendments to §801.44, relating to Relationships with Clients.

Overview and Explanation of the Proposed Rule. The proposed amendment would require a licensee who provides services to a client who concurrently receives services from another provider to seek consent from the client to contact the other provider

and to strive to establish a collaborative relationship with that provider.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**REQUEST FOR PUBLIC COMMENTS.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.44. Relationships with Clients.*

(a) A licensee must provide marriage and family therapy professional services only in the context of a professional relationship.

(b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the council, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).

(c) A licensee must obtain an appropriate consent for treatment before providing professional services. A licensee must make reasonable efforts to determine whether the conservatorship, guardianship, or parental rights of the client have been modified by a court. Before the commencement of therapy services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order in a suit affecting the parent-child relationship. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian before providing services to a minor, such as in Texas Family Code, Chapter 32, a licensee must follow the protocol set forth in such federal or state statutes.

(d) A licensee must make known in writing to a prospective client the confidential nature of the client's disclosures and the clinical record, including the legal limitations of the confidentiality of the mental health record and information.

(e) No commission or rebate or any other form of remuneration may be given or received by a licensee for the referral of clients for professional services. A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in Texas Health and Safety Code, §164.006.

(f) A licensee may not exploit the licensee's position of trust with a client or former client.

(g) A licensee may not engage in activities that seek to meet the licensee's personal needs instead of the needs of the client.

(h) A licensee may not provide marriage and family therapy services to family members, personal friends, educational associates, business associates, or others whose welfare might be jeopardized by such a dual relationship.

(i) A licensee must set and maintain professional boundaries with clients and former clients.

(j) A licensee may disclose confidential information to medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.

(k) In group therapy settings, the licensee must take reasonable precautions to protect individuals from physical or emotional trauma resulting from interaction within the group.

(l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee, the client, or former client for the purposes of establishing a social, business, or other relationship not related to therapy. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.

(m) A licensee may not bill clients or third parties for services not actually rendered or as agreed to in writing.

(n) A licensee must end a professional relationship when it is reasonably clear the client is not benefiting from it. Upon ending a professional relationship, if the client still requires mental health services, the licensee must make reasonable efforts to provide a written referral

to clients for appropriate services and to facilitate the transfer to appropriate care.

(o) A licensee who engages in technology-assisted services must provide the client with the licensee's license number and information on how to contact the council by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.

(p) A licensee may not offer services that are beyond the licensee's professional competency, and the services provided must be within accepted professional standards of practice and appropriate to the needs of the client. In emerging areas in which generally recognized standards for preparatory training do not exist, licensees must take reasonable steps to ensure the competence of their work and to protect clients, research participants, and other affected individuals from the potential for harm.

(q) A licensee must base all services on an assessment, evaluation, or diagnosis of the client.

(r) A licensee must evaluate a client's progress on a continuing basis to guide service delivery and must make use of supervision and consultation as indicated by the client's needs.

(s) A licensee may not knowingly offer or provide professional services to an individual concurrently receiving professional services from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee must immediately request release from the client [take immediate and reasonable action] to inform the other mental health services provider and strive to establish a positive and collaborative professional relationship.

(t) A licensee may not aid or abet the unlicensed practice of marriage and family therapy services by a person required to be licensed under the Act. A licensee must report to the council knowledge of any unlicensed practice.

(u) A licensee may not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client, if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

(v) A licensee must refrain from providing services when they know or should know that their physical or mental health or lack of objectivity are likely to impair their competency or harm a client or other person with whom they have a professional relationship.

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

Filed with the Office of the Secretary of State on July 28, 2025.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.142

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.142, relating to Supervised Clinical Experience Requirements and Conditions.

**Overview and Explanation of the Proposed Rule.** The proposed amendments would require an LMFT Associate who becomes the subject of a complaint to notify their supervisor of the complaint. The amendments also clarify an Associate must file a Supervisory Agreement Form with the Council for each supervisor. The amendments would also require an Associate that receives a remediation plan to share a copy of that plan with any other current or future supervisors.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government

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

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**REQUEST FOR PUBLIC COMMENTS.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which re-

quires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.142. Supervised Clinical Experience Requirements and Conditions.*

An applicant for LMFT must complete supervised clinical experience acceptable to the council.

(1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy, which includes a minimum of 3,000 hours of supervised clinical practice. The required 3,000 hours must include at least 1,500 hours providing direct clinical services, of which:

(A) no more than 750 hours may be provided via technology-assisted services (as approved by the supervisor); and

(B) at least 500 hours must be providing direct clinical services to couples or families.

(2) The remaining required hours, not covered by paragraph (1) above, may come from related experiences, including workshops, public relations, writing case notes, consulting with referral sources, etc.

(3) An LMFT Associate must obtain a minimum of 200 hours of supervision by an LMFT-S during the required 3,000 hours, and at least 100 of these hours must be individual supervision.

(A) An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.

(B) Supervision may be provided in person or by live video or, if the supervisor determines that in-person or live video supervision is not accessible, by telephone.

(C) An LMFT Associate may apply up to 100 graduate internship supervision hours toward the required 200 hours of supervision required for licensure as an LMFT.

(4) For an LMFT applicant who begins the graduate degree program used for their license application before September 1, 2025, staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.

(A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families, completed under a non-COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(5) An LMFT Associate may practice marriage and family therapy in any setting under supervision, such as a private practice, public or private agencies, hospitals, etc.

(6) During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules. If an LMFT Associate is informed

of a pending complaint against them, they must notify each of their supervisors of the complaint.

(7) Within 30 days of initiating [the initiation of] supervision with any LMFT supervisor, an LMFT Associate must submit to the council a Supervisory Agreement Form. [for each council approved supervisor.]

(8) An LMFT Associate may have no more than two LMFT [council-approved] supervisors at a time, unless given prior approval by the council or its designee.

(9) Applicants with a master's degree that qualifies under [§§801.112 and §801.113 of this title], may count any supervision and experience (e.g., practicum, internship, externship) completed after conferral of the master's degree and as part of a doctoral program, toward the supervision and experience requirements set out in §801.142. A doctoral program must lead to a degree that qualifies under [§§801.112 and §801.113 of this title], before the Council will award credit for supervision and experience under this provision.

(10) If an LMFT Associate receives a remediation plan, as described in §801.143(f)(4) of this title, the Associate must provide a copy of the remediation plan to any other current or future supervisors, as well as any relevant documentation regarding successful completion of the plan.

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502666

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## 22 TAC §801.143

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.143, relating to Supervisor Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendment would clarify that a supervisor may share a copy of a remediation plan with any other supervisor of an LMFT Associate. The amendment would also clarify the actions a licensee must take upon the loss of supervisor status, either through a disciplinary revocation or a lapse in active licensure.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that

for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**REQUEST FOR PUBLIC COMMENTS.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§801.143. Supervisor Requirements.*

(a) To apply for supervisor status, an LMFT must be in good standing and submit:

- (1) an application and applicable fee;
- (2) documentation of the completion of at least 3,000 hours of LMFT practice over a minimum of 3 years; and
- (3) documentation of one of following:
  - (A) successful completion of a 3-semester-hour, graduate course in marriage and family therapy supervision from an accredited institution;
  - (B) a 40-hour continuing education course in clinical supervision; or
  - (C) successful completion of an American Association for Marriage and Family Therapy (AAMFT) approved Fundamentals of Supervision course.

(b) A supervisor may not be employed by the person he or she is supervising.

(c) A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.

(d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:

(1) a photocopy of the submitted Supervisory Agreement Form;

(2) proof of council approval of the Supervisory Agreement Form;

(3) a record of all locations at which the LMFT Associate will practice;

(4) a dated and signed record of each supervision conference with the LMFT Associate's total number of hours of supervised experience, direct client contact hours, and direct client contact hours with couples or families accumulated up to the date of the conference;

(5) an established plan for the custody and control of the records of supervision for each LMFT Associate in the event of the supervisor's death or incapacity, or the termination of the supervisor's practice; and

(6) a copy of any written plan for remediation of the LMFT Associate.

(e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council.

(f) Both the LMFT Associate and the ~~[council-approved]~~ supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.

(1) The supervisor must ensure the LMFT Associate knows and adheres to all statutes and rules that govern the practice of marriage and family therapy.

(2) A supervisor must maintain objective, professional judgment; a dual relationship between the supervisor and the LMFT Associate is prohibited.

(3) A supervisor may only supervise the number of individuals for which the supervisor can provide adequate supervision.

(4) If a supervisor determines the LMFT Associate may not have the therapeutic skills or competence to practice marriage and family therapy under an LMFT license, the supervisor must develop and implement a written plan for remediation of the LMFT Associate. A supervisor may share a remediation plan developed for an LMFT Associate with any other current or future supervisors of that Associate.

(5) A supervisor must timely submit accurate documentation of supervised experience.

(g) Supervisor status expires with the LMFT license.

(h) A supervisor who fails to meet all requirements for licensure renewal may not advertise or represent themselves as a supervisor in any manner.

(i) A supervisor whose license status is other than "active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date their license status changed from "active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council.

(j) Upon execution of a Council order for probated suspension, suspension, or revocation of the LMFT license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked, or who fails to maintain an active license, must:

(1) inform each LMFT Associate of the loss of supervisor status; ~~[council disciplinary order];~~

(2) refund all supervisory fees received after date of loss of supervisor status ~~[the council disciplinary order was ratified to the LMFT Associate who paid the fees]~~; and

(3) assist each LMFT Associate in finding alternate supervision.

(k) Supervision of an LMFT Associate without being currently approved as a supervisor is grounds for disciplinary action.

(l) The LMFT Associate may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(m) At a minimum, the 40-hour continuing education course in clinical supervision, referenced in subsection (a)(3)(B) of this section, must meet each of the following requirements:

(1) the course must be taught by a graduate-level licensee holding supervisor status issued by the Council;

(2) all related coursework and assignments must be completed over a time period not to exceed 90 days; and

(3) the 40-hour supervision training must include at least:

(A) three (3) hours for defining and conceptualizing supervision and models of supervision;

(B) three (3) hours for supervisory relationship and marriage and family therapist development;

(C) twelve (12) hours for supervision methods and techniques, covering roles, focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (race, ethnic, and gender issues), and evaluation methods;

(D) twelve (12) hours for supervision and standards of practice, codes of ethics, and legal and professional issues; and

(E) three (3) hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.

~~[(n) Subsection (m) of this section is effective May 1, 2023.]~~

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502667

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

## CHAPTER 882. APPLICATIONS AND LICENSING

### SUBCHAPTER A. LICENSE APPLICATIONS

#### 22 TAC §882.1

The Texas Behavioral Health Executive Council proposes amendments to §882.1, relating to Application Process.

**Overview and Explanation of the Proposed Rule.** The proposed amendment will standardize the expiration of incomplete license applications at 180 days from the date of receipt.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government

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

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**REQUEST FOR PUBLIC COMMENTS.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

#### *§882.1. Application Process.*

Applications for licensure are processed in the following manner:

(1) Applicants must submit for review an official application form, the corresponding application fee, and all information required by law to the Council. The responsibility for submitting a complete application resides solely with the applicant. An application submitted with the incorrect fee amount will be returned to the applicant.

(2) Applications are reviewed in the order in which they are received, unless the applicant qualifies for expedited processing under §55.005 of the Occupations Code. Applicants who qualify for expedited processing will have their applications processed as soon as practicable. The Council will notify applicants of any deficiency in their application.

(3) Applications for licensure [under Chapters 502, 503, and 505 of the Occupations Code] which are incomplete [will be held open for one year from the date of receipt; after which, if still incomplete, they will expire. Applications for licensure under Chapter 501



of the Occupations Code which are incomplete] will be held open for 180 [90] days from the date of receipt, after which, if still incomplete, they will expire. If licensure is sought after an application has expired, a new application and filing fee must be submitted.

(4) Applications containing a substantive problem with an applicant's qualifications that cannot be resolved by reviewing staff shall proceed through the following chain of review until such matter is resolved to the agency's satisfaction:

(A) Reviewing staff's immediate supervisor;

(B) Licensing Manager;

(C) Executive Director;

(D) Committee established by the member board for the profession charged with addressing application or licensing matters; and

(E) Full member board for the profession

(5) Once an application is complete, the applicant is either approved or denied to sit for any required examinations, or approved or denied licensure. Agency staff will send out a letter reflecting the agency's determination and instructions for the next steps needed, if any.

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

Filed with the Office of the Secretary of State on July 28, 2025.

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Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

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For further information, please call: (512) 305-7706



## 22 TAC §882.2

The Texas Behavioral Health Executive Council proposes amendments to §882.2, relating to General Application File Requirements.

**Overview and Explanation of the Proposed Rule.** The proposed amendment will specify that calculation of time periods for licensed experience shall begin when the relevant license is issued. The amendments will also clarify that proration of experience requirements during less than full-time experience is allowed.

**Fiscal Note.** Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

**Public Benefit.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public

benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

**Probable Economic Costs.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

**Small Business, Micro-Business, and Rural Community Impact Statement.** Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**REQUEST FOR PUBLIC COMMENTS.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§882.2. General Application File Requirements.*

(a) To be complete, an application file must contain all information needed to determine an applicant's eligibility to sit for the required examinations, or the information and examination results needed to determine an applicant's eligibility for licensure. At a minimum, all applications for licensure must contain:

(1) An application in the form prescribed by the Council based on member board rules and corresponding fee(s);

(2) An official transcript from a properly accredited institution indicating the date the degree required for licensure was awarded or conferred. Transcripts must be received by the Council directly from the awarding institution, a transcript or credential delivery service, or a credentials bank that utilizes primary source verification;

(3) A fingerprint based criminal history record check through the Texas Department of Public Safety and the Federal Bureau of Investigation;

(4) A self-query report from the National Practitioner Data Bank (NPDB) reflecting any disciplinary history or legal actions taken against the applicant. A self-query report must be submitted to the agency as a PDF that ensures the self-query is exactly as it was issued by the NPDB (i.e., a digitally certified self-query response) or in the sealed envelope in which it was received from the NPDB;

(5) Verification of the citizenship and immigration status information of non-citizen, naturalized, or derived U.S. citizen applicants through the DHS-USCIS Systematic Alien Verification for Entitlements Program (SAVE). Applicants must submit the documentation and information required by the SAVE program to the Council;

(6) Examination results for any required examinations taken prior to applying for licensure;

(7) Documentation of any required supervised experience, supervision plans, and agreements with supervisors; and

(8) Any other information or supportive documentation deemed relevant by the Council and specified in its application materials.

(b) The Council will accept examination results and other documentation required or requested as part of the application process from a credentials bank that utilizes primary source verification.

(c) The Council may rely upon the following when verifying information from another jurisdiction: official written verification received directly from the other jurisdiction; a government website re-

flecting the information (e.g., active licensure and good standing); or verbal or email verification directly from the other jurisdiction.

(d) For purposes of calculating time periods related to experience requirements completed while holding a license, the Council shall consider the time period to begin at the issuance of the relevant license.

(e) The Council shall allow proration of licensure time requirements (e.g., supervision hours to experience hours) for applicants working less than full time, provided the full-time requirement ratio is maintained and no other licensure requirements are violated.

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502659

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 305-7706



## SUBCHAPTER B. LICENSE

### 22 TAC §882.21

The Texas Behavioral Health Executive Council proposes amendments to §882.21, relating to License Statuses.

Overview and Explanation of the Proposed Rule. The proposed amendment will allow licensees with a delinquent license to transfer that license into inactive status.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the

Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**REQUEST FOR PUBLIC COMMENTS.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on September 7, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Applicable Legislation.** This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires

state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

*§882.21. License Statuses.*

(a) **Active Status.** Any licensee with a license on active status may practice pursuant to that license, subject to any restrictions imposed by the Council.

(b) **Inactive Status.**

(1) A licensee with an unrestricted active or delinquent license may elect inactive status through the Council's online licensing system. A licensee who elects inactive status must pay the associated fee. A licensee may not engage in the practice of the licensee's respective profession under an inactive license.

(2) A licensee with an inactive license is not required to comply with continuing education requirements while the license is inactive.

(3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire, unless there is a complaint pending against the license. An inactive license with a pending complaint that has not been renewed or returned to active status within the renewal period will remain in inactive status until resolution of the complaint. Upon resolution, the license shall be subject to any resulting disciplinary action and, if not revoked or resigned, shall expire.

(4) In order to continue on inactive status, an inactive licensee must renew the inactive status each renewal period. Licensees may renew their inactive status through the Council's online licensing system by completing the online renewal requirements and paying the associated fee.

(5) A licensee with a pending complaint may not place a license on inactive status. The Council may sanction a license on inactive status for violations of its rules. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.

(6) An inactive license may be reactivated at any time by applying for active status through the online licensing system. When reactivating a license, a licensee must pay the renewal fee associated with the license. A license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.

(7) Any licensee reactivating a license from inactive status must provide proof of completion of the continuing education requirements for renewal of that particular license before reactivation will occur.

(8) A licensee wishing to reactivate a license that has been on inactive status for four years or more must take and pass the relevant jurisprudence exam with the minimum acceptable score, unless the licensee holds another license on active status within the same profession.

(c) **Delinquent Status.** A licensee who fails to renew a license for any reason when required is considered to be on delinquent status. A licensee may not engage in the practice of the licensee's respective profession under a delinquent license. The Council may sanction a

delinquent licensee for violations of its rules. Any license delinquent for more than 12 consecutive months may not be renewed and shall expire unless there is a complaint pending against the license. A license with a pending complaint that has been delinquent for more than 12 months will remain in delinquent status until resolution of the complaint. Upon resolution, the license shall be subject to any resulting disciplinary action and, if not revoked or resigned, shall expire.

(d) **Restricted Status.** Any license that is currently suspended, on probated suspension, or is currently required to fulfill some requirements in an agency order is a restricted license. A licensee may not engage in the practice of the licensee's respective profession under a suspended license. A licensee who is under a probated suspension or other restriction may only practice under the terms of that restriction.

(e) **Retirement Status.** A licensee who is on active, inactive, or delinquent status may retire the license by submitting an online application to the Council. However, a licensee with a pending complaint or restricted license may not retire the license. A licensee who retires a license shall be reported to have retired in good standing. A licensee may not engage in the practice of the licensee's respective profession under a retired license.

(f) **Resignation Status.** A licensee may resign only upon express agreement with the Council. A licensee may not engage in the practice of the licensee's respective profession under a resigned license.

(g) **Expired Status.** A license that has been delinquent for more than 12 consecutive months or any inactive license that is not renewed or reactivated is considered to be expired, except delinquent or inactive licenses pending complaint resolution. A licensee may not engage in the practice of the licensee's respective profession under an expired license.

(h) **Revoked Status.** A revoked status results from a license being revoked pursuant to an agency order. A licensee may not engage in the practice of the licensee's respective profession under a revoked license.

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

Filed with the Office of the Secretary of State on July 28, 2025.

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Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

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For further information, please call: (512) 305-7706



## **TITLE 30. ENVIRONMENTAL QUALITY**

### **PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

#### **CHAPTER 39. PUBLIC NOTICE**

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes new §§39.1, 39.405, 39.409, 39.419, 39.422, 39.501, 39.503, 39.606, 39.804; and amendments to §§39.402, 39.403, 39.405, 39.407, 39.411, 39.412, 39.419, 39.420, 39.423, 39.425, 39.426, 39.501, 39.503, 39.509, 39.510, 39.551, 39.553, 39.601, 39.603, 39.604, 39.605, 39.651, 39.707, 39.803, 39.804, 39.807, 39.808,

39.809, 39.810, 39.902, 39.903, 39.1003, 39.1005, 39.1009, and 39.1011.

If adopted, proposed new §§39.1, 39.405, 39.409, 39.419, and 39.606, and amended §§39.402, 39.405, 39.407, 39.411, 39.412, 39.419, 39.420, 39.426, 39.601, 39.603, 39.604, and 39.605 and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).

#### **Background and Summary of the Factual Basis for the Proposed Rules**

TCEQ underwent Sunset review during the 88th Regular Legislative Session, 2023. The Sunset bill, SB 1397, continuing TCEQ, included provisions requiring changes to TCEQ's public participation rules, which are found primarily in Title 30 Texas Administrative Code (TAC) Chapters 39, Public Notice, and 55, Requests for Reconsideration and Contested Case Hearings; Public Comment.

The agency engaged in an extended stakeholder process for this rulemaking. A hybrid virtual/in-person stakeholder meeting was held in Austin on July 15, 2024, with in-person meeting rooms also open in TCEQ regional offices in Midland and Harlingen. Spanish-language interpretation was available for this meeting. In-person meetings were held in Arlington on July 16, 2024, and in Houston on July 18, 2024. Because the July 18, 2024, meeting in Houston was shortly after the city experienced Hurricane Beryl, a second in-person meeting was held in Houston on October 3, 2024. Professional Spanish-language interpretation was available at both Houston meetings, and an agency interpreter was available for Spanish language assistance at the Arlington meeting. Stakeholder comments were accepted until October 8, 2024. The agency received robust participation from stakeholders during this process, receiving many comments and suggestions for changes to improve the agency's public participation rules.

The TCEQ Sunset bill required the extension of the public comment period and opportunity to request a hearing for a subset of air quality permit applications. Specifically, air quality permit applications that are required to publish notice in a consolidated Notice of Receipt of Application and Intent to Obtain Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) (consolidated notice) must extend the close of the comment period and the opportunity to request a contested case hearing to at least 36 hours following the public meeting held on the permit application. The Sunset bill also required TCEQ to post permit applications electronically on TCEQ's website and make these available to the public.

During the stakeholder process, a large number of comments requested that the extension of the comment period and opportunity to request a contested case hearing following a public meeting be given to all types of permit applications. Although many other comments were beyond the scope of the current rulemaking, there was a general request to make the rules less confusing and more helpful to the public participation process. The proposed amendments to Chapter 39, along with the companion rulemaking proposing changes to Chapter 55, seek to improve and clarify the rules in addition to satisfying the requirements of the Sunset bill.

The proposed rulemaking will remove obsolete date references throughout Chapter 39 and correct minor grammatical issues to reflect current correct usage. A new Subchapter A for definitions will be added to define several commonly used terms. Updates

to notice requirements are proposed that will require the addition of an email address to the information for an agency contact. The agency has already implemented the Sunset bill requirement to electronically post administratively and technically complete applications on its website. Information about the availability of this information and how to find it is proposed to be added to the text of required notices. Additionally, provisions are proposed to be re-structured for ease of reading comprehension in some places where the current rule is in paragraph form.

The proposed rules will also make clear that required sign posting must remain in place throughout the permit review process from the beginning until final action is taken on a permit application. This can be final action by the commission, voidance of an application, or withdrawal of an application by the applicant. Also, documents required to be posted by applicants in a public place must remain in place throughout the permit review process from the beginning until a final action is taken on a permit application. These proposed changes make explicit in the rule language the agency's policy to make application information available throughout the comment period, and the changes are intended to reduce confusion on the part of both the public and the regulated industry. The commission is also proposing to add a new subsection in Subchapter H to detail how the commission will provide notice to the public when a comment period is extended.

The comment period and deadline to submit comments and request a contested case hearing will be extended for at least 36 hours following the close of a public meeting for air quality permits that have consolidated notice, as required by the Sunset bill, that are received on or after March 1, 2026. Because permit applications are being submitted and reviewed constantly, the new rule requirements need an implementation date by which the new rules will apply to permit applications. The commission is proposing that this date will be March 1, 2026, for this new requirement and July 1, 2026 for other proposed new requirements. The commission is specifically soliciting comment on the appropriateness of these dates as implementation dates for the proposed new requirements.

For air quality permit applications for a renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted, and the application does involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code (TWC), §5.753 and §5.754 and the commission's rules in 30 TAC Chapter 60, relating to Compliance History, the comment period is for 15 days following a single notice; and a request for a contested case hearing must be received during this period to be considered timely. However, the rules are silent as to the impact of a poor compliance history on the comment period. Therefore, the commission is proposing to specify that if an application for a renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the applicant's compliance history is in the lowest classification under TWC, §5.753 and §5.754 and the commission's rules in 30 TAC Chapter 60, then the comment period would be extended to 30 days or within 30 days of filing of the executive director's RTC. This is implied by the current rule language that differentiates an applicant that does not have a compliance history that is in the lowest classification, but the proposed change is intended to reduce confusion among both the public and regulated industry stakeholders by making the difference explicit.

Currently, the information about how to request a contested case hearing for air quality applications is found only in Subchapter H, §39.411. This can be a source of confusion for all stakeholders seeking to understand the public participation processes for air quality permit applications. To make this information easier to access, the commission is proposing a new section in Subchapter K, Public Notice of Air Quality Permit Applications. The new section is proposed to have the information about requesting a public meeting, a notice and comment hearing, and a contested case hearing for those air quality permit applications for which these opportunities exist.

Comments were also received during the stakeholder process about the difficulties of reading posted signs for air quality permit applications. Agency experience is that often the posted signs are one of the first ways that the public becomes aware of a potential new plant being built. However, the signs can be difficult to read from the road. The commission is proposing to increase the size of these signs. The Municipal Solid Waste (MSW) program also has sign-posting requirements, with a larger required size than currently required for air quality permit applications. The proposed rules would increase the size of the required signs to 48 inches by 48 inches, with a minimum size of 3 inches for lettering, consistent with the current requirements in the MSW program. The commission is specifically soliciting comments on the proposed change, including the proposed size of the signs.

## Section by Section Discussion

### *New Subchapter A. Definitions*

The commission is proposing a new Subchapter A, Definitions, to provide clarity relating to commonly used terms in Chapter 39. Proposed new §39.1(1) - (8) defines administratively complete application, contested case hearing, notice and comment hearing, public comment, public meeting, response to comment, request for reconsideration, and technically complete application.

### *Subchapter H. Applicability and General Provisions.*

The commission is proposing to delete §39.402(a)(10) as obsolete. The deadline of January 1, 2018 in this provision has passed, and the commission has no FutureGen applications to which this provision applies. The commission is specifically soliciting comment on the appropriateness of this deletion. The remaining §39.402(a)(11) and (12) are proposed to be re-numbered to (a)(10) and (11), and (b)(2) is proposed to be amended to update the reference to reflect the change in numbering. The commission is also proposing to delete obsolete language in §39.403(a).

The commission is proposing to amend §39.405(g)(1) and (2) to add clarifying language to make clear that an application must remain available for the entirety of the time an application is under review and to amend §39.405(g)(3) to replace "issues" with "the application" to be more accurate. New §39.405(l) adds new language for applications that are administratively complete on or after June 1, 2024, to require the executive director to make the administratively complete and technically complete applications available on the commission's website until final action is taken on an application and there is no further opportunity for commission review. This requirement exempts materials that would be overly burdensome or too large for posting on the commission's website, as allowed by SB 1397. The date in this section of the rule is the date on which the commission began making applications electronically available, as required by SB 1397.

Proposed amendment to §39.407 improves clarity and requires that persons requesting to be on the mailing list provide a valid mailing address.

The commission proposes to restructure §39.409 as new language is proposed to be added. Proposed new §39.409(a) is the current existing language. Proposed new (b) clarifies when comments must be received to be considered timely. Proposed new (c) states that the executive director may extend a comment period for any reason; and new (d) states that when a comment period is extended, the requirements of §39.422, relating to Notice of Extension of Comment Period, will apply.

The proposed amendment to §39.411(b)(1) requires an email address for the agency contact. Proposed amendments to §39.411(b)(5) re-word and re-structure for improved readability. The proposed amendment to §39.411(b)(8) requires, for applications administratively complete on or after May 1, 2026, a statement that a copy of the administratively complete application can be found online at the commission's website; and the location of the website must be included in the notice.

Proposed amendments to §39.411(c)(2) re-word and re-structure for improved readability. The proposed amendment to §39.411(c)(5) requires, for applications administratively complete on or after May 1, 2026, a statement that a copy of the technically complete application can be found online at the commission's website; and the location of the website must be included in the notice. Amendments to §39.411(d)(3) are proposed to re-word and re-structure for improved readability.

An amendment to §39.411(e)(1) adds the requirement for an email address for an agency contact. An amendment to §39.411(e)(5) fixes a language issue that appears to be missing punctuation and words that makes the current language confusing. The proposed amendment to §39.411(e)(11)(A)(iv) replaces the date of January 1, 2017, with March 1, 2026. Proposed new §39.411(e)(11)(A)(v) provides for requirements for initial registrations for concrete batch plant standard permits received on or after March 1, 2026, including the requirement that if a public meeting is held, then the comment period and right to request a contested case hearing extends for at least 36 hours following the close of the public meeting. Existing §39.411(e)(11)(A)(v) is proposed to be renumbered to (vi) and is amended to apply existing requirements for timely hearing requests to applications received before March 1, 2026. For applications received after March 1, 2026, the new requirement for the opportunity to comment and request a hearing to be extended to at least 36 hours following a public meeting is added, as these types of permit applications have a consolidated notice. Existing §39.411(e)(11)(A)(vi) is proposed to be renumbered to (vii) and amended to reflect the re-numbering. Current §39.411(e)(14) is proposed to be deleted, as TCEQ regional offices no longer keep hard copies of compliance files, and many offices do not have viewing capabilities for the public. Current §39.411(e)(15) and (16) are renumbered to (e)(14) and (15).

The proposed amendment to §39.411(f)(3) adds a requirement for the notice on applications that are declared administratively complete on or after May 1, 2026 to include a statement that the technically complete application and draft permit may be viewed online at the commission's website and the location of the website where these can be found. Proposed amendments to §39.411(f)(4) and (5) re-word and re-structure for improved readability. The proposed amendment to §39.411(g)(1) reflects the proposed re-numbering of the cited subsections. Proposed

amendments to §39.411(g)(3) re-word and re-structure for improved readability.

The commission is proposing to amend §39.412(b)(2)(A) to reflect the proposed re-numbering of these sections. Proposed amendments to (b)(4) clarify that signs must remain in place until final action is taken on a permit application.

The commission is proposing to amend §39.419 to re-structure and re-word to clarify language related to air quality permit applications. NAPD applies to minor NSR air quality permits, and the language as written could imply that only certain major sources are subject to NAPD. The proposed amendments move language to (a) concerning major air quality permit applications subject to Chapter 116, Subchapter B and add language to specify that the NAPD requirement applies to applications subject to Chapter 116, Subchapter E. The proposed amendment also moves language to specify that NAPD does not apply to air quality permit renewal applications that do not have a poor compliance history. The proposed amendment adds new (d) to specify that for air applications mailed notice requirements under §39.602 requirements apply. The proposed amendment also renumbers (d) to (e).

Proposed amendments to §39.420(c)(1)(C)(i)(III) replace the reference to §39.402(7) to be specific about the type of permit application that is being referenced. The existing citation is incorrect, and it is clearer to state that the reference is to Chapter 116, Subchapter E of this title, relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63), whether for construction or reconstruction. Proposed new §39.420(c)(1)(C)(i)(IV) clarifies that no-increase renewal applications that have the lowest compliance history rating do receive information related to contesting the permit application.

Proposed new §39.422 will specify how the executive director will provide notice when a comment period is extended. Proposed new (a) states that the executive director can extend any comment period for good cause, mirroring §55.152(a)(8); (b) requires the commission to post notice on its website when a comment period is extended for applications administratively complete on or after May 1, 2026; (c) requires the commission to provide electronic notice of an extension of a comment period to those persons who have subscribed to receive informal electronic notices through the permit notice by email system for applications that are administratively complete on or after May 1, 2026; and (d) requires that alternative language requirements in §39.426 apply when notice of an extension of a comment period is required.

An amendment is proposed to §39.426 (a)(1)(B) to remove an obsolete date requirement.

#### *Subchapter I*

A proposed amendment to §39.501(a) will remove obsolete date language.

Obsolete language related to applicability date is proposed to be removed from §39.503(a).

Obsolete language related to date of applicability is proposed to be removed from §39.509(a). A reference to an obsolete notice process and an extra word in existing language is proposed to be deleted from (b). A proposed amendment to (c) replaces a citation to a specific paragraph with a citation to the subsection that contains information regarding an applicant held meeting. A

proposed amendment to §39.510(a)(5)(A) adds the requirement for the email of the agency contact.

#### *Subchapter J*

A proposed amendment to §39.551(a) will remove obsolete language related to the applicability date. The proposed amendment to §39.553 (b)(3)(D) adds the requirement for an email for the agency contact.

#### *Subchapter K*

The removal of obsolete language regarding date of applicability in §39.601 is proposed. Proposed amendments to (c) remove the obsolete date reference.

The proposed amendment to §39.604(a)(1) states that for permit applications administratively complete on or after May 1, 2026, the signs must be 48 inches by 48 inches in size with text at least 3 inches high. This change mirrors the requirements for the size of signs in §39.510(b)(1). The commission is specifically soliciting comment on this change and the proposed size of signs. The proposed amendment to §39.604(b) clarifies that signs must remain posted until final commission action on a permit application. An amendment to remove obsolete language from §39.605(1)(D) is proposed.

The commission is proposing new §39.606, Contested Case Hearings and Public Meetings, to specify the details on information related to contested case hearings and public meetings on air quality permit applications. Proposed new (a)(1) - (7) lists the types of air quality permit applications for which a contested case hearing may be requested. Proposed new (b) lists the types of air quality permits for which a notice and comment hearing may be requested. Proposed new (c) lists the time periods by which a request for contested case hearing must be received to be considered timely for different types of air quality permits. Proposed (c)(1) states that for an application that is for a renewal of an air quality permit that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under TWC, §5.753 and §5.754 and the commission's rules in 30 TAC Chapter 60 of this title, relating to Compliance History, a request for a contested case hearing must be received by the end of the 15-day comment period following NORI. Proposed new (c)(2) states that for an application that is for a renewal of an air quality permit that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does involve a facility for which the applicant's compliance history is in the lowest classification under TWC, §5.753 and §5.754 and the commission's rules in 30 TAC Chapter 60, relating to Compliance History, a request for a contested case hearing must be received by end of the comment period or within 30 days of the mailing of the Response to Comments. Proposed (c)(3) lists the requirements for permit types that have a consolidated notice - applications for concrete batch plant standard permits and permit amendment applications issued under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits), for which the executive director has declared the application administratively and technically complete and prepared a draft permit within 15 days of receipt of the application. Because these types of applications must receive an extension of the comment period and opportunity to request a contested case hearing if a public meeting is held of at least 36 hours following the end of the

meeting, the requirements are clearly listed for the different scenarios. For permit applications received before March 1, 2026, the current requirements in §39.411(e) are repeated here, and a request for a contested case hearing must be received within 30 days following the publication of the combined notice for the opportunity to request a hearing to continue to exist. If a request is received within 30 days, then the right to request a hearing is present until 30 days following the mailing of the executive director's Response to Comments. For permit applications received on or after March 1, 2026, a request for a contested case hearing must be received within 30 days following the publication of the combined notice for the opportunity to request a hearing to continue to exist unless a public meeting is held on the application. If a public meeting is held, then the opportunity to comment and request a contested case hearing is extended for at least 36 hours following the end of the public meeting. Additionally, a request for a contested case hearing can be submitted for up to 30 days following the mailing of the executive director's Response to Comment, if an otherwise timely hearing request is received.

Proposed new §39.606(c)(4) and (5) allow for a request for a contested case hearing to be received by the end of the comment period or within 30 days after the executive director's Response to Comments is mailed for air quality applications and amendments subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B, or the requirements of Chapter 116, Subchapter E. These are major New Source Review permit applications and amendments. Proposed new §39.606(c)(6) applies to all other applicable air quality permit applications and requires that the request for a contested case hearing must be received by the end of the 30-day comment period following the final publication of the Notice of Receipt of Application and Intent to Obtain Permit. If no hearing request is received during this time, then there is no longer an opportunity to request a contested case hearing. If a request is received during the required time frame, then the right to request a hearing is extended to 30 days after the mailing of the executive director's Response to Comments.

Proposed new §39.606(d) lists the things that must be included in a request for a contested case hearing (CCH): (d)(1) requester's location; (d)(2) description of how the requester is impacted differently than the general public; and (d)(3) the form requirements of Chapter 55. Proposed new (e) specifies that only relevant and material issues raised during the comment period can be considered if a CCH is granted. Proposed new (f) specifies that for an application for a registration to use a concrete batch plant standard permit, only someone who resides within 440 yards of the proposed plant is an affected person who is entitled to a contested case hearing. Proposed new (g) states that the executive director may hold a public meeting on permits listed in (a)(3), (4), and (6) if requested by a member of the legislature who represents the general area where the facility is to be located or if there is substantial public interest in the proposed activity; and proposed new (h) states that the executive director may hold a public meeting on permits listed in a(1), (2), and (5) if requested by a legislator or any interested person or if there is substantial public interest.

#### *Subchapter L*

The proposed amendment to §39.651(a) will delete obsolete language related to the applicability date.

#### *Subchapter M*

A minor grammar fix is proposed for §39.713(2).

### *Subchapter N*

An amendment is proposed for §39.803(a) to provide clarity. The proposed amendment to §39.803(f) and proposed new §39.804(b)(10) add citations to §39.405(l), requiring that the application be posted on the commission's website. The proposed amendment to §39.804(a)(1) adds a requirement for an email for the agency contact. The proposed amendment to §39.804(b) replaces the word remediation with remedial for clarity. The proposed amendments to §39.807(b)(1) and (2) add language to clarify that it is the post-closure order and preliminary decision that is being published and mailed. The proposed amendment to §39.809(b) removes extra words for clarity.

### *Subchapter O*

Proposed amendments to §39.902 adds the requirement for an email address for the agency contact to (b)(12). The proposed amendment to add the requirement for an email address for the agency contact is added to §39.903(b)(9).

### *Subchapter P*

The proposed amendment to add the requirement for an email address for the agency contact is added to §39.1003(b)(4) and §39.1005(b)(4). The commission proposes to amend 39.1009(a) to delete the requirement to include in the public notice the location and phone number of a regional office to be contacted for information about accessing a public copy of the application because the commission posts a copy of the application on the commission's website, the TCEQ public education program provides customer service to the public regarding pending applications, and the location of a public copy of the application is not readily available to the individual who answers the phone at a region office. Proposed amendment to §39.1011(b)(4) adds the requirement for an email address for the agency contact.

### **Fiscal Note: Costs to State and Local Government**

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

### **Public Benefits and Costs**

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public will benefit from improved public participation opportunities that are consistent with requirements and recommendations resulting from the Sunset review of TCEQ during the 88th Legislative Session. Additionally, the public will benefit from the removal of obsolete information, clarifications, and other nonsubstantive changes. The proposed rulemaking is not anticipated to result in fiscal implications for individuals.

### **Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

### **Rural Community Impact Statement**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply

statewide and have the same effect in rural communities as in urban communities.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

### **Small Business Regulatory Flexibility Analysis**

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

### **Draft Regulatory Impact Analysis Determination**

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the action is not subject to TGC, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Tex. Gov't Code Ann., §2001.0225(a). Tex. Gov't Code Ann., §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. The proposed amendments do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).



The proposed rulemaking is not specifically intended to protect the environment or reduce risks to human health from environmental exposure, nor does it affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health. The purpose of the proposed rulemaking is to update and clarify the requirements for public participation in the permitting process for air quality, water quality, and waste permit applications. The proposed rulemaking would implement the requirements in the Sunset Bill, SB 1397, 88th Regular Legislature, as well as other recommended changes. The TCEQ Sunset bill required the extension of the public comment period and opportunity to request a hearing for a subset of air quality permit applications. The Sunset bill also required TCEQ to post permit applications electronically on its website and make these available for the public. Following extensive stakeholder outreach, the commission is proposing that the comment period and opportunity to request a contested case hearing will be extended for at least 36 hours following a public meeting for air quality permit applications that have a consolidated notice. The proposed rulemaking will update and clarify language relating to public meetings, comment periods, and contested case hearings, update what language is required in the text of notices, and clarify other information related to public participation in the permitting process.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an analysis of whether Texas Government Code (TGC), Chapter 2007, is applicable. The proposed amendments are procedural in nature and would not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action would not constitute a taking under TGC, Chapter 2007.

#### Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor would the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed amendments are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Effect on Sites Subject to the Federal Operating Permits Program

The proposed amendments, new sections, and repealed sections would not require any changes to outstanding federal operating permits.

#### Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Monday, September 8, 2025, at 2:00 p.m. in building F room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 4, 2025. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 5, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/e8de5895-29fd-4bae-9e74-2e1714305675@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

#### Submittal of Comments

Written comments may be submitted to Corey Bowling, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2024-003-039-LS. The comment period closes at 11:59 p.m. on September 9, 2025. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Amy Browning, Environmental Law Division, (512) 239-0891.

## SUBCHAPTER A. DEFINITIONS

### 30 TAC §39.1

#### Statutory Authority

The new section is proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to im-

plement the statutes regarding injection wells. The amendment is also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendment is also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendment is proposed under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

#### §39.1. Definitions.

The following words and terms, when used in this chapter (relating to Public Notice) shall have the following meanings.

(1) Administratively complete application--an application that includes all necessary information for the agency to begin reviewing that application and for the initial notice of the application to be issued by the executive director.

(2) Contested case hearing--A proceeding, including occupational licensing hearings, in which the legal rights, duties, or privileges of a person are determined by a state agency after an opportunity for adjudicative hearing.

(3) Notice and comment hearing--a meeting held to allow the public to submit formal oral comments on a permit application. A notice and comment hearing is not a contested case hearing.

(4) Public comment--Statements, questions, or other information submitted on a pending permit application for the consideration of the commission when reviewing that permit application.

(5) Public meeting--A meeting held under §55.154 of this title (relating to Public Meetings) that is intended for the taking of public comments. A public meeting is not a contested case hearing.

(6) Response to comment--A written document prepared by the executive director that responds to timely submitted public comments.

(7) Request for reconsideration--A request that the commission reconsider the decision of the executive director on a permit application.

(8) Technically complete application--an application that has been reviewed by the executive director, the executive director has made a preliminary decision that the application meets all statutory and regulatory requirements, and a draft permit is available for public review.

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

Filed with the Office of the Secretary of State on July 28, 2025.

TRD-202502643

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 239-2678



## SUBCHAPTER H. APPLICABILITY AND GENERAL PROVISIONS

**30 TAC §§39.402, 39.403, 39.405, 39.407, 39.409, 39.411, 39.412, 39.419, 39.420, 39.422, 39.423, 39.425, 39.426**

### Statutory Authority

The amendments and new section are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments and new section are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendments and new section are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments and new section are proposed under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; and the Federal Clean Air Act, 42 United States Code, §7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards

will be achieved and maintained within each air quality control region of the state.

The proposed rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

§39.402. *Applicability to Air Quality Permits and Permit Amendments.*

(a) As specified in those subchapters, Subchapters H and K of this chapter (relating to Applicability and General Provisions; and Public Notice of Air Quality Permit Applications, respectively) apply to applications for:

(1) new air quality permits under Chapter 116, Subchapter B of this title (relating to New Source Review Permits);

(2) a new major source or a major modification for facilities subject to the requirements of Chapter 116, Subchapter B, Division 5 or 6 of this title (relating to New Source Review Permits, Nonattainment Review Permits and Prevention of Significant Deterioration Permits);

(3) air quality permit amendments under Chapter 116, Subchapter B of this title when the amendment involves:

(A) a change in character of emissions or release of an air contaminant not previously authorized under the permit;

(B) a facility not affected by THSC, §382.020, where the total emissions increase from all facilities to be authorized under the amended permit exceeds public notice de minimis levels by being greater than any of the following levels:

- (i) 50 tpy of carbon monoxide (CO);
- (ii) ten tpy of sulfur dioxide (SO<sub>2</sub>);
- (iii) 0.6 tons per year (tpy) of lead; or

(iv) five tpy of nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC), particulate matter (PM), or any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen;

(C) a facility affected by THSC, §382.020, where the total emissions increase from all facilities to be authorized under the amended permit exceeds significant levels for public notice by being greater than any of the following levels:

- (i) 250 tpy of CO or NO<sub>x</sub>;
- (ii) 25 tpy of VOC, SO<sub>2</sub>, PM, or any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen;

(iii) a new major stationary source or major modification threshold as defined in §116.12 of this title (relating to Nonattainment and Prevention of Significant Deterioration Review Definitions); or

(iv) a new major stationary source or major modification threshold, as defined in 40 Code of Federal Regulations (CFR), §52.21, under the new source review requirements of the Federal Clean Air Act (FCAA), Part C (Prevention of Significant Deterioration); or

(D) other amendments when the executive director determines that:

- (i) there is a reasonable likelihood for emissions to impact a nearby sensitive receptor;
- (ii) there is a reasonable likelihood of high nuisance potential from the operation of the facilities;

(iii) the application involves a facility in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History); or

(iv) there is a reasonable likelihood of significant public interest in a proposed activity;

(4) new air quality flexible permits under Chapter 116, Subchapter G of this title (relating to Flexible Permits);

(5) air quality permit amendments to flexible permits under Chapter 116, Subchapter G of this title when the amendment involves:

(A) change in character of emissions or release of an air contaminant not previously authorized under the permit;

(B) a facility not affected by THSC, §382.020, where the total emissions increase from all facilities to be authorized under the amended permit exceeds public notice de minimis levels by being greater than any of the following levels:

- (i) 50 tpy of carbon monoxide (CO);
- (ii) ten tpy of sulfur dioxide (SO<sub>2</sub>);
- (iii) 0.6 tons per year (tpy) of lead; or

(iv) five tpy of nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC), particulate matter (PM), or any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen;

(C) a facility affected by THSC, §382.020, where the total emissions increase from all facilities to be authorized under the amended permit exceeds significant levels for public notice by being greater than any of the following levels:

- (i) 250 tpy of CO or NO<sub>x</sub>;
- (ii) 25 tpy of VOC, SO<sub>2</sub>, PM, or any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen;

(iii) a new major stationary source or major modification threshold as defined in §116.12 of this title; or

(iv) a new major stationary source or major modification threshold, as defined in 40 Code of Federal Regulations (CFR), §52.21, under the new source review requirements of the Federal Clean Air Act (FCAA), Part C (Prevention of Significant Deterioration); or

(D) other amendments when the executive director determines that:

- (i) there is a reasonable likelihood for emissions to impact a nearby sensitive receptor;
- (ii) there is a reasonable likelihood of high nuisance potential from the operation of the facilities;

(iii) the application involves a facility in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title; or

(iv) there is a reasonable likelihood of significant public interest in a proposed activity;

(6) renewal of air quality permits under Chapter 116, Subchapter D of this title (relating to Permit Renewals);

(7) applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction;

(8) applications for the establishment or renewal of, or an increase in, a plant-wide applicability limit permit under Chapter 116, Subchapter C of this title (relating to Plant-Wide Applicability Limits).

(9) applications for multiple plant permits (MPPs) under Chapter 116, Subchapter J of this title (relating to Multiple Plant Permits);

~~[(10) applications for permits, registrations, licenses, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions), submitted on or before January 1, 2018, are subject to the public notice requirements of Chapter 91 of this title (relating to Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities) in addition to the requirements of this chapter, unless otherwise specified in Chapter 91 of this title.]~~

(10) ~~[(41)]~~ concrete batch plants without enhanced controls authorized by an air quality standard permit adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits), unless the plant is to be temporarily located in or contiguous to the right-of-way of a public works project; and

(11) ~~[(42)]~~ change of location or relocation of a portable facility, consistent with the requirements of §116.178 of this title (relating to Relocations and Changes of Location of Portable Facilities).

(b) Regardless of the applicability of subsection (a) of this section, Subchapters H and K of this chapter do not apply to the following applications where notice or opportunity for contested case hearings is not otherwise required by law:

(1) applications under Chapter 122 of this title (relating to Federal Operating Permits Program);

(2) applications under Chapter 116, Subchapter F of this title, except applications for concrete batch plants authorized by standard permit as referenced in subsection (a)~~(10)~~ ~~[(44)]~~ of this section; and

(3) registrations under Chapter 106 of this title (relating to Permits by Rule).

#### *§39.403. Applicability.*

(a) Permit applications that ~~[are declared administratively complete on or after September 1, 1999]~~ are subject to Subchapters H - J, L, and M of this chapter (relating to Applicability and General Provisions; Public Notice of Solid Waste Applications; Public Notice of Water Quality Applications and Water Quality Management Plans; Public Notice of Injection Well and Other Specific Applications; and Public Notice for Radioactive Material Licenses). All consolidated permit applications are subject to Subchapter G of this chapter (relating to Public Notice for Applications for Consolidated Permits).

(1) Explanation of applicability. Subsection (b) of this section lists all the types of applications to which Subchapters H - J, L, and M of this chapter apply. Subsection (c) of this section lists certain types of applications that would be included in the applications listed in subsection (b) of this section, but that are specifically excluded. Subsection (d) of this section specifies that only certain sections apply to applications for radioactive materials licenses. Subsection (e) of this section lists the types of applications for which public notice is not required.

(2) Explanation of organization. Subchapter H of this chapter contains general provisions that may apply to all applications under Subchapters H - M of this chapter. Additionally, in Subchapters I - M of this chapter, there is a specific subchapter for each type of application. Those subchapters contain additional requirements

for each type of application, as well as indicating which parts of Subchapter H of this chapter must be followed.

(3) Types of applications. Unless otherwise provided in Subchapters G - M of this chapter, public notice requirements apply to applications for new permits and applications to amend, modify, or renew permits.

(b) As specified in those subchapters, Subchapters H - J, L, and M of this chapter apply to notices for:

(1) applications for municipal solid waste, industrial solid waste, or hazardous waste permits under Texas Health and Safety Code (THSC), Chapter 361;

(2) applications for wastewater discharge permits under Texas Water Code (TWC), Chapter 26, including:

(A) applications for the disposal of sewage sludge or water treatment sludge under Chapter 312 of this title (relating to Sludge Use, Disposal, and Transportation); and

(B) applications for individual permits under Chapter 321, Subchapter B of this title (relating to Concentrated Animal Feeding Operations);

(3) applications for underground injection well permits under TWC, Chapter 27, or under THSC, Chapter 361;

(4) applications for production area authorizations or exempted aquifers under Chapter 331 of this title (relating to Underground Injection Control);

(5) contested case hearings for permit applications or contested enforcement case hearings under Chapter 80 of this title (relating to Contested Case Hearings);

(6) applications for radioactive material licenses under Chapter 336 of this title (relating to Radioactive Substance Rules), except as provided in subsection (d) of this section;

(7) applications for consolidated permit processing and consolidated permits processed under TWC, Chapter 5, Subchapter J, and Chapter 33 of this title (relating to Consolidated Permit Processing); and

(8) Water Quality Management Plan updates processed under TWC, Chapter 26, Subchapter B.

(c) Regardless of the applicability of subsection (b) of this section, Subchapters H - M of this chapter do not apply to the following actions and other applications where notice or opportunity for contested case hearings is ~~[are]~~ otherwise not required by law:

(1) applications for authorizations under Chapter 321 of this title (relating to Control of Certain Activities by Rule), except for applications for individual permits under Chapter 321, Subchapter B of this title;

(2) applications for registrations and notifications under Chapter 312 of this title (relating to Sludge Use, Disposal, and Transportation);

(3) applications under Chapter 332 of this title (relating to Composting);

(4) applications for minor modifications of Texas Pollutant Discharge Elimination System permits under §305.62(c)(3) of this title (relating to Amendments), except as provided by §39.551 of this title (relating to Application for Wastewater Discharge Permit, Including Application for the Disposal of Sewage Sludge or Water Treatment Sludge);

(5) applications for registration and notification of sludge disposal under §312.13 of this title (relating to Actions and Notice); or

(6) applications listed in Subchapter P of this chapter (relating to Other Notice Requirements).

(d) Applications for radioactive materials licenses under Chapter 336 of this title are not subject to §39.405(c) and (e) of this title (relating to General Notice Provisions); §§39.418 - 39.420 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit; Notice of Application and Preliminary Decision; and Transmittal of the Executive Director's Response to Comments and Decision); and certain portions of §39.413 of this title (relating to Mailed Notice) that are not listed in §39.705 of this title (relating to Mailed Notice for Radioactive Material Licenses).

(e) Public notice is not required for the following:

(1) applications for the correction or endorsement of permits under §50.145 of this title (relating to Corrections of Permits);

(2) permittees' voluntary requests for suspension or revocation of permits under Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits);

(3) applications for special collection route permits under §330.7(c)(2) of this title (relating to Permit Required); or

(4) applications for minor modifications of underground injection control permits under §305.72 of this title (relating to Underground Injection Control (UIC) Permit Modifications at the Request of the Permittee).

#### *§39.405. General Notice Provisions.*

(a) Failure to publish notice. If the Office of the Chief Clerk (chief clerk) prepares a newspaper notice that is required by Subchapters G - J, L, and M of this chapter (relating to Public Notice for Applications for Consolidated Permits; Applicability and General Provisions; Public Notice of Solid Waste Applications; Public Notice of Water Quality Applications and Water Quality Management Plans; Public Notice of Injection Well and Other Specific Applications; and Public Notice for Radioactive Material Licenses) and the applicant does not cause the notice to be published within 45 days of mailing of the notice from the chief clerk, or for Notice of Receipt of Application and Intent to Obtain Permit, within 30 days after the executive director declares the application administratively complete, or fails to submit the copies of notices or affidavit required in subsection (e) of this section, the executive director may cause one of the following actions to occur.

(1) The chief clerk may cause the notice to be published and the applicant shall reimburse the agency for the cost of publication.

(2) The executive director may suspend further processing or return the application. If the application is resubmitted within six months of the date of the return of the application, it will be exempt from any application fee requirements.

(b) Electronic mailing lists. The chief clerk may require the applicant to provide necessary mailing lists in electronic form.

(c) Mail or hand delivery. When Subchapters G - L of this chapter require notice by mail, notice by hand delivery may be substituted. Mailing is complete upon deposit of the document, enclosed in a prepaid, properly addressed wrapper, in a post office or official depository of the United States Postal Service. If hand delivery is by courier-receipted delivery, the delivery is complete upon the courier taking possession.

(d) Combined notice. Notice may be combined to satisfy more than one applicable section of this chapter.

(e) Notice and affidavit. When Subchapters G - J and L of this chapter require an applicant to publish notice, the applicant must file a copy of the published notice and a publisher's affidavit with the chief clerk certifying facts that constitute compliance with the requirement. The deadline to file a copy of the published notice which shows the date of publication and the name of the newspaper is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with the requirement to publish notice. When the chief clerk publishes notice under subsection (a) of this section, the chief clerk shall file a copy of the published notice and a publisher's affidavit.

(f) Published notice. When this chapter requires notice to be published under this subsection:

(1) the applicant shall publish notice in the newspaper of largest circulation in the county in which the facility is located or proposed to be located or, if the facility is located or proposed to be located in a municipality, the applicant shall publish notice in any newspaper of general circulation in the municipality;

(2) for applications for solid waste permits and injection well permits, the applicant shall publish notice in the newspaper of largest general circulation that is published in the county in which the facility is located or proposed to be located. If a newspaper is not published in the county, the notice must be published in any newspaper of general circulation in the county in which the facility is located or proposed to be located. The requirements of this subsection may be satisfied by one publication if the newspaper is both published in the county and is the newspaper of largest general circulation in the county; and

(3) air quality permit applications required by Subchapters H and K of this chapter (relating to Applicability and General Provisions and Public Notice of Air Quality Permit Applications, respectively) to publish notice shall comply with the requirements of §39.603 of this title (relating to Newspaper Notice).

(g) Copy of application. The applicant shall make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located. If the application is submitted with confidential information marked as confidential by the applicant, the applicant shall indicate in the public file that there is additional information in a confidential file. The copy of the application must comply with the following.

(1) A copy of the administratively complete application must be available for review and copying beginning on the first day of newspaper publication of Notice of Receipt of Application and Intent to Obtain Permit and remain available for the entirety of the [publications' designated] comment period for the application.

(2) A copy of the complete application (including any subsequent revisions to the application) and executive director's preliminary decision must be available for review and copying beginning on the first day of the first newspaper publication required by this section and remain continuously available until the commission has taken action on the application or the commission refers the application [issues] to State Office of Administrative Hearings; and

(3) where applicable, for air quality permit applications, the applicant shall also make available the executive director's draft permit, preliminary determination summary, and air quality analysis for review and copying beginning on the first day of newspaper publication required by §39.419 of this title (relating to Notice of Application and Preliminary Decision) and remain available until the commission

has taken action on the application or the commission refers the application [issues] to State Office of Administrative Hearings.

(h) Failure to publish notice of air quality permit applications. If the chief clerk prepares a newspaper notice that is required by Subchapters H and K of this chapter for air quality permit applications and the applicant does not cause the notice to be published within 45 days of mailing of the notice from the chief clerk, or, for Notice of Receipt of Application and Intent to Obtain Permit, within 30 days after the executive director declares the application administratively complete, or fails to submit the copies of notices or affidavit required in subsection (i) of this section, the executive director may cause one of the following actions to occur.

(1) The chief clerk may cause the notice to be published and the applicant shall reimburse the agency for the cost of publication.

(2) The executive director may suspend further processing or return the application. If the application is resubmitted within six months of the date of the return of the application, it will be exempt from any application fee requirements.

(i) Notice and affidavit for air quality permit applications. When Subchapters H and K of this chapter require an applicant for an air quality permit action to publish notice, the applicant must file a copy of the published notice and a publisher's affidavit with the chief clerk certifying facts that constitute compliance with the requirement. The deadline to file a copy of the published notice which shows the date of publication and the name of the newspaper is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with the requirement to publish notice. When the chief clerk publishes notice under subsection (h) of this section, the chief clerk shall file a copy of the published notice and a publisher's affidavit.

(j) For applications filed on or after September 1, 2015, and subject to providing notice as prescribed by Texas Water Code, §5.115, the commission shall make available on the commission's website notice of administratively complete applications for a permit or license authorized under the Texas Water Code and the Texas Health and Safety Code.

(k) Summary of application. For permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022, the applicant will provide a plain-language summary of the application, no more than two pages long, that will describe the following:

- (1) the function of the proposed plant or facility;
- (2) the expected output of the proposed plant or facility;
- (3) the expected pollutants that may be emitted or discharged by the proposed plant or facility; and
- (4) how the applicant will control those pollutants, so that the proposed plant will not have an adverse impact on human health or the environment.

(l) Electronic copy of application. For permit applications that are declared by the executive director to be administratively complete on or after June 1, 2024, the executive director shall:

(1) make an electronic copy of the administratively complete application available on the commission's website in accordance with Texas Water Code, §5.1734 within five business days of transmitting the notice of the administratively complete application to the applicant; materials may be exempted if posting the materials on the

website would be unduly burdensome or the materials are too large to be posted on the website;

(2) make an electronic copy of the technically complete application and the executive director's draft permit available on the commission's website within five business days of transmitting the notice of the technically complete application and the executive director's draft permit to the applicant; materials may be exempted if posting the materials on the website would be unduly burdensome or the materials are too large to be posted on the website; and

(3) retain these postings until final action is taken on the application and there is no further opportunity to request commission or judicial review.

#### *§39.407. Mailing Lists.*

The chief clerk shall maintain mailing lists of persons requesting notice of an application. Persons [~~including participants in past agency permit proceedings,~~] may request in writing to be on a mailing list and must provide a complete and valid United States Postal Service mailing address with their request. The chief clerk may from time to time request confirmation that persons on a list wish to remain on the list [~~and~~] and may delete from the list the name of any person who fails to respond to such request.

#### *§39.409. Deadline for Public Comment, and for Requests for Reconsideration, Contested Case Hearing, or Notice and Comment Hearing.*

(a) Notice given under this chapter will specify any applicable deadline to file public comment specified under §55.152 of this title (relating to Public Comment Period) and, if applicable, any deadlines to file requests for reconsideration, contested case hearing, or notice and comment hearing. After the deadline, final action on an application may be taken under Chapter 50 of this title (relating to Action on Applications and Other Authorizations).

(b) Comments are considered timely if filed between the date an application is received and the end of the comment period, including comments received between publications of the Notice of Receipt of Application and Intent to Obtain Permit and the Notice of Application and Preliminary Decision.

(c) The executive director may extend any comment period for good cause.

(d) When a comment period is extended, the requirements of §39.422 (relating to Notice of Extension of Comment Period) will apply.

#### *§39.411. Text of Public Notice.*

(a) Applicants shall use notice text provided and approved by the agency. The executive director may approve changes to notice text before notice [~~being~~] is given.

(b) When Notice of Receipt of Application and Intent to Obtain Permit by publication or by mail is required by Subchapters H and K of this chapter (relating to Applicability and General Provisions and Public Notice of Air Quality Permit Applications) for air quality permit applications, those applications are subject to subsections (e) - (h) of this section. When notice of receipt of application and intent to obtain permit by publication or by mail is required by Subchapters H - J and L of this chapter (relating to Applicability and General Provisions, Public Notice of Solid Waste Applications, Public Notice of Water Quality Applications and Water Quality Management Plans, and Public Notice of Injection Well and Other Specific Applications), Subchapter G of this chapter (relating to Public Notice for Applications for Consolidated Permits), or [~~for~~] Subchapter M of this chapter (relating to Public Notice for Radioactive Material Licenses), the text of the notice must include the following information:

(1) the name and address of the agency and the telephone number and email address of an agency contact from whom interested persons may obtain further information;

(2) the name, address, and telephone number of the applicant and a description of the manner in which a person may contact the applicant for further information;

(3) a brief description of the location, type of permit applied for, and nature of the proposed activity;

(4) a brief description of public comment procedures, including:

(A) a statement that the executive director will respond to comments raising issues that are relevant and material or otherwise significant; and

(B) a statement in the notice for any permit application for which there is an opportunity for a contested case hearing, that only disputed factual issues that are relevant and material to the commission's decision that are raised during the comment period can be considered if a contested case hearing is granted;

(5) A description printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice of procedures by which the public may participate in the final permit decision including, when applicable: [a brief description of procedures by which the public may participate in the final permit decision and, if applicable, how to request a public meeting, contested case hearing, reconsideration of the executive director's decision, a notice and comment hearing, or a statement that later notice will describe procedures for public participation, printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice. The notice should include a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity;]

(A) how to request a public meeting, including a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity;

(B) how to request a contested case hearing;

(C) how to request reconsideration of the executive director's decision;

(D) how to request a notice and comment hearing; or

(E) a statement that later notice will describe procedures for public participation; and

(6) the application or permit number;

(7) if applicable, a statement that the application or requested action is subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies;

(8) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the application is available for review and copying and for permit applications that are declared to be administratively complete by the executive director on or after May 1, 2026, a statement that a copy of the administratively complete application may be viewed online at the commission's website and the location of the website where the copy can be found;

(9) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application;

(10) for notices of municipal solid waste applications, a statement that a person who may be affected by the facility or proposed facility is entitled to request a contested case hearing from the commission. This statement must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice; and

(11) any additional information required by the executive director or needed to satisfy public notice requirements of any federally authorized program; or

(12) for radioactive material licenses under Chapter 336 of this title (relating to Radioactive Substance Rules), if applicable, a statement that a written environmental analysis on the application has been prepared by the executive director, is available to the public for review, and that written comments may be submitted; and

(13) for Class 3 modifications of hazardous industrial solid waste permits, the statement "The permittee's compliance history during the life of the permit being modified is available from the agency contact person."

(c) Unless mailed notice is otherwise provided for under this section, the chief clerk shall mail Notice of Application and Preliminary Decision to those listed in §39.413 of this title (relating to Mailed Notice). When notice of application and preliminary decision by publication or by mail is required by Subchapters G - J and L of this chapter, the text of the notice must include the following information:

(1) the information required by subsection (b)(1) - (11) of this section;

(2) a brief description of public comment procedures, printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice, including: [including a description of the manner in which comments regarding the executive director's preliminary decision may be submitted, or a statement in the notice for any permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted. The public comment procedures must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice;]

(A) a description of the manner in which comments regarding the executive director's preliminary decision may be submitted; and

(B) a statement in the notice for any permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.

(3) if the application is subject to final approval by the executive director under Chapter 50 of this title (relating to Action on Applications and Other Authorizations), a statement that the executive director may issue final approval of the application unless a timely contested case hearing request or a timely request for reconsideration (if applicable) is filed with the chief clerk after transmittal of the executive director's decision and response to public comment;

(4) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit;

(5) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the

complete application and the executive director's preliminary decision are available for review and copying;

(6) the deadline to file comments or request a public meeting. The notice should include a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity; and

(7) for radioactive material licenses under Chapter 336 of this title, if applicable, a statement that a written environmental analysis on the application has been prepared by the executive director, is available to the public for review, and that written comments may be submitted.

(d) When notice of a public meeting or notice of a hearing by publication or by mail is required by Subchapters G - J and L of this chapter, the text of the notice must include the following information:

(1) the information required by subsection (b)(1) - (3), (6) - (8), and (11) of this section;

(2) the date, time, and place of the meeting or hearing, and a brief description of the nature and purpose of the meeting or hearing, including the applicable rules and procedures; and

(3) for notices of public meetings only, the following information must be included: [a brief description of public comment procedures, including a description of the manner in which comments regarding the executive director's preliminary decision may be submitted and a statement in the notice for any permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.]

(A) a brief description of public comment procedures;

(B) a description of the manner in which comments regarding the executive director's preliminary decision may be submitted; and

(C) a statement in the notice for any permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.

(e) When Notice of Receipt of Application and Intent to Obtain Permit by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the information in this subsection:

(1) the name and address of the agency and the telephone number and email address of an agency contact from whom interested persons may obtain further information;

(2) the name, address, and telephone number of the applicant and a description of the manner in which a person may contact the applicant for further information;

(3) a brief description of the location and nature of the proposed activity;

(4) a brief description of public comment procedures, including:

(A) a statement that the executive director will respond to:

(i) all comments regarding applications for Prevention of Significant Deterioration and Nonattainment permits under Chapter 116, Subchapter B of this title (relating to New Source Review Permits) and Plant-wide Applicability Limit permits under Chapter

116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);

(ii) all comments regarding applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction; and

(iii) for all other air quality permit applications, comments raising issues that are relevant and material or otherwise significant; and

(B) a statement in the notice for any air quality permit application for which there is an opportunity for a contested case hearing, that only disputed factual issues that are relevant and material to the commission's decision that are raised during the comment period can be considered if a contested case hearing is granted;

(5) printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice, a brief description of procedures by which the public may participate in the final permit decision and, if applicable[, a brief description of procedures by which the public may participate in the final permit decision and, if applicable, how to request a public meeting, contested case hearing, reconsideration of the executive director's decision, a notice and comment hearing, or a statement that later notice will describe procedures for public participation, printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice. Where applicable, the notice should include a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located if there is substantial public interest in the proposed activity when requested by any interested person for the following applications]:

(A) how to request a public meeting;

(A) air quality permit applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment in Chapter 116, Subchapter B of this title;]

(B) how to request a contested case hearing;

(B) applications for the establishment or renewal of, or an increase in, a plant-wide applicability limit subject to Chapter 116 of this title; and]

(C) how to request reconsideration of the executive director's decision;

(C) applications subject to the requirements of Chapter 116, Subchapter E of this title, whether for construction or reconstruction;]

(D) how to request a notice and comment hearing; or

(E) a statement that later notice will describe procedures for public participation; and

(F) a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located, if there is substantial public interest in the proposed activity, or for the following types of applications, when requested by any interested person;

(i) air quality permit applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment in Chapter 116, Subchapter B of this title;

(ii) air quality permit applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Haz-



ardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction; and

(iii) air quality permit applications for the establishment or renewal of, or an increase in, a plant-wide applicability limit subject to Chapter 116 of this title; and

(6) the application or permit number;

(7) if applicable, a statement that the application or requested action is subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies;

(8) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the application is available for review and copying;

(9) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application;

(10) at a minimum, a listing of criteria pollutants for which authorization is sought in the application which are regulated under national ambient air quality standards or under state standards in Chapters 111 - 113, 115, and 117 of this title (relating to Control of Air Pollution from Visible Emissions and Particulate Matter, Control of Air Pollution from Sulfur Compounds, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, Control of Air Pollution from Volatile Organic Compounds, and Control of Air Pollution from Nitrogen Compounds);

(11) If notice is for any air quality permit application except those listed in paragraphs (12) and (15) of this subsection, the following information must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice:

(A) a statement that a person who may be affected by emissions of air contaminants from the facility or proposed facility is entitled to request a contested case hearing from the commission within the following specified time periods;

(i) for air quality permit applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title a statement that a request for a contested case hearing must be received by the commission by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(ii) for air quality permit applications subject to the requirements of Chapter 116, Subchapter E of this title, whether for construction or reconstruction, a statement that a request for a contested case hearing must be received by the commission by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(iii) for renewals of air quality permits that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History), a statement that a request for a contested case hearing must be received by the commission before the close of the 15-day comment period provided in response to the last publication of Notice of Receipt of Application and Intent to Obtain Permit;

(iv) for initial registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants

adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) received ~~on or after January 1, 2017~~ before March 1, 2026, the following statements:

(I) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(c) of this title (relating to Newspaper Notice);

(II) if no hearing requests are received by the end of the 30-day comment period there is no further opportunity to request a contested case hearing; and

(III) if any hearing requests are received before the close of the 30-day comment period, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(v) for initial registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) received on or after March 1, 2026, the following statements:

(I) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(c) of this title (relating to Newspaper Notice);

(II) if no hearing requests are received by the end of the 30-day comment period there is no further opportunity to request a contested case hearing unless a public meeting is held on the application;

(III) if a public meeting is held on the application, the end of the comment period and opportunity to request a contested case hearing will be extended for at least 36 hours following the end of the public meeting; and

(IV) if any hearing requests are received before the close of the 30-day comment period or the extended comment period following a public meeting, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(vi) [(v)] for new air quality permit applications and for permit amendment applications issued under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits), for which the executive director has declared the application administratively and technically complete and prepared a draft permit within 15 days of receipt of the application, the following information:

(I) the date the application was received and the date the draft permit was completed; and

(II) for applications submitted before March 1, 2026, a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(d) of this title. If no hearing requests are received by the end of the 30-day comment period, there is no further opportunity to request a contested case hearing. If any hearing requests are received before the close of the 30-day comment period, the opportunity to file a request for a contested case hearing is extended

to 30 days after the mailing of the executive director's response to comments; or

(III) for applications declared administratively complete by the executive director on or after March 1, 2026, a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(d) of this title. If no hearing requests are received by the end of the 30-day comment period, there is no further opportunity to request a contested case hearing, unless a public meeting is held on the application. If a public meeting is held, then the opportunity to request a contested case hearing is extended for at least 36 hours following the close of the public meeting. If any hearing requests are received before the close of the 30-day comment period or the close of a comment period extended following a public meeting, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(vii) [(v)] for all air quality permit applications other than those in clauses (i) - (vi) of this subparagraph, a statement that a request for a contested case hearing must be received by the commission before the close of the 30-day comment period provided in response to the last publication of Notice of Receipt of Application and Intent to Obtain Permit. If no hearing requests are received by the end of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, there is no further opportunity to request a contested case hearing. If any hearing requests are received before the close of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(B) a statement that a request for a contested case hearing must be received by the commission;

(C) a statement that a contested case hearing request must include the requester's location relative to the proposed facility or activity;

(D) a statement that a contested case hearing request should include a description of how the requester [requestor] will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's [requestor's] uses of property which may be impacted by the proposed facility or activity;

(E) a statement that only relevant and material issues raised during the comment period can be considered if a contested case hearing request is granted; and

(F) if notice is for air quality permit applications described in subparagraph (A)(vi) of this paragraph, a statement that when no hearing requests are timely received the applicant shall publish a Notice of Application and Preliminary Decision that provides an opportunity for public comment and to request a public meeting.

(12) if notice is for air quality applications for a permit under Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities), filed on or before January 1, 2018, a Multiple Plant Permit under Chapter 116, Subchapter J of this title (relating to Multiple Plant Permits), or for a Plant-wide Applicability Limit under Chapter 116 of this title, a statement that any person is entitled to request a public meeting or a notice and comment hearing, as applicable, from the commission;

(13) notification that a person residing within 440 yards of a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title is an affected person who is entitled to request a contested case hearing;

~~[(14) the statement: "The facility's compliance file, if any exists, is available for public review in the regional office of the Texas Commission on Environmental Quality;"]~~

(14) [(15)] if notice is for an application for an air quality permit under Chapter 116, Subchapter B, Division 6 of this title (relating to Prevention of Significant Deterioration Review) that would authorize only emissions of greenhouse gases as defined in §101.1 of this title (relating to Definitions), a statement that any interested person is entitled to request a public meeting or a notice and comment hearing, as applicable, from the commission; and

(15) [(16)] any additional information required by the executive director or needed to satisfy federal public notice requirements.

(f) The chief clerk shall mail Notice of Application and Preliminary Decision, or the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision, as provided for in §39.603(c) or (d) of this title, to those listed in §39.602 of this title (relating to Mailed Notice). When notice of application and preliminary decision by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the information in this subsection:

(1) the information required by subsection (e) of this section;

(2) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit;

(3) the location, at a public place in the county with internet access in which the facility is located or proposed to be located, at which a copy of the complete application and the executive director's draft permit and preliminary decision are available for review and copying and, for applications administratively complete on or after May 1, 2026, a statement that the technically complete application and draft permit may be viewed online at the commission's website and the location of the website where these can be found;

(4) a brief description of public comment procedures; ~~[including a description of the manner in which comments regarding the executive director's draft permit and, where applicable, preliminary decision, preliminary determination summary, and air quality analysis may be submitted, or a statement in the notice for any air quality permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted. The public comment procedures must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice;]~~

(A) a description of the manner in which comments regarding the executive director's draft permit and, as applicable, preliminary decision, preliminary determination summary, and air quality analysis may be submitted; or

(B) a statement in the notice for any air quality permit application for which there is an opportunity for contested case hearing that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted; and

(C) the public comment procedures must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice.

(5) the deadline to file comments or request a public meeting, including: [The notice should include a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity. The notice must include a statement that the comment period will be for at least 30 days following publication of the Notice of Application and Preliminary Decision;]

(A) a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located or there is substantial public interest in the proposed activity; and

(B) a statement that the comment period will be for at least 30 days following publication of the Notice of Application and Preliminary Decision;

(6) if the application is subject to final approval by the executive director under Chapter 50 of this title, a statement that the executive director may issue final approval of the application unless a timely contested case hearing request or a timely request for reconsideration (if applicable) is filed with the chief clerk after transmittal of the executive director's decision and response to public comment;

(7) If the executive director prepares a Response to Comments as required by §55.156 of this title (relating to Public Comment Processing), the chief clerk will make the executive director's response to public comments available on the commission's website;

(8) in addition to the requirements in paragraphs (1) - (7) of this subsection, for air quality permit applications for permits under Chapter 116, Subchapter B, Divisions 5 and 6 of this title (relating to Nonattainment Review Permits and Prevention of Significant Deterioration Review):

(A) as applicable, the degree of increment consumption that is expected from the source or modification;

(B) a statement that the state's air quality analysis is available for comment;

(C) the deadline to request a public meeting;

(D) a statement that the executive director will hold a public meeting at the request of any interested person; and

(E) a statement that the executive director's draft permit and preliminary decision, preliminary determination summary, and air quality analysis are available electronically on the commission's website at the time of publication of the Notice of Application and Preliminary Decision; and

(9) in addition to the requirements in paragraphs (1) - (7) of this subsection, for air quality permit applications for permits under Chapter 116, Subchapter E of this title:

(A) the deadline to request a public meeting;

(B) a statement that the executive director will hold a public meeting at the request of any interested person; and

(C) a statement that the executive director's draft permit and preliminary decision are available electronically on the commission's website at the time of publication of the Notice of Application and Preliminary Decision.

(g) When notice of a public meeting by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the information in this subsection:

(1) the information required by subsection (e)(1) - (3), (4)(A), (6), (8), (9), and (15) [(46)] of this section;

(2) the date, time, and place of the public meeting, and a brief description of the nature and purpose of the meeting, including the applicable rules and procedures; and

(3) a brief description of public comment procedures, including: [a description of the manner in which comments regarding the executive director's draft permit and preliminary decision, and, as applicable, preliminary determination summary, and air quality analysis may be submitted and a statement in the notice for any air quality permit application for which there is an opportunity for contested case hearing, that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted;]

(A) a description of the manner in which comments regarding the executive director's draft permit and preliminary decision and, as applicable, preliminary determination summary and air quality analysis may be submitted; and

(B) a statement in the notice for any air quality permit application for which there is an opportunity for contested case hearing that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.

(h) When notice of a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings) by publication or by mail is required by Subchapters H and K of this chapter for air quality permit applications, the text of the notice must include the following information:

(1) the information required by subsection (e)(1) - (3), (6), (9), and (15) [(46)] of this section; and

(2) the date, time, and place of the hearing, and a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

*§39.412. Combined Notice for Certain Greenhouse Gases Permit Applications.*

(a) This section applies to a permit application transferred from the United States Environmental Protection Agency (EPA) or filed with the commission for initial issuance of a Prevention of Significant Deterioration (PSD) permit to authorize only emissions of Greenhouses Gases, as defined in §101.1 of this title (relating to Definitions) which, prior to receipt of the application with the commission, was filed with EPA and for which notice of draft permit was published as required by EPA.

(b) In lieu of compliance with all other applicable requirements of this chapter regarding PSD permit applications, an applicant may fulfill the requirements of this chapter by:

(1) Complying with the requirements of §39.405(f)(3), (h), (i), and (k) of this title (relating to General Notice Provisions) and §39.426(a), (b)(1), (3), and (5) - (8) of this title (relating to Alternative Notice Requirements);

(2) Publishing Notice of Receipt of Application and Intent to Obtain Permit combined with Notice of Application and Preliminary Decision (Combined Notice) as follows:

(A) The published Combined Notice must comply with §39.411(e)(1) - (3), (4)(A)(i), (5)(A), (6) - (9), and (15) [(46)] of this title (relating to Text of Public Notice);

(B) The published Combined Notice must include the following information:

(i) a list of the individual Greenhouse Gases proposed to be emitted;

(ii) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit, and a statement that the executive director's draft permit and preliminary decision, preliminary determination summary, and air quality analysis, if applicable, are available electronically on the commission's website;

(iii) the location, at a public place with internet access in the county in which the facility is located or proposed to be located, at which a copy of the complete application and the executive director's draft permit and preliminary decision are available for review and copying;

(iv) a brief description of public comment procedures, including a description of the manner in which comments regarding the executive director's draft permit and preliminary decision, preliminary determination summary, and air quality analysis, if applicable, may be submitted. The public comment procedures must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the Combined Notice;

(v) a statement that a public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the facility is to be located, there is substantial public interest in the proposed activity or at the request of any interested person;

(vi) a statement that the comment period will be for at least 30 days following the last publication of the Combined Notice together with the deadline to file comments or request a public meeting;

(vii) a statement that any comments submitted to EPA regarding the application will not be included in the executive director's response to comments unless the comments are timely submitted to the commission; and

(viii) a statement if the executive director prepares a Response to Comments as required by §55.156 of this title (relating to Public Comment Processing), the Office of the Chief Clerk (chief clerk) will make the executive director's response to public comments available on the commission's website; and

(C) The Combined Notice must meet the requirements of §39.603(c) and (d) of this title (relating to Newspaper Notice) and is required to be published within 33 days after the chief clerk has mailed the preliminary decision concurrently with the notice to the applicant;

(3) Making a copy of the application and certain other documents, as applicable, available for review and copying according to the following requirements:

(A) A copy of the application must be available at a public place with internet access in the county in which the facility is located or proposed to be located;

(B) The copy of the application must be updated as changes are made, if any, to the application; and the entire application must be available for review and copying;

(C) A copy of the executive director's preliminary decision, draft permit, preliminary determination summary and air quality analysis, if applicable, must be made available on the first day of newspaper publication of the Combined Notice required by this section and must remain available until the commission has taken action on the application; and

(D) If the application is submitted with confidential information indicate in the public file that there is additional information in a confidential file marked as confidential by the applicant;

(4) Complying with the requirements of §39.604(a) and (c) - (e) of this title (relating to Sign-Posting), except that the sign or signs must be in place on the first day of publication of the Combined Notice. The signs must remain in place and legible throughout the public comment period until final action is taken on the permit application. The applicant shall provide verification that the sign posting was conducted according to §39.604 of this title; and

(5) Complying with §39.605 of this title (relating to Notice to Affected Agencies).

(c) The chief clerk shall be responsible for the following additional requirements.

(1) Mailing the Combined Notice as required by §39.602 of this title (relating to Mailed Notice).

(2) Transmitting the executive director's response to comments as provided for in §39.420(c)(1)(A) and (B), (2), and (d) of this title (relating to Transmittal of the Executive Director's Response to Comments and Decision).

(d) The public comment period shall automatically be extended to the close of any public meeting or notice and comment hearing.

(e) After the deadline for submitting public comment, final action on an application may be taken under Chapter 50 of this title (relating to Action on Applications and Other Authorizations).

#### *§39.419. Notice of Application and Preliminary Decision.*

(a) After technical review is complete, the executive director shall file the preliminary decision and the draft permit with the Office of the Chief Clerk (chief clerk) [~~except for air applications under subsection (e) of this section~~]. The chief clerk shall mail the preliminary decision concurrently with the Notice of Application and Preliminary Decision. For applications filed on or after September 1, 2015, this mailing will occur no earlier than 30 days after written notification of the draft permit is provided by the executive director to the state senator and state representative of the area in which the facility which is the subject of the application is or will be located. Then, when this chapter requires notice under this section, notice must be given as required by subsections (b) - (e) of this section.

(1) Additionally, for the specific types of air quality applications listed in clauses (i) and (ii) of this subparagraph, the executive director shall file the executive director's draft permit and preliminary decision, the preliminary determination summary, and air quality analysis, as applicable, with the chief clerk; and the chief clerk shall post these on the commission's website. Notice of Application and Preliminary Decision must be published as specified in Subchapter K of this chapter (relating to Public Notice of Air Quality Permit Applications) and, as applicable, under §39.426 of this title. This applies to the following:

(A) air applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title (relating to New Source Review Permits); and

(B) air applications subject to Chapter 116, Subchapter E (Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)).

(2) This section does not apply to any renewal application of an air quality permit that would not result in an increase in allowable

emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History).

(b) The applicant shall publish Notice of Application and Preliminary Decision at least once in the same newspaper as the Notice of Receipt of Application and Intent to Obtain Permit, unless there are different requirements in this section or a specific subchapter in this chapter for a particular type of permit. The applicant shall also publish the notice under §39.426 of this title (relating to Alternative Language Requirements), if applicable.

(c) Unless mailed notice is otherwise provided under this section, the chief clerk shall mail Notice of Application and Preliminary Decision to those listed in §39.413 of this title (relating to Mailed Notice).

(d) For air quality applications, the chief clerk shall mail notice according to §39.602 of this title (relating to Mailed Notice).

(e) [(d)] The notice must include the information required by §39.411(c) of this title (relating to Text of Public Notice).

[(e) For air applications the following apply:]

[(1) After technical review is complete for applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title (relating to New Source Review Permits), the executive director shall file the executive director's draft permit and preliminary decision, the preliminary determination summary and air quality analysis, as applicable, with the chief clerk and the chief clerk shall post these on the commission's website. Notice of Application and Preliminary Decision must be published as specified in Subchapter K of this chapter (relating to Public Notice of Air Quality Permit Applications) and, as applicable, under §39.426 of this title, unless the application is for any renewal application of an air quality permit that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History).]

[(2) If notice under this section is required, the chief clerk shall mail notice according to §39.602 of this title (relating to Mailed Notice).]

[(3) If the applicant is seeking authorization by permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions), any application submitted on or before January 1, 2018, shall be subject to the public notice and participation requirements in Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities).]

*§39.420. Transmittal of the Executive Director's Response to Comments and Decision.*

(a) Except for air quality permit applications, when required by and subject to §55.156 of this title (relating to Public Comment Processing), after the close of the comment period, the chief clerk shall transmit to the people listed in subsection (b) of this section the following information:

- (1) the executive director's decision;
- (2) the executive director's response to public comments;

(3) instructions for requesting that the commission reconsider the executive director's decision; and

(4) instructions for requesting a contested case hearing.

(b) The following persons shall be sent the information listed in subsection (a) of this section:

(1) the applicant;

(2) any person who requested to be on the mailing list for the permit action;

(3) any person who submitted comments during the public comment period;

(4) any person who timely filed a request for a contested case hearing;

(5) Office of the Public Interest Counsel; and

(6) the director of the External Relations Division.

(c) When required by and subject to §55.156 of this title, for air quality permit applications, after the close of the comment period, the chief clerk shall:

(1) transmit to the people listed in subsection (d) of this section the following information:

(A) the executive director's decision;

(B) the executive director's response to public comments;

(C) instructions for requesting that the commission reconsider the executive director's decision; and

(D) instructions, which include the statements in clause (ii) of this subparagraph, for requesting a contested case hearing for applications:

(i) for the following types of applications:

(I) permit applications which are subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title (relating to New Source Review Permits) as described in §39.402(a)(2) of this title (relating to Applicability to Air Quality Permits and Permit Amendments);

(II) permit and permit amendment applications which are not subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title, and for which hearing requests were received by the end of the 30-day comment period following the final publication of Notice of Receipt of Application and Intent to Obtain Permit, and these requests were not withdrawn as described in:

(-a-) §39.402(a)(1), (3), (11) and (12) of this title; and

(-b-) §39.402(a)(4) and (5) of this title;

(III) applications subject to the requirements of Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), whether for construction or reconstruction [described in §39.402(7) of this title]; and

(IV) applications for any renewal application that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application involves a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753

and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History);

(ii) the following statements must be included:

(I) a statement that a person who may be affected by emissions of air contaminants from the facility or proposed facility is entitled to request a contested case hearing from the commission;

(II) that a contested case hearing request must include the requester's [requestor's] location relative to the proposed facility or activity;

(III) that a contested case hearing request should include a description of how and why the requester [requestor's] will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's [requestor's] uses of property which may be impacted by the proposed facility or activity;

(IV) that only relevant and material disputed issues of fact raised during the comment period can be considered if a contested case hearing request is granted; and

(V) that a contested case hearing request may not be based on issues raised solely in a comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment; and

(2) for applications subject to the requirements [of requirements] for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title, make available by electronic means on the commission's website the executive director's draft permit and preliminary decision, the executive director's response to public comments, and, as applicable, preliminary determination summary and air quality analysis.

(d) The following persons shall be sent the information listed in subsection (c) of this section:

(1) the applicant;

(2) any person who requested to be on the mailing list for the permit action;

(3) any person who submitted comments during the public comment period;

(4) any person who timely filed a request for a contested case hearing;

(5) Office of the Public Interest Counsel; and

(6) the director of the External Relations Division.

(e) For air quality permit applications which meet the following conditions, items listed in subsection (c)(1)(C) and (D) of this section are not required to be included in the transmittals:

(1) applications for which no timely hearing request is submitted in response to the Notice of Receipt of Application and Intent to Obtain a Permit;

(2) applications for which one or more timely hearing requests are submitted in response to the Notice of Receipt of Application and Intent to Obtain Permit and for which this is the only opportunity to request a hearing, and all of the requests are withdrawn before the date the preliminary decision is issued;

(3) the application is for any renewal application that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted unless the application involves a facility for which the applicant's

compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History); or

(4) applications for a Prevention of Significant Deterioration permit that would authorize only emissions of greenhouse gases as defined in §101.1 of this title (relating to Definitions).

(f) For applications for which all timely comments and requests have been withdrawn before the filing of the executive director's response to comments, the chief clerk shall transmit only the items listed in subsection (a)(1) and (2) of this section and the executive director may act on the application under §50.133 of this title (relating to Executive Director Action on Application or WQMP Update).

(g) For post-closure order applications under Subchapter N of this chapter (relating to Public Notice of Post-Closure Orders), the chief clerk shall transmit only items listed in subsection (a)(1) and (2) of this section to the people listed in subsection (b)(1) - (3), (5), and (6) of this section.

(h) For applications for air quality permits under Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities), the chief clerk will not transmit the item listed in subsection (a)(4) of this section.

#### §39.422. Notice of Extension of Comment Period.

(a) The executive director may extend any comment period for good cause.

(b) Notice of comment period extensions will be posted on the commission's website when a comment period is extended for an application that has been declared administratively complete on or after May 1, 2026.

(c) For an application that has been declared administratively complete on or after May 1, 2026, when a comment period is extended, the commission will provide electronic notice of comment period extensions to persons who subscribed to receive informal electronic notices through the permit notice by email system.

(d) When notice of a comment period extension is required, §39.426 of this title (relating to Alternative Language Requirements) applies.

#### §39.423. Notice of Contested Case Hearing.

(a) The Office of the Chief Clerk (chief clerk) shall mail notice of a contested case hearing to the applicant, executive director, and public interest counsel. The chief clerk shall also mail notice to persons who filed public comment, or requests for reconsideration or contested case hearing. The notice shall be mailed to the parties no less than 13 days before the hearing. The chief clerk may combine the mailed notice required by this section with other mailed notice of hearing required by this chapter. If the commission refers an application to the State Office of Administrative Hearings on the sole question of whether the requester [requestor's] is an affected person, the notice in this subsection shall be the only notice required. The requirements of §39.426 of this title (relating to Alternative Language Requirements) shall be met, as applicable.

(b) For specific types of applications, additional requirements for notice of hearing are in Subchapters H - M of this chapter (relating to Applicability and General Provisions, Public Notice of Solid Waste Applications, Public Notice of Water Quality Applications and Water Quality Management Plans, Public Notice of Air Quality Applications, Public Notice of Injection Well and Other Specific Applications, and Public Notice for Radioactive Material Licenses).

(c) After an initial preliminary hearing, the judge shall give reasonable notice of subsequent prehearing conferences or the eviden-

tiary hearing by making a statement on the record in a prehearing conference or by written notice to the parties.

*§39.425. Notice of Contested Enforcement Case Hearing.*

For any contested enforcement case hearing, the chief clerk shall mail notice to the statutory parties, respondents, and persons who have requested to be on a mailing list for the pleadings in the formal enforcement action no less than 13 days before a hearing in accordance with the Administrative Procedures Act [APA], §2001.052. In addition, public notice and opportunity for comment before the commission regarding a proposed enforcement action shall be given under Chapter 10 of this title (relating to Commission Meetings).

*§39.426. Alternative Language Requirements.*

(a) Applicability.

(1) The following are subject to this section:

(A) air quality permit applications; and

(B) permit applications other than air quality permit applications that are required to comply with §39.418 or §39.419 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit; and Notice of Application and Preliminary Decision) [~~that are filed on or after November 30, 2005-~~].

(2) This section applies whenever notice is required to be published under §39.418 or §39.419 of this title, and either the elementary or middle school nearest to the facility or proposed facility is required to provide a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B, and 19 TAC §89.1205(a) (relating to Required Bilingual Education and English as a Second Language Programs) and one of the following conditions is met:

(A) students are enrolled in a program at that school;

(B) students from that school attend a bilingual education program at another location; or

(C) the school that otherwise would be required to provide a bilingual education program has been granted an exception from the requirements to provide the program as provided for in 19 TAC §89.1207(a) (relating to Bilingual Education Exceptions and English as a Second Language Waivers).

(3) Elementary or middle schools that offer English as a second language under 19 TAC §89.1205(d), and are not otherwise affected by 19 TAC §89.1205(a), will not trigger the requirements of this section.

(4) This section also applies when the executive director determines that alternative language notice is necessary to provide proper notice and meaningful access to affected communities.

(b) Alternative language newspaper notice.

(1) The notice required by §39.418 or §39.419 of this title must be published in a newspaper or publication that is published primarily in the alternative languages in which the bilingual education program is or would have been taught, and the notice must be in those languages.

(2) The newspaper or publication must be of general circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, and there exists a newspaper or publication of general circulation in the municipality, the applicant shall publish notice only in the newspaper or publication in the municipality. This paragraph does not apply to notice required to be published for air quality permits under §39.603 of this title (relating to Newspaper Notice).

(3) For notice required to be published in a newspaper or publication under §39.603 of this title, relating to air quality permits, the newspaper or publication must be of general circulation in the municipality or county in which the facility is located or is proposed to be located, and the notice must be published as follows.

(A) One notice must be published in the public notice section of the newspaper and must comply with the applicable portions of §39.411 of this title (relating to Text of Public Notice).

(B) Another notice with a total size of at least six column inches, with a vertical dimension of at least three inches and a horizontal dimension of at least two column widths, or a size of at least 12 square inches, must be published in a prominent location elsewhere in the same issue of the newspaper. This notice must contain the following information:

(i) permit application number;

(ii) company name;

(iii) type of facility;

(iv) description of the location of the facility; and

(v) a note that additional information is in the public notice section of the same issue.

(4) Waste and water quality alternative language must be published in the public notice section of the alternative language newspaper and must comply with §39.411 of this title.

(5) The requirements of this subsection are waived for each language in which no publication exists, or if the publishers of all alternative language publications refuse to publish the notice. If the alternative language publication is published less frequently than once a month, this notice requirement may be waived by the executive director on a case-by-case basis.

(A) For permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022, if this notice is waived, the applicant will provide the alternative language notice required in paragraph (3)(A) of this subsection to the Office of the Chief Clerk (chief clerk), and this notice will be posted electronically on the commission's website;

(B) The published English language notice will include instructions in the alternative language explaining how to access the electronic version of the alternative language notice.

(6) Notice under this subsection will only be required to be published within the United States.

(7) Each alternative language publication must follow the requirements of this chapter that are consistent with this section.

(8) If a waiver is received under this section on an air quality permit application, the applicant shall complete a verification and submit it as required under §39.605(3) of this title (relating to Notice to Affected Agencies). If a waiver is received under this section on a waste or water quality application, the applicant shall complete a verification and submit it to the chief clerk and the executive director.

(c) Alternative language requirement for applicant's summary of application. For permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022, when an application is subject to the requirements of this section, the applicant shall also provide an alternative language version of the summary of application that is required by §39.405(k) of this title (relating to General Notice Provisions). This summary shall be posted on the commission's website.

(d) Alternative language requirements for public meetings:

(1) When a public meeting is held under §55.154 of this title (relating to Public Meetings), the chief clerk shall mail notice of that public meeting in the alternative language, if alternative language notice is required to be published by subsection (b) of this section.

(A) Notice of the public meeting shall be given as required by §39.411(d) or (g) of this title (relating to Text of Public Notice), as applicable.

(B) For air quality permit applications, this notice shall be mailed by the chief clerk's office at least 30 calendar days prior to the date of the public meeting.

(C) The alternative language notice of the public meeting will be published on the commission's website.

(2) The applicant shall provide for competent interpretative services in the same alternative language at the public meeting. Interpretation services must be provided if:

(A) the chief clerk has received comments in the alternative language at least two weeks before the public meeting is scheduled; or

(B) there is substantial or significant public interest that would be served by having translation services available.

(3) This subsection will apply to permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022.

(e) Alternative language requirements for response to comments.

(1) The executive director is required to evaluate the need to provide a written response to comments in accordance with §55.156(b)(1) of this title (relating to Public Comment Processing) in an alternative language when formal written or oral comments are received on the permit application in the alternative language; the executive director will consider the following factors when making this determination:

(A) if the comments received on the application were substantive;

(B) how many comments in an alternative language were received on the proposed application;

(C) if the language in which the comments were received is commonly spoken in the community in which the proposed application would be located;

(D) if a notice was required by this section to be published in that language; and

(E) if an alternative language response is necessary to ensure that the commenter can fully participate in the processes of the commission related to the permit application.

(2) The executive director may also provide the response to comments in the alternative language when there is significant public interest that would be served by the response to comments in the alternative language.

(3) When a translated response to comments is provided, the transmittal letter mailed out by the chief clerk in accordance with §55.156(c) of this title shall:

(A) also be provided in the alternative language; and

(B) the instructions for further public participation that are required by §55.156(d) and (e) of this title shall also be provided in the alternative language.

(4) When a translated response to comments is necessary, the executive director may use any resources available to translate the response; the translated response to comments may include a statement as to the source of the translation, and information for how to obtain answers to questions related to the translation.

(5) When the executive director determines that it is not necessary to translate a response to comments even though comments have been received in an alternative language, the transmittal letter will include information in both English and the alternative language about how to use available translation tools to translate the response into an alternative language.

(6) This subsection will apply to permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022.

(f) Alternative language requirements for response to requests for reconsideration or hearing requests. This subsection applies whenever requests for reconsideration or hearing requests are received in accordance with §55.201 of this title (relating to Requests for Reconsideration or Contested Case Hearing) in an alternative language.

(1) the notice transmitted by the chief clerk in accordance with §55.209 of this title (relating to Processing Requests for Reconsideration and Contested Case Hearing) concerning commission action on hearing requests shall be provided in the alternative language;

(2) any written responses to the requests for reconsideration or hearing requests submitted by the executive director, the Office of Public Interest Counsel, and the applicant shall be provided in the alternative language;

(3) when a translated response to requests for reconsideration or hearing is required, the executive director, the Office of Public Interest Counsel, and the applicant may use any resources available to translate the response; the translated response may include a statement as to the source of the translation, and information for how to obtain answers to questions related to the translation;

(4) written commission orders on hearing requests subject to this subsection shall also be provided in the alternative language;

(5) when hearing requests that require alternative language documents are heard by the commissioners at agenda, the commission shall provide oral interpretation of the agenda consideration in the alternative language;

(6) notice required in accordance with §50.119 of this title (relating to Notice of Commission Action, Motion for Rehearing), shall also be provided in the alternative language when this subsection applies;

(7) notice required in accordance with §39.423 of this title (relating to Notice of Contested Case Hearing), shall also be provided in the alternative language; and

(8) this subsection will apply to permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022.

(g) Remedy for Alternative Language Translation Errors.

(1) For notices, only substantive errors in translation require that notice be re-published or re-mailed. Substantive errors include, but are not limited to, errors in deadlines, meeting locations, log-in information for virtual meetings, time of meetings, information



relating to means to obtain further information about the subject of the notice, and information about the permit applicant.

(2) Absent a demonstration of willful misconduct in connection with the translation, a minor translation error shall not be grounds for preventing, vacating, delaying, or otherwise impairing the effectiveness of an action by the executive director or the commission.

(3) In the event of an alleged translation error, the original English version of a document shall be deemed conclusive.

(4) A complainant's remedy shall be to receive a revised translation within a reasonable period of time.

(5) This subsection will apply to permit applications that are declared by the executive director to be administratively complete on or after May 1, 2022.

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

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Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2678



## SUBCHAPTER I. PUBLIC NOTICE OF SOLID WASTE APPLICATIONS

### 30 TAC §§39.501, 39.503, 39.509, 39.510

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste. In addition, the amendments are proposed under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2001.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, and 27.019; and THSC, §361.024.

§39.501. *Application for Municipal Solid Waste Permit.*

(a) **Applicability.** This section applies to applications for municipal solid waste permits [that are declared administratively complete on or after September 1, 1999].

(b) **Preapplication local review committee process.** If an applicant for a municipal solid waste permit decides to participate in a local review committee process under Texas Health and Safety Code, §361.063, the applicant shall submit to the executive director a notice of intent to file an application, setting forth the proposed location and type of facility. The executive director shall mail notice to the county judge of the county in which the facility is to be located. If the proposed facility is to be located in a municipality or the extraterritorial jurisdiction of a municipality, a copy of the notice must also be mailed to the mayor of the municipality. The executive director shall also mail notice to the appropriate regional solid waste planning agency or council of government. The mailing must be by certified mail.

(c) **Notice of Receipt of Application and Intent to Obtain a Permit.**

(1) Upon the executive director's receipt of an application, or notice of intent to file an application, the chief clerk shall mail notice to the state senator and representative who represent the area in which the facility is or will be located.

(2) After the executive director determines that the application is administratively complete:

(A) notice must be given as required by §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit) and, if a newspaper is not published in the county, then the applicant shall publish notice in a newspaper of circulation in the immediate vicinity in which the facility is located or proposed to be located. This notice must contain the text as required by §39.411(b)(1) - (11) of this title (relating to Text of Public Notice);

(B) the chief clerk shall publish Notice of Receipt of Application and Intent to Obtain Permit in the *Texas Register*; and

(C) the executive director or chief clerk shall mail the Notice of Receipt of Application and Intent to Obtain Permit, along with a copy of the application or summary of its contents to the mayor and health authority of a municipality in whose territorial limits or extraterritorial jurisdiction the solid waste facility is located, and to the county judge and the health authority of the county in which the facility is located.

(d) **Notice of Application and Preliminary Decision.** The notice required by §39.419 of this title (relating to Notice of Application and Preliminary Decision) must be published once as required by §39.405(f)(2) of this title (relating to General Notice Provisions). The notice must be published after the chief clerk has mailed the Notice of Application and Preliminary Decision to the applicant. The notice must contain the text as required by §39.411(c)(1) - (6) of this title.

(e) **Notice of public meeting.**

(1) For an application for a new facility, the agency:

(A) may hold a public meeting under §55.154 of this title (relating to Public Meetings) in the county in which the facility is proposed to be located to receive public comment concerning the application; but

(B) shall hold a public meeting under §55.154 of this title in the county in which the facility is proposed to be located to receive public comment concerning the application:

(i) on the request of a member of the legislature who represents the general area in which the facility is proposed to be located; or

(ii) if the executive director determines that there is substantial public interest in the proposed facility.

(2) The applicant may hold a public meeting in the county in which the facility is proposed to be located.

(3) For purposes of this subsection, "substantial public interest" is demonstrated if a request for a public meeting is filed by:

(A) a local governmental entity with jurisdiction over the location at which the facility is proposed to be located by formal resolution of the entity's governing body;

(B) a council of governments with jurisdiction over the location at which the facility is proposed to be located by formal request of either the council's solid waste advisory committee, executive committee, or governing board;

(C) a homeowners' or property owners' association formally organized or chartered and having at least ten members located in the general area in which the facility is proposed to be located; or

(D) a group of ten or more local residents, property owners, or businesses located in the general area in which the facility is proposed to be located.

(4) A public meeting is not a contested case proceeding under the Administrative Procedure Act. A public meeting held as part of a local review committee process under subsection (b) of this section meets the requirements of paragraph (1) of this subsection if public notice is provided under this subsection.

(5) The applicant shall publish notice of any public meeting under this subsection, in accordance with §39.405(f)(2) of this title, once each week during the three weeks preceding a public meeting. The published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters). For public meetings under paragraph (2) of this subsection, the notice of public meeting is not subject to §39.411(d) of this title, but instead must contain at least the following information:

(A) permit application number;

(B) applicant's name;

(C) proposed location of the facility;

(D) location and availability of copies of the application;

(E) location, date, and time of the public meeting; and

(F) name, address, and telephone number of the contact person for the applicant from whom interested persons may obtain further information.

(6) For public meetings held by the agency under paragraph (1) of this subsection, the chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice).

(f) Notice of hearing.

(1) This subsection applies if an application is referred to the State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) The applicant shall publish notice at least once under §39.405(f)(2) of this title.

(3) Mailed notice.

(A) If the applicant proposes a new facility, the applicant shall mail notice of the hearing to each residential or business address located within 1/2 mile of the facility and to each owner of real

property located within 1/2 mile of the facility listed in the real property appraisal records of the appraisal district in which the facility is located. The notice must be mailed to the persons listed as owners in the real property appraisal records on the date the application is determined to be administratively complete. The notice must be mailed no more than 45 days and no less than 30 days before the hearing. Within 30 days after the date of mailing, the applicant shall file with the chief clerk an affidavit certifying compliance with its obligations under this subsection. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with this subparagraph.

(B) If the applicant proposes to amend a permit, the chief clerk shall mail notice to the persons listed in §39.413 of this title.

(4) Notice under paragraphs (2) and (3)(B) of this subsection must be completed at least 30 days before the hearing.

*§39.503. Application for Industrial or Hazardous Waste Facility Permit.*

(a) Applicability. This section applies to applications for industrial or hazardous waste facility permits [that are declared administratively complete on or after September 1, 1999].

(b) Preapplication requirements.

(1) If an applicant for an industrial or hazardous waste facility permit decides to participate in a local review committee process under Texas Health and Safety Code, §361.063, the applicant shall submit a notice of intent to file an application to the executive director, setting forth the proposed location and type of facility. The applicant shall mail notice to the county judge of the county in which the facility is to be located. If the proposed facility is to be located in a municipality or the extraterritorial jurisdiction of a municipality, a copy of the notice must also be mailed to the mayor of the municipality. Mailed notice must be by certified mail. When the applicant submits the notice of intent to the executive director, the applicant shall publish notice of the submission in a paper of general circulation in the county in which the facility is to be located.

(2) The requirements of this paragraph are set forth in 40 Code of Federal Regulations (CFR) §124.31(b) - (d), which is adopted by reference as amended and adopted in the CFR through December 11, 1995 (60 FR 63417), and apply to all hazardous waste part B applications for initial permits for hazardous waste management units, hazardous waste part B permit applications for major amendments, and hazardous waste part B applications for renewal of permits, where the renewal application is proposing a significant change in facility operations. For the purposes of this paragraph, a "significant change" is any change that would qualify as a Class 3 permit modification under §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee). The requirements of this paragraph do not apply to an application for minor amendment under §305.62 of this title (relating to Amendments), correction under §50.145 of this title (relating to Corrections to Permits), or modification under §305.69 of this title, or to an application that is submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility, unless the application is also for an initial permit for hazardous waste management unit(s), or the application is also for renewal of the permit, where the renewal application is proposing a significant change in facility operations.

(c) Notice of Receipt of Application and Intent to Obtain Permit.

(1) Upon the executive director's receipt of an application, or notice of intent to file an application, the Office of the Chief Clerk

(chief clerk) shall mail notice to the state senator and representative who represent the area in which the facility is or will be located and to the persons listed in §39.413 of this title (relating to Mailed Notice). For all hazardous waste part B applications for initial permits for hazardous waste management units, hazardous waste part B permit applications for major amendments, and hazardous waste part B applications for renewal of permits, the chief clerk shall provide notice to meet the requirements of this subsection and 40 CFR §124.32(b), which is adopted by reference as amended and adopted in the CFR through December 11, 1995 (60 FR 63417), and the executive director shall meet the requirements of 40 CFR §124.32(c), which is adopted by reference as amended and adopted in the CFR through December 11, 1995 (60 FR 63417). The requirements of this paragraph relating to 40 CFR §124.32(b) and (c) do not apply to an application for minor amendment under §305.62 of this title, correction under §50.145 of this title, or modification under §305.69 of this title, or to an application that is submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility, unless the application is also for an initial permit for hazardous waste management unit(s), or the application is also for renewal of the permit.

(2) After the executive director determines that the application is administratively complete:

(A) notice must be given as required by §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit). Notice under §39.418 of this title will satisfy the notice of receipt of application required by §281.17(d) of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness); and

(B) the executive director or chief clerk shall mail notice of this determination along with a copy of the application or summary of its contents to the mayor and health authority of a municipality in whose territorial limits or extraterritorial jurisdiction the solid waste facility is located, and to the county judge and the health authority of the county in which the facility is located.

(d) Notice of Application and Preliminary Decision. The notice required by §39.419 of this title (relating to Notice of Application and Preliminary Decision) must be published once as required by §39.405(f)(2) of this title (relating to General Notice Provisions). In addition to the requirements of §39.419 of this title and §39.426 of this title (relating to Alternative Language Requirements), the following requirements apply.

(1) The applicant shall publish notice at least once in a newspaper of general circulation in each county that is adjacent or contiguous to each county in which the facility is located. One notice may satisfy the requirements of §39.405(f)(2) of this title and of this subsection, if the newspaper meets the requirements of both rules.

(2) If the application concerns a hazardous waste facility, the applicant shall broadcast notice of the application on one or more local radio stations that broadcast to an area that includes all of the county in which the facility is located. The executive director may require that the broadcasts be made to an area that also includes contiguous counties.

(3) The notice must comply with §39.411 of this title (relating to Text of Public Notice). The deadline for public comments on industrial solid waste applications will be not less than 30 days after newspaper publication, and for hazardous waste applications, not less than 45 days after newspaper publication.

(e) Notice of public meeting.

(1) For an application for a new hazardous waste facility, the agency:

(A) may hold a public meeting under §55.154 of this title (relating to Public Meetings) in the county in which the facility is proposed to be located to receive public comment concerning the application; but

(B) shall hold a public meeting under §55.154 of this title in the county in which the facility is proposed to be located to receive public comment concerning this application:

(i) on the request of a member of the legislature who represents the general area in which the facility is proposed to be located; or

(ii) if the executive director determines that there is substantial public interest in the proposed facility.

(2) For an application for a major amendment to or a Class 3 modification of an existing hazardous waste facility permit, the agency:

(A) may hold a public meeting under §55.154 of this title in the county in which the facility is located to receive public comment concerning the application; but

(B) shall hold a public meeting under §55.154 of this title in the county in which the facility is located to receive public comment concerning the application:

(i) on the request of a member of the legislature who represents the general area in which the facility is located; or

(ii) if the executive director determines that there is substantial public interest in the facility.

(3) For purposes of this subsection, "substantial public interest" is demonstrated if a request for a public meeting is filed by:

(A) a local governmental entity with jurisdiction over the location at which the facility is located or proposed to be located by formal resolution of the entity's governing body;

(B) a council of governments with jurisdiction over the location at which the facility is located or proposed to be located by formal request of either the council's solid waste advisory committee, executive committee, or governing board;

(C) a homeowner's or property owners' association formally organized or chartered and having at least ten members located in the general area in which the facility is located or proposed to be located; or

(D) a group of ten or more local residents, property owners, or businesses located in the general area in which the facility is located or proposed to be located.

(4) For an application for a new industrial or hazardous waste facility that would accept municipal solid waste, the applicant may hold a public meeting in the county in which the facility is proposed to be located.

(5) A public meeting is not a contested case proceeding under the Administrative Procedure Act. A public meeting held as part of a local review committee process under subsection (b) of this section meets the requirements of paragraph (1) or (2) of this subsection if public notice is provided under this subsection.

(6) The applicant shall publish notice of any public meeting under this subsection, in accordance with §39.405(f)(2) of this title, once each week during the three weeks preceding a public meeting. The published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters). For public meetings under paragraph (3) of this subsection,

the notice of public meeting is not subject to §39.411(d) or §39.410(e) of this title, but instead must contain at least the following information:

- (A) permit application number;
- (B) applicant's name;
- (C) proposed location of the facility;
- (D) location and availability of copies of the application;
- (E) location, date, and time of the public meeting; and
- (F) name, address, and telephone number of the contact person for the applicant from whom interested persons may obtain further information.

(7) For public meetings held by the agency under paragraph (1) or (2) of this subsection, the chief clerk shall mail notice to the persons listed in §39.413 of this title.

(f) Notice of hearing.

(1) Applicability. This subsection applies if an application is referred to the State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) Newspaper notice.

(A) The applicant shall publish notice at least once in a newspaper of general circulation in the county in which the facility is located and in each county and area that is adjacent or contiguous to each county in which the proposed facility is located.

(B) If the application concerns a hazardous waste facility, the hearing must include one session held in the county in which the facility is located. The applicant shall publish notice of the hearing once each week during the three weeks preceding the hearing under §39.405(f)(2) of this title. The published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters) or have a total size of at least nine column inches (18 square inches). The text of the notice must include the statement that at least one session of the hearing will be held in the county in which the facility is located.

(3) Mailed notice.

(A) If the applicant proposes a new solid waste management facility, the applicant shall mail notice to each residential or business address located within 1/2 mile of the facility and to each owner of real property located within 1/2 mile of the facility listed in the real property appraisal records of the appraisal district in which the facility is located. The notice must be mailed to the persons listed as owners in the real property appraisal records on the date the application is determined to be administratively complete. The chief clerk shall mail notice to the persons listed in §39.413 of this title, except that the chief clerk shall not mail notice to the persons listed in §39.413(1) of this title. The notice must be mailed no more than 45 days and no less than 30 days before the hearing. Within 30 days after the date of mailing, the applicant shall file with the chief clerk an affidavit certifying compliance with its obligations under this subsection. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with this subparagraph.

(B) If the applicant proposes to amend or renew an existing permit, the chief clerk shall mail notice to the persons listed in §39.413 of this title.

(4) Radio broadcast. If the application concerns a hazardous waste facility, the applicant shall broadcast notice of the hearing under subsection (d)(2) of this section.

(5) Deadline. Notice under paragraphs (2)(A), (3), and (4) of this subsection must be completed at least 30 days before the hearing.

(g) Injection wells. This section does not apply to applications for an injection well permit.

(h) Information repository. The requirements of 40 CFR §124.33(b) - (f), which is adopted by reference as amended and adopted in the CFR through December 11, 1995 (60 FR 63417), apply to all applications for hazardous waste permits.

*§39.509. Application for a Class 3 Modification of an Industrial or Hazardous Waste Permit.*

(a) Applicability. This section applies to applications for Class 3 modification of industrial or hazardous waste permits ~~[that are declared administratively complete on or after September 1, 1999].~~

(b) Notice shall be given under §39.418 of ~~[the]~~ this title (relating to Notice of Receipt of Application and Intent to Obtain Permit) ~~[instead of giving notice under §305.69(d)(2) of this title (relating to Solid Waste Permit Modification at the Request of the Permittee)].~~ Notice shall also be given under §39.419 of the title (relating to Notice of Application and Preliminary Decision).

(c) Notice of the ~~[public]~~ meeting required by §305.69(d) ~~[[§305.69(d)(4)]]~~ shall be included with the Notice of Receipt of Application and Intent to Obtain Permit under §39.418.

*§39.510. Notice Requirements for Inactive Municipal Solid Waste Permit.*

(a) This section applies to the owners or operators of inactive permitted municipal solid waste (MSW) facilities, which are those facilities that have not accepted waste within two years of permit issuance or have ceased accepting waste for at least two consecutive years. For the purposes of this section, permit issuance means the date that a permit is issued by the commission or the date of a final, non-appealable decision regarding the permit. This section applies to facilities permitted before, on, or after the effective date of this rule.

(1) Within two years of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owner or operator of an inactive MSW facility shall notify the executive director, in writing, that the facility is inactive and that the owner or operator intends to operate the facility in the future. In the event that the owner or operator does not intend to operate the facility, the owner or operator should begin voluntary permit revocation procedures.

(2) Within two years of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owner or operator of an inactive permitted MSW facility shall publish notice of intent to operate the facility, at least once, in a newspaper of the largest circulation that is published in the county in which the facility is located or proposed to be located. If a newspaper is not published in the county, then the owner or operator shall publish notice in a newspaper of general circulation in the county in which the facility is located or proposed to be located, and such notice may be satisfied by a one-time publication if the publishing newspaper meets the circulation requirements. Thereafter, notice must be published annually in accordance with this paragraph, until the facility begins accepting waste or voluntary permit revocation is requested.

(3) Within two years of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is

later, the owner or operator of an inactive permitted MSW facility shall provide, by certified mail, the notice of intent to operate the facility to:

(A) landowners within 500 feet of the facility property line, as determined by county tax rolls or other reliable sources;

(B) the mayor and health authorities of the city or town in which territorial limits or extraterritorial jurisdiction the facility is located or proposed to be located;

(C) the county judge and health authorities of the county in which the facility is located or proposed to be located; and

(D) the council of governments that serves or covers the area or county in which the facility is located or proposed to be located. Thereafter, notice must be sent annually in accordance with this paragraph, until the facility begins accepting waste.

(4) The owner or operator shall file an affidavit with the executive director certifying facts that constitute compliance with the notice requirements of paragraphs (2) and (3) of this subsection within 30 days of the last publication of the published notice required by paragraph (2) of this subsection. The owner or operator shall also file a copy of the published notice required by paragraph (2) of this subsection with the executive director that shows the date of publication and the name of the newspaper within ten business days after its publication. The deadline to file a copy of the published notice that shows the date of publication and the name of the newspaper is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with the public notice requirements of paragraphs (2) and (3) of this subsection creates a rebuttable presumption of compliance with the requirement to publish notice.

(5) The text of the newspaper notice and the mailed notice must include:

(A) the name and address of the agency and the telephone number and email address of an agency contact from whom interested persons may obtain further information;

(B) the name, address, and telephone number of the owner or operator and a contact person from whom interested persons may obtain further information and, if different, the location of the facility or activity to be regulated by the permit;

(C) a brief description of the activity authorized by the permit;

(D) the permit number and permit issuance date; and

(E) a statement indicating that the permitted facility may begin construction or operation at a future time, and an estimated date of when the facility is expected to begin construction and operation.

(b) Within six months of the date of permit issuance, the date of ceasing to accept waste, or the effective date of this rule, whichever is later, the owners or operators of permitted MSW facilities that are not receiving waste shall provide signs specifying the facility's status. At the owner's or operator's expense, a sign or signs must be placed at the site of the permitted facility declaring that the permit has been issued and stating the manner in which the commission and owner or operator may be contacted for further information. Such signs must be provided by the owner or operator and must substantially meet the following requirements. Signs must:

(1) consist of dark lettering on a white background and must be no smaller than four feet by four feet with letters at least three inches in height and block printed capital lettering;

(2) be headed by the words "AUTHORIZED MUNICIPAL SOLID WASTE DISPOSAL FACILITY";

(3) include the words "PERMIT NO.", the number of the permit, and the type of permit;

(4) include the words "for further information contact";

(5) include the words "Texas Commission on Environmental Quality" and the address and telephone number of the appropriate commission regional office;

(6) include the name of the owner or operator, and the address of the appropriate responsible official;

(7) include the telephone number of the owner or operator;

(8) include the expected start-up date for beginning operation; and

(9) remain in place and legible until the facility is opened. The owner or operator shall provide a verification to the executive director that the sign posting was conducted according to the requirements of this section.

(c) Each sign placed at the site must be located within ten feet of every property line bordering a public highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs, shall be required along any property line paralleling a public highway, street, or road. This section's sign requirements do not apply to properties under the same ownership that are noncontiguous or separated by intervening public highway, street, or road, unless the property is part of the permitted facility.

(d) The executive director may approve variances from the requirements of subsections (b) and (c) of this section if the owner or operator has demonstrated that it is not practical to comply with the specific requirements of this subsection and alternative sign posting plans proposed by the applicant are at least as effective in providing notice to the public. Approval from the executive director under this subsection must be received before posting alternative signs for purposes of satisfying the requirements of this section.

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

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## SUBCHAPTER J. PUBLIC NOTICE OF WATER QUALITY APPLICATIONS AND WATER QUALITY MANAGEMENT PLANS

### 30 TAC §39.551, §39.553

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which pro-

vides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendment is also adopted under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air; and THSC, §382.059, which authorized certain permit applications to be filed prior to September 1, 2001. In addition, the amendments are proposed under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024 and §382.011.

*§39.551. Application for Wastewater Discharge Permit, Including Application for the Disposal of Sewage Sludge or Water Treatment Sludge.*

(a) **Applicability.** This section applies to applications for wastewater discharge permits, including disposal of sewage sludge or water treatment sludge applications [~~that are declared administratively complete on or after September 1, 1999~~]. This subchapter does not apply to registrations and notifications for sludge disposal under §312.13 of this title (relating to Actions and Notice).

(b) **Notice of receipt of application and intent to obtain permit.**

(1) Notice under §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit) is required to be published no later than 30 days after the executive director deems an application administratively complete. This notice must contain the text as required by §39.411(b)(1) - (9) and (11) of this title (relating to Text of Public Notice). In addition to the requirements of §39.418 of this title, the chief clerk shall mail notice to the School Land Board if the application will affect lands dedicated to the permanent school fund. The notice shall be in the form required by Texas Water Code, §5.115(c).

(2) Mailed notice to adjacent or downstream landowners is not required for:

(A) an application to renew a permit;

(B) an application for a new Texas Pollutant Discharge Elimination System (TPDES) permit for a discharge authorized by an existing state permit issued before September 14, 1998 for which the application does not propose any term or condition that would constitute a major amendment to the state permit under §305.62 of this title (relating to Amendments); or

(C) an application for a new permit or major amendment to a TPDES permit that authorizes the discharges from a municipal separate storm sewer system (MS4).

(3) For permits listed in paragraph (2)(C) of this subsection, the executive director will require the applicant to post a copy of the notice of receipt of application and intent to obtain a permit. The notice must be posted within 30 days of the application being declared administratively complete and remain posted until the commission has taken final action on the application. The notice must be posted at a place convenient and readily accessible to the public in the administrative offices of the political subdivision in the county in which the MS4 or discharge is located.

(c) **Notice of application and preliminary decision.** Notice under §39.419 of this title (relating to Notice of Application and Preliminary Decision) is required to be published after the chief clerk has mailed the preliminary decision and the Notice of Application and Preliminary Decision to the applicant. This notice must contain the text required by §39.411(b)(1) - (3), (5) - (7), (9), and (11) and (c)(2) - (6) of this title. In addition to §39.419 of this title, for all applications except applications to renew permits, the following provisions apply.

(1) The applicant shall publish notice of application and preliminary decision at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge. The executive director shall provide to the chief clerk a list of the appropriate counties, and the chief clerk shall provide the list to the applicant.

(2) The chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice).

(A) For any application involving an average daily discharge of five million gallons or more, in addition to the persons listed in §39.413 of this title, the chief clerk shall mail notice to each county judge in the county or counties located within 100 statute miles of the point of discharge who has requested in writing that the commission give notice, and through which water into or adjacent to which waste or pollutants are to be discharged under the permit, flows after the discharge.

(B) If the notice of the receipt of application and intent to obtain a permit was mailed more than two years prior to the time that notice of application and preliminary decision is scheduled by the executive director to be mailed, the applicant must submit an updated landowner map, landowner list, and any associated information for mailing the notice of application and preliminary decision. Notwithstanding this requirement, the Executive Director may require an updated landowner map, landowner list, and any associated information for mailing the notice of the application and preliminary decision if circumstances in the area have significantly changed that warrant updated lists.

(3) The notice must set a deadline to file public comment with the chief clerk that is not less than 30 days after newspaper publication. However, the notice may be mailed to the county judges under paragraph (2) of this subsection no later than 20 days before the deadline to file public comment.

(4) For TPDES permits, the text of the notice shall include:

(A) everything that is required by §39.411(b)(1) - (3), (5) - (7), (9), and (11) and (c)(2) - (6) of this title;

(B) a general description of the location of each existing or proposed discharge point and the name of the receiving water; and

(C) for applications concerning the disposal of sludge:

- (i) the use and disposal practices;
- (ii) the location of the sludge treatment works treating domestic sewage sludge; and
- (iii) the use and disposal sites known at the time of permit application.

(5) Mailed notice to adjacent or downstream landowners is not required for:

(A) an application to renew a permit;

(B) an application for a new TPDES permit for a discharge authorized by an existing state permit issued before September 14, 1998 for which the application does not propose any term or condition that would constitute a major amendment to the state permit under §305.62 of this title; or

(C) an application for a new permit or major amendment to a TPDES permit that authorizes the discharges from a municipal separate storm sewer system.

(6) For permits listed in paragraph (5)(C) of this subsection, the executive director will require the applicant to post a copy of the notice of application and preliminary decision. The notice must be posted on or before the first day of published newspaper notice and must remain posted until the commission has taken final action on the application. The notice must be posted at a place convenient and readily accessible to the public in the administrative offices of the political subdivision in the county in which the MS4 or discharge is located.

(d) Notice of application and preliminary decision for certain TPDES permits. For a new TPDES permit for which the discharge is authorized by an existing state permit issued before September 14, 1998, the following shall apply:

(1) If the application does not propose any term or condition that would constitute a major amendment to the state permit under §305.62 of this title, the following mailed and published notice is required.

(A) The applicant shall publish notice of the application and preliminary decision at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge. The executive director shall provide to the chief clerk a list of the appropriate counties, and the chief clerk shall provide the list to the applicant.

(B) The chief clerk shall mail notice of the application and preliminary decision, providing an opportunity to submit public comments, to request a public meeting, or to request a public hearing to those listed in §39.413 of this title.

(C) The notice must set a deadline to file public comment, or to request a public meeting, with the chief clerk that is at least 30 days after newspaper publication.

(D) The text of the notice shall include:

- (i) everything that is required by §39.411(b)(1) - (3), (5) - (7), (9), and (11) and (c)(2) - (6) of this title;
- (ii) a general description of the location of each existing or proposed discharge point and the name of the receiving water; and
- (iii) for applications concerning the disposal of sludge:

(I) the use and disposal practices;

(II) the location of the sludge treatment works treating domestic sewage sludge; and

(III) the use and disposal sites known at the time of permit application.

(2) If the application proposes any term or condition that would constitute a major amendment to the state permit under §305.62 of this title, the applicant must follow the notice requirements of subsection (b) of this section.

(e) Notice for other types of applications. Except as required by subsections (a), (b), and (c) of this section, the following notice is required for certain applications.

(1) For an application for a minor amendment to a permit other than a TPDES permit, or for an application for a minor modification of a TPDES permit, under Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits), the chief clerk shall mail notice, that the executive director has determined the application is technically complete and has prepared a draft permit, to the mayor and health authorities for the city or town, and to the county judge and health authorities for the county in which the waste will be discharged. The notice shall state the deadline to file public comment, which shall be no earlier than ten days after mailing notice.

(2) For an application for a renewal of a confined animal feeding operation permit which was issued between July 1, 1974, and December 31, 1977, for which the applicant does not propose to discharge into or adjacent to water in the state and does not seek to change materially the pattern or place of disposal, no notice is required.

(3) For an application for a minor amendment to a TPDES permit under Chapter 305, Subchapter D of this title, the following requirements apply.

(A) The chief clerk shall mail notice of the application and preliminary decision, providing an opportunity to submit public comments and to request a public meeting to:

- (i) the mayor and health authorities of the city or town in which the facility is or will be located or in which pollutants are or will be discharged;
- (ii) the county judge and health authorities of the county in which the facility is or will be located or in which pollutants are or will be discharged;

(iii) if applicable, state and federal agencies for which notice is required in 40 Code of Federal Regulations (CFR) §124.10(c);

(iv) if applicable, persons on a mailing list developed and maintained according to 40 CFR §124.10(c)(1)(ix);

(v) the applicant;

(vi) persons on a relevant mailing list kept under §39.407 of this title (relating to Mailing Lists); and

(vii) any other person the executive director or chief clerk may elect to include.

(B) For TPDES major facility permits as designated by the United States Environmental Protection Agency on an annual basis, notice shall be published in the *Texas Register*.

(C) The text shall meet the requirements in §39.411(b)(1) - (4)(A), (6), (7), (9), and (11) and (c)(4) - (6) of this title.

(D) The notice shall provide at least a 30-day public comment period.

(E) The executive director shall prepare a response to all relevant and material or significant public comments received by the commission under §55.152 of this title (relating to Public Comment Period).

(f) Notice of contested case hearing.

(1) This subsection applies if an application is referred to the State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) Not less than 30 days before the hearing, the applicant shall publish notice at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, a person may reasonably believe persons reside who may be affected by the action that may be taken as a result of the hearing. The executive director shall provide to the chief clerk a list of the appropriate counties.

(3) Not less than 30 days before the hearing, the chief clerk shall mail notice to the persons listed in §39.413 of this title, except that mailed notice to adjacent or downstream landowners is not required for an application to renew a permit.

(4) For TPDES permits, the text of notice shall include:

(A) everything that is required by §39.411(d)(1) and (2) of this title;

(B) a general description of the location of each existing or proposed discharge point and the name of the receiving water; and

(C) for applications concerning the disposal of sludge:

(i) the use and disposal practices;

(ii) the location of the sludge treatment works treating domestic sewage sludge; and

(iii) the use and disposal sites known at the time of permit application.

(g) Notice for discharges with a thermal component. For requests for a discharge with a thermal component filed pursuant to Clean Water Act, §316(a), 40 CFR Part 124, Subsection D, §124.57(a), public notice, which is in effect as of the date of TPDES program authorization, as amended, is adopted by reference. A copy of 40 CFR Part 124 is available for inspection at the agency's library located at the commission's central office located at 12100 Park 35 Circle, Building A, Austin.

§39.553. *Water Quality Management Plan Updates.*

(a) Applicability. This section applies to Water Quality Management Plan (WQMP) Updates.

(b) Notice of WQMP updates.

(1) The chief clerk shall publish notice of the WQMP update in the *Texas Register*.

(2) The chief clerk shall mail the notice of the WQMP update to persons known to the commission to be interested in the WQMP update, and to persons requesting notices of the WQMP identified on mailing lists maintained by the chief clerk, in accordance with §39.407 of this title (relating to Mailing Lists).

(3) Section 39.411 of this title (relating to Text of Public Notice) does not apply to WQMP updates. However, the notice of the WQMP update shall:

(A) include the name and address of the agency;

(B) provide an opportunity to submit written comments on the proposed WQMP update;

(C) describe the public comment procedures and the time and place of any public meeting; and

(D) include the name, address, email, and telephone number of an agency contact person from whom interested persons may obtain information.

(4) The notice shall provide at least a 30-day public comment period.

(5) Any public meeting shall be held and conducted in accordance with the requirements and procedures of §55.156 of this title (relating to Public Comment Processing).

(c) The executive director shall prepare a response to all significant public comments received by the commission before the end of the comment period. The executive director may revise the WQMP update based on public comment, if appropriate.

(d) As described in §50.133 of this title (relating to Executive Director Action on Application or WQMP Update), the executive director may certify the WQMP update.

(e) After the executive director certifies a WQMP update, the chief clerk [Chief Clerk] shall mail a copy of the Response to Comments and certified WQMP update to all persons who submitted timely comments.

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

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Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2678

## SUBCHAPTER K. PUBLIC NOTICE OF AIR QUALITY PERMIT APPLICATIONS

### 30 TAC §§39.601, 39.603 - 39.606

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.013, concerning General Jurisdiction of Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; and TWC, §5.105, concerning General Policy, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also proposed under Texas Health and Safety Code (THSC), §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012,



concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments are also proposed under Texas Government Code (TGC), §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; and TGC, §2003.047, concerning Hearings for Texas Commission on Environmental Quality, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission; and the Federal Clean Air Act, 42 United States Code, §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state.

The adopted amendments implement THSC, §382.056.

*§39.601. Applicability.*

Air quality permit applications or registrations [~~that are declared administratively complete by the executive director on or after September 1, 1999~~] are subject to this subchapter.

*§39.603. Newspaper Notice.*

(a) Notice of Receipt of Application and Intent to Obtain Permit (NORI) under §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit) is required to be published no later than 30 days after the executive director declares an application administratively complete. This notice must contain the text as required by §39.411(e) of this title (relating to Text of Public Notice). This notice is not required for Plant-wide Applicability Limit permit applications.

(b) Notice of Application and Preliminary Decision (NAPD) under §39.419 of this title (relating to Notice of Application and Preliminary Decision) is required to be published within 33 days after the chief clerk has mailed the preliminary decision concurrently with the NAPD to the applicant. This notice must contain the text as required by §39.411(f) of this title.

(c) Owners and operators who submit initial registration applications [~~on or after January 1, 2017,~~] for authorization to construct and operate a concrete batch plant under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) shall publish a consolidated NORI under §39.418 of this title and a NAPD under §39.419 of this title no later than 30 days after the chief clerk has mailed the preliminary decision concurrently with the consolidated NORI and NAPD to the registrant. This notice must contain the text as required by §39.411(f) of this title.

(d) Owners and operators who submit applications that are declared administratively and technically complete and for which a draft permit is prepared by the executive director within 15 days of receipt of the application shall publish a consolidated NORI under §39.418 of this title and a NAPD under §39.419 of this title no later than 30 days after the executive director notifies the applicant of the declaration of administrative completeness and the chief clerk has mailed the preliminary decision concurrently with the consolidated NORI and NAPD to the applicant. This notice must contain the text as required by §39.411(e) of this title.

(e) General newspaper notice. Unless otherwise specified, when this chapter requires published notice of an air quality permit application or registration, the applicant or registrant shall publish notice in a newspaper of general circulation in the municipality in which the facility is located or is proposed to be located or in the municipality nearest to the location or proposed location of the facility, as follows:

(1) One notice must be published in the public notice section of the newspaper and must comply with §39.411(e) - (g) of this title.

(2) Another notice with a total size of at least six column inches, with a vertical dimension of at least three inches and a horizontal dimension of at least two column widths, or a size of at least 12 square inches, must be published in a prominent location elsewhere in the same issue of the newspaper. This notice must contain the following information:

(A) permit application or registration number;

(B) company name;

(C) type of facility;

(D) description of the location of the facility; and

(E) a note that additional information is in the public notice section of the same issue.

(f) Alternative publication procedures for small businesses.

(1) The applicant or registrant does not have to comply with subsection (e)(2) of this section if all of the following conditions are met:

(A) the applicant or registrant and source meets the definition of a small business stationary source in Texas Water Code, §5.135 including, but not limited to, those which:

(i) are not a major stationary source for federal air quality permitting;

(ii) do not emit 50 tons or more per year of any regulated air pollutant;

(iii) emit less than 75 tons per year of all regulated air pollutants combined; and

(iv) are owned or operated by a person that employs 100 or fewer individuals; and

(B) if the applicant's or registrant's site meets the emission limits in §106.4(a) of this title (relating to Requirements for Permitting by Rule) it will be considered to not have a significant effect on air quality.

(2) The executive director may post information regarding pending air permit applications on its website, such as the permit number, company name, project type, facility type, nearest city, county, date public notice authorized, information on comment periods, and information on how to contact the agency for further information.

(g) If an air application or registration is referred to State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings), the applicant or registrant shall publish notice once in a newspaper as described in subsection (e) of this section, containing the information under §39.411(h) of this title. This notice must be published and affidavits filed with the chief clerk no later than 30 days before the scheduled date of the hearing.

*§39.604. Sign-Posting.*

(a) At the applicant's expense, a sign or signs must be placed at the site of the existing or proposed facility declaring the filing of an application for a permit and stating the manner in which the commission may be contacted for further information. Such signs must be provided by the applicant and must substantially meet the following requirements:

(1) Signs must consist of dark lettering on a white background and must be no smaller than 18 inches by 28 inches and all lettering must be no less than 1-1/2 inches in size and block printed capital lettering; for permit applications declared administratively complete by the executive director on or after May 1, 2026, the signs must consist of dark lettering on a white background and must be no smaller than 48 inches by 48 inches and all lettering must be no less than 3 inches in size and block printed capital lettering;

(2) Signs must be headed by the words listed in the following subparagraph:

(A) "PROPOSED AIR QUALITY PERMIT" for new permits and permit amendments; or

(B) "PROPOSED RENEWAL OF AIR QUALITY PERMIT" for permit renewals.

(3) Signs must include the words "APPLICATION NO." and the number of the permit application. More than one application number may be included on the signs if the respective public comment periods coincide;

(4) Signs must include the words "for further information contact";

(5) Signs must include the words "Texas Commission on Environmental Quality" and the address of the appropriate commission regional office;

(6) Signs must include the telephone number of the appropriate commission office;

(b) The sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible until final action has been taken on the permit application [throughout that public comment period]. The applicant shall provide a verification that the sign posting was conducted according to this section.

(c) Each sign placed at the site must be located within ten feet of every property line paralleling a public highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign but no more than three signs must be required along any property line paralleling a public highway, street, or road. The executive director may approve variations from these requirements if it is determined that alternative sign posting plans proposed by the applicant are more effective in providing notice to the public. This section's sign requirements do not apply to properties under the same ownership that are noncontiguous or separated by intervening public highway, street, or road, unless directly involved by the permit application.

(d) The executive director may approve variations from the requirements of this subsection if the applicant has demonstrated that it is not practical to comply with the specific requirements of this subsection and alternative sign posting plans proposed by the applicant are at least as effective in providing notice to the public. The approval from the executive director under this subsection must be received before posting signs for purposes of satisfying the requirements of this section.

(e) Alternative language sign posting is required whenever alternative language newspaper notice would be required under §39.426 of this title (relating to Alternative Language Requirements). The applicant shall post additional signs in each alternative language in which the bilingual education program is taught. The alternative language signs must be posted adjacent to each English language sign required in this section. The alternative language sign posting requirements of this subsection must be satisfied without regard to whether alternative language newspaper notice is waived under §39.426 of this title. The alternative language signs must meet all other requirements of this section.

*§39.605. Notice to Affected Agencies.*

In addition to the requirements in §39.405(f)(3) of this title (relating to General Notice Provisions):

(1) when newspaper notices are published under this section, the applicant shall furnish a copy of the notices and affidavit to:

(A) the EPA regional administrator in Dallas;

(B) all local air pollution control agencies with jurisdiction in the county in which the construction is to occur;

(C) the air pollution control agency of any nearby state in which air quality may be adversely affected by the emissions from the new or modified facility; and

(D) [if notice is for an application filed on or after the effective date of this section]for a Prevention of Significant Deterioration or Nonattainment permit under Chapter 116, Subchapter B of this title (relating to New Source Review Permits), the chief executives of the city and county where the source would be located, and any State or Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification;

(2) when sign posting is required under this section, the applicant shall furnish a copy of sign posting verification, within 10 business days after the end of the comment period associated with the notice under §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit), to:

(A) the chief clerk;

(B) the executive director; and

(C) those listed in paragraph (1)(A) - (C) of this section; and

(3) when alternative language waiver verification is [are] required under this section, the applicant shall furnish a copy to those listed in paragraph (2)(A) - (C) of this section.

*§39.606. Contested Case Hearings and Public Meetings.*

(a) A contested case hearing may be requested for the following types of air quality permit applications:

(1) air quality permit applications and for permit amendment applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title (relating to New Source Review Permits);

(2) air quality permit applications and for permit amendment applications subject to the requirements of Chapter 116, Subchapter E of this title;

(3) for registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits);

(4) air quality permit applications and for permit amendment applications issued under Chapter 116, Subchapter G of this title (relating to Flexible Permits);

(5) air quality permit applications subject to the requirements of Chapter 116, Subchapter C of this title (relating to Plant-wide Applicability Limits);

(6) all other permit applications subject to the requirements of Chapter 116, Subchapter B (relating to New Source Review Permits); and

(7) applications for renewals of air quality permit applications listed in this subsection.

(b) A notice and comment hearing may be requested for the following types of air quality permit applications:

(1) a Multiple Plant Permit under Chapter 116, Subchapter J of this title (relating to Multiple Plant Permits); and

(2) a permit under Chapter 116, Subchapter L of this title (relating to Permits for Specific Designated Facilities).

(c) For a request for a contested case hearing to be considered timely it must be received by:

(1) for renewals of air quality permits that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted and the application does not involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title (relating to Compliance History, by the end of the 15-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit;

(2) for renewals that involve a facility for which the applicant's compliance history is in the lowest classification under Texas Water Code, §5.753 and §5.754 and the commission's rules in Chapter 60 of this title, by the end of the comment period or within 30 days after the mailing of the executive director's response to comments.

(3) for initial registrations for concrete batch plants under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits) and for new air quality permit applications and for permit amendment applications issued under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits), for which the executive director has declared the application administratively and technically complete and prepared a draft permit, within 15 days of receipt of the application:

(A) for applications received before March 1, 2026:

(i) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision in §39.603(c) of this title (relating to Newspaper Notice);

(ii) if no hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision, there is no further opportunity to request a contested case hearing; and

(iii) if any hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to

Obtain Permit and Notice of Application and Preliminary Decision, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(B) for applications received on or after March 1, 2026:

(i) a request for a contested case hearing must be received by the commission before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision;

(ii) if no hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision there is no further opportunity to request a contested case hearing unless a public meeting is held on the application;

(iii) if a public meeting is held on the application, the end of the comment period and opportunity to request a contested case hearing will be extended for at least 36 hours following the end of the public meeting; and

(iv) if any hearing requests are received before the close of the comment period provided in response to the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision or the extended comment period following a public meeting, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments;

(4) for all air quality permit applications and for permit amendment applications subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits in Chapter 116, Subchapter B of this title, by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(5) for all air quality permit applications and for permit amendment applications subject to the requirements of Chapter 116, Subchapter E of this title, by the end of the comment period or within 30 days after the mailing of the executive director's response to comments;

(6) for all other applicable air quality permit applications:

(A) a request for a contested case hearing must be received by the commission before the close of the 30-day comment period provided in response to the last publication of Notice of Receipt of Application and Intent to Obtain Permit;

(B) if no hearing requests are received by the end of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, there is no further opportunity to request a contested case hearing;

(C) if any hearing requests are received before the close of the 30-day comment period following the last publication of Notice of Receipt of Application and Intent to Obtain Permit, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments.

(d) Requests for contested case hearings must be timely, in writing, and must include the following information:

(1) the requester's location relative to the proposed facility or activity;

(2) a description of how the requester will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's uses of property which may be impacted by the proposed facility or activity; and

(3) the form requirements of Chapter 55 of this title.

(e) Only relevant and material issues raised during the comment period can be considered if a contested case hearing request is granted.

(f) For applications for a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title, only a person residing within 440 yards of the proposed plant is an affected person entitled to request a contested case hearing.

(g) The executive director may hold a public meeting on permit applications listed in (a)(3) - (5) of this section if requested by a member of the legislature who represents the general area where the facility is to be located or if there is substantial public interest in the proposed activity.

(h) The executive director shall hold a public meeting on permit applications listed in (a)(1) - (2) and (6) of this section if requested by a member of the legislature who represents the general area where the facility is to be located, if there is substantial public interest in the proposed activity, or if requested by any interested person.

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

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## SUBCHAPTER L. PUBLIC NOTICE OF INJECTION WELL AND OTHER SPECIFIC APPLICATIONS

### 30 TAC §39.651

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102 which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. Additionally, the amendments are proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which autho-

rizes the commission to adopt rules regarding the management and control of solid waste. The amendments are also proposed to comply with Title VI of the Civil Rights Act of 1964, 42 United States Code, §§2000d *et seq.*, and United States Implementing Regulations at 40 Code of Federal Regulations Parts 5 and 7, which prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and intimidation and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance. The commission receives financial assistance from the United States Environmental Protection Agency (EPA) and, therefore, must ensure nondiscrimination in its programs and activities pursuant to federal nondiscrimination laws and EPA's implementing regulation.

The proposed amendments implement TWC, Chapter 5, Subchapter M, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019, and THSC, §361.024.

#### §39.651. *Application for Injection Well Permit.*

(a) Applicability. This subchapter applies to applications for injection well permits ~~[that are declared administratively complete on or after September 1, 1999].~~

(b) Preapplication local review committee process. If an applicant decides to participate in a local review committee process under Texas Health and Safety Code, §361.063, the applicant shall submit a notice of intent to file an application to the executive director, setting forth the proposed location and type of facility. The applicant shall mail notice to the county judge of the county in which the facility is to be located. In addition, if the proposed facility is to be located in a municipality or the extraterritorial jurisdiction of a municipality, a copy of the notice must be mailed to the mayor of the municipality.

(c) Notice of Receipt of Application and Intent to Obtain Permit.

(1) On the executive director's receipt of an application, or notice of intent to file an application, the Office of the Chief Clerk (chief clerk) shall mail notice to the state senator and representative who represent the area in which the facility is or will be located.

(2) After the executive director determines that the application is administratively complete, notice must be given as required by §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit). This notice must contain the text as required by §39.411(b)(1) - (9) and (11) of this title (relating to Text of Public Notice). Notice under §39.418 of this title will satisfy the notice of receipt of application required by §281.17(d) of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness).

(3) After the executive director determines that the application is administratively complete, in addition to the requirements of §39.418 of this title, notice must be given to the School Land Board, if the application will affect lands dedicated to the permanent school fund. The notice must be in the form required by Texas Water Code, §5.115(c).

(4) For Notice of Receipt of Application and Intent to Obtain a Permit concerning Class I or Class III underground injection wells, the chief clerk shall also mail notice to:

(A) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(B) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(C) persons who own mineral rights underlying the existing or proposed injection well facility;

(D) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located; and

(E) any groundwater conservation district established in the county in which the existing or proposed injection well facility is or will be located.

(5) The chief clerk or executive director shall also mail a copy of the application or a summary of its contents to the mayor and health authority of a municipality in whose territorial limits or extrajurisdiction the solid waste facility is located and to the county judge and the health authority of the county in which the facility is located.

(6) For Class I underground injection wells, the published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters) and the notice must appear in the section of the newspaper containing state or local news items.

(d) Notice of Application and Preliminary Decision. The notice required by §39.419 of this title (relating to Notice of Application and Preliminary Decision) must be published once under §39.405(f)(2) of this title (relating to General Notice Provisions) after the chief clerk has mailed the preliminary decision and the Notice of Application and Preliminary Decision to the applicant. This notice must contain the text as required by §39.411(c)(1) - (6) of this title. In addition to the requirements of §39.419 of this title (relating to Notice of Application and Preliminary Decision) and §39.426 of this title (relating to Alternative Language Requirements), the following requirements apply.

(1) The applicant shall publish notice at least once in a newspaper of general circulation in each county that is adjacent or contiguous to each county in which the proposed facility is located. One notice may satisfy the requirements of §39.405(f)(2) of this title and of this subsection, if the newspaper meets the requirements of both rules.

(2) For Class I underground injection wells, the published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters) and the notice must appear in the section of the newspaper containing state or local news items.

(3) The chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice) and to local governments located in the county of the facility. "Local government [~~governments~~]" [have] has the meaning as defined in Texas Water Code, Chapter 26.

(4) For Notice of Application and Preliminary Decision concerning Class I or Class III underground injection wells, the chief clerk shall also mail notice to:

(A) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(B) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(C) persons who own mineral rights underlying the existing or proposed injection well facility;

(D) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located; and

(E) any groundwater conservation district established in the county in which the existing or proposed injection well facility is or will be located.

(5) If the application concerns a hazardous waste facility, the applicant shall broadcast notice under §39.503(d)(2) of this title (relating to Application for Industrial or Hazardous Waste Facility Permit).

(6) The deadline for public comments on industrial solid waste, Class III, or Class V injection well permit applications will be not less than 30 days after newspaper publication, and for hazardous waste applications, not less than 45 days after newspaper publication.

(e) Notice of public meeting.

(1) For an application for a new hazardous waste facility, the agency:

(A) may hold a public meeting under §55.154 of this title (relating to Public Meetings) in the county in which the facility is proposed to be located to receive public comment concerning the application; but

(B) shall hold a public meeting under §55.154 of this title in the county in which the facility is proposed to be located to receive public comment concerning the application:

(i) on the request of a member of the legislature who represents the general area in which the facility is proposed to be located; or

(ii) if the executive director determines that there is substantial public interest in the proposed facility.

(2) For an application for a major amendment to or a Class 3 modification of an existing hazardous waste facility permit, the agency:

(A) may hold a public meeting under §55.154 of this title in the county in which the facility is located to receive public comment on the application; but

(B) shall hold a public meeting under §55.154 of this title in the county in which the facility is located to receive public comment concerning the application:

(i) on the request of a member of the legislature who represents the general area in which the facility is located; or

(ii) if the executive director determines that there is substantial public interest in the facility.

(3) For purposes of this subsection, "substantial public interest" is demonstrated if a request for a public meeting is filed by:

(A) a local governmental entity with jurisdiction over the location in which the facility is located or proposed to be located by formal resolution of the entity's governing body;

(B) a council of governments with jurisdiction over the location in which the facility is located or proposed to be located by formal request of either the council's solid waste advisory committee, executive committee, or governing board;

(C) a homeowners' or property owners' association formally organized or chartered and having at least ten members located in the general area in which the facility is located or proposed to be located; or

(D) a group of ten or more local residents, property owners, or businesses located in the general area in which the facility is located or proposed to be located.

(4) A public meeting is not a contested case proceeding under the Administrative Procedure Act. A public meeting held as part of a local review committee process under subsection (b) of this section meets the requirements of this subsection if public notice is provided in accordance with this subsection.

(5) The applicant shall publish notice of the public meeting once each week during the three weeks preceding a public meeting under §39.405(f)(2) of this title. The published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters).

(6) The chief clerk shall mail notice to the persons listed in §39.413 of this title.

(f) Notice of contested case hearing.

(1) Applicability. This subsection applies if an application is referred to the State Office of Administrative Hearings for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(2) Newspaper notice.

(A) If the application concerns a facility other than a hazardous waste facility, the applicant shall publish notice at least once in a newspaper of general circulation in the county in which the facility is located and in each county and area that is adjacent or contiguous to each county in which the proposed facility is located.

(B) For Class I underground injection wells, the published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters); and the notice must appear in the section of the newspaper containing state or local news items.

(C) If the application concerns a hazardous waste facility, the hearing must include one session held in the county in which the facility is located. The applicant shall publish notice of the hearing once each week during the three weeks preceding the hearing under §39.405(f)(2) of this title. The published notice must be at least 15 square inches (96.8 square centimeters) with a shortest dimension of at least three inches (7.6 centimeters). The notice must appear in the section of the newspaper containing state or local news items. The text of the notice must include the statement that at least one session of the hearing will be held in the county in which the facility is located.

(3) Mailed notice.

(A) For all applications concerning underground injection wells, the chief clerk shall mail notice to persons listed in §39.413 of this title.

(B) For notice of hearings concerning Class I or Class III underground injection wells, the chief clerk shall also mail notice to:

(i) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(ii) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(iii) persons who own mineral rights underlying the existing or proposed injection well facility;

(iv) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located; and

(v) any groundwater conservation district established in the county in which the existing or proposed injection well facility is or will be located.

(C) If the applicant proposes a new solid waste management facility, the applicant shall mail notice to each residential or business address, not listed under subparagraph (A) of this paragraph, located within 1/2 mile of the facility and to each owner of real property located within 1/2 mile of the facility listed in the real property appraisal records of the appraisal district in which the facility is located. The notice must be mailed to the persons listed as owners in the real property appraisal records on the date the application is determined to be administratively complete. The notice must be mailed no more than 45 days and no less than 30 days before the contested case hearing. Within 30 days after the date of mailing, the applicant shall file with the chief clerk an affidavit certifying compliance with its obligations under this subsection. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with this subparagraph.

(4) Radio broadcast. If the application concerns a hazardous waste facility, the applicant shall broadcast notice under §39.503(d)(2) of this title.

(5) Deadline. Notice under paragraphs (2)(A), (3), and (4) of this subsection must be completed at least 30 days before the contested case hearing.

(g) Approval. All published notices required by this section must be in a form approved by the executive director prior to publication.

(h) Applications for individual Class V injection well permits for aquifer storage and recovery (ASR) projects and aquifer recharge (AR) projects. Notwithstanding the requirements of subsections (c) and (d) of this section, this subsection establishes the public notice requirements for an application for an individual Class V injection well permit application for either an ASR project or an AR project. Issuance of the Notice of Receipt of Application and Intent to Obtain a Permit is not required for an individual Class V injection well permit application for an ASR project or an AR project. The notice required by §39.419 of this title must be published by the applicant once in a newspaper of general circulation in the county in which the injection well will be located after the chief clerk has mailed the preliminary decision and the Notice of Application and Preliminary Decision to the applicant. The chief clerk shall provide notice by first class mail to any groundwater conservation district in which the wells associated with the ASR project or AR project will be located. The chief clerk shall also mail notice to the persons listed in §39.413(7) - (9) of this title. This notice must contain the text as required by §39.411(c)(1) - (6) of this title.

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

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## SUBCHAPTER M. PUBLIC NOTICE FOR RADIOACTIVE MATERIAL LICENSES

### 30 TAC §39.707

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; and THSC, §401.051, which authorizes the commission to adopt rules relating to control of sources of radiation. In addition, the amendment is adopted under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024.

#### §39.707. *Published Notice.*

(a) For applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), Subchapter G of this title (relating to Decommissioning Standards), Subchapter K of this title (relating to Commercial Disposal of Naturally Occurring Radioactive Material Waste From Public Water Systems), Subchapter L of this title (relating to Licensing of Source Material Recovery and By-Product Material Disposal Facilities), or Subchapter M of this title (relating to Licensing of Radioactive Substances Processing and Storage Facilities), when notice is required to be published under this subchapter, the applicant shall publish notice at least once in a newspaper of largest general circulation in the county in which the facility is located.

(b) For applications for a new license, renewal license, or major amendment to a license issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Low-Level Radioactive Waste), on completion of technical review and preparation of the draft license, the commission shall publish, at the applicant's expense, notice of the draft license and specify the requirements for requesting a contested case hearing by a person affected. The notice must include a statement that the draft license is available for review on the commission's website [Web site] and that the draft license and application materials are available for review at the offices of the commission and in a public place in the county or counties in which the proposed disposal facility site is located. Notice must be published in a newspaper of general circulation in each county in which the proposed disposal facility site is located.

(c) In addition to published notice requirements in subsection (b) of this section, for an initial notice of draft license and opportunity to comment and for any subsequent license amendment of a license under Chapter 336, Subchapter H of this title or Subchapter M of this title, the chief clerk shall publish notice once in the *Texas Register*.

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

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## SUBCHAPTER N. PUBLIC NOTICE OF POST-CLOSURE ORDERS

### 30 TAC §§39.803, 39.804, 39.807 - 39.810

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; and TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024 which authorizes the commission to adopt rules regarding the management and control of solid waste; and Texas Government Code, §2001.004, which requires state agencies to adopt procedural rules.

The proposed rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, and 5.122; and THSC, §361.024.

#### §39.803. *General Notice Provisions.*

(a) Failure to publish notice. If the chief clerk prepares a newspaper notice that is required by this subchapter and the applicant does not cause the notice to be published within 30 days after the executive director has declared the application administratively complete, has not filed the proposed post-closure order or proposed decision that remedial action is complete with the chief clerk, or fails to submit the copies of notices or affidavit required in subsection (d) of this section, the executive director may cause one of the following actions to occur:

(1) the chief clerk may cause the notice to be published and the applicant shall reimburse the agency for the cost of publication; or

(2) the executive director may suspend further processing or return the application. If the application is resubmitted within six months of the date of the return of the application, it shall be exempt from any application fee requirements.

(b) Electronic mailing lists. The chief clerk may require the applicant to provide necessary mailing lists in electronic form.

(c) Mail or hand delivery. Notice by hand delivery may be substituted for mailed notice. Mailing is complete upon deposit of the document, enclosed in a prepaid, properly addressed wrapper, in a post office or official depository of the United States Postal Service. If hand delivery is by courier-receipted delivery, the delivery is complete upon the courier taking possession.

(d) Notice and affidavit. When this subchapter requires an applicant to publish notice, the applicant must file a copy of the published notice and a publisher's affidavit with the chief clerk certifying facts that constitute compliance with the requirement. The deadline to file a copy of the published notice, which shows the date of publication and the name of the newspaper, is ten business days after the last date of publication. The deadline to file the affidavit is 30 calendar days after the last date of publication for each notice. Filing an affidavit certifying facts that constitute compliance with notice requirements creates a rebuttable presumption of compliance with the requirement to publish notice. When the chief clerk publishes notice under subsection (a) of this section, the chief clerk shall file a copy of the published notice and a publisher's affidavit.

(e) Published notice. When notice is required to be published under §39.802 of this title (relating to Public Comment and Notice), the owner or operator shall publish notice in the newspaper of largest general circulation that is published in the county in which the facility is located or proposed to be located. If a newspaper is not published in the county, the notice must be published in a newspaper of general circulation in the county in which the facility is located or proposed to be located. The requirements of this subsection may be satisfied by one publication if the newspaper is both published in the county and is the newspaper of largest general circulation in the county.

(f) Copy availability. The owner or operator shall make a copy of the application, preferred response action and/or the proposed post-closure order, or proposed decision that remedial action is complete available for review and copying at a public place in the county in which the facility is located or proposed to be located. An electronic copy will be posted on the commission's website in accordance with §39.405(l) of this title (relating to General Notice Provisions). The copy of the document compelling public notice shall comply with the following:

(1) A copy of the application, proposed post-closure order, or proposed decision that remedial action is complete must be available for review and copying beginning on the first day of newspaper publication of notice of receipt of application and intent to obtain post-closure order and remain available for the publication's designated comment period.

(2) A copy of the complete application, proposed post-closure order, or proposed decision that remedial action is complete (including any subsequent revisions to the application) must be available for review and copying beginning on the first day of newspaper publication required by this section and remain available until the commission has taken action on the application or the commission refers issues to State Office of Administrative Hearings [SOAH].

*§39.804. Text of Public Notice.*

(a) Applicants shall use notice text provided and approved by the agency. The executive director may approve changes to notice text before notice is given.

(b) When notice of receipt of application and intent to obtain post-closure order, notice of proposed order, or notice of proposed decision that remedial [~~remediation~~] action is complete, by publication

or by mail as required by this subchapter, the text of the notice must include the following information:

(1) the name, address, email address, and telephone number of an agency contact from whom interested persons may obtain further information;

(2) the name, address, and telephone number of the applicant and a description of the manner in which a person may contact the applicant for further information;

(3) a brief description of the location and nature of the proposed activity;

(4) a brief description of public comment procedures including a statement that the executive director will respond to comments raising issues that are relevant and material or otherwise significant;

(5) the application, solid waste registration number, or post-closure order number;

(6) if applicable, a statement that the application or requested action is subject to the Texas Coastal Management Program (CMP) and must be consistent with the CMP goals and policies;

(7) the location, at a public place in the county in which the facility is located or proposed to be located, at which a copy of the application is available for review and copying;

(8) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application; ~~and~~

(9) any additional information required by the executive director or needed to satisfy public notice requirements of any federally-authorized program; and[-]

(10) information that an electronic copy will be posted on the commission's website in accordance with §39.405(l) of this title (relating to General Notice Provisions).

*§39.807. Notice of Proposed Post-Closure Order and Preliminary Decision.*

(a) Prior to final approval of the proposed order, the executive director shall file the proposed post-closure order with the chief clerk.

(b) Not later than 30 days after the executive director files the proposed post-closure order with the chief clerk:

(1) the applicant shall publish the notice of the proposed post-closure order and preliminary decision once under §39.803 of this title (relating to General Notice Provisions);

(2) the chief clerk shall mail the notice of a proposed post-closure order and preliminary decision to those listed in §39.805 of this title (relating to Mailed Notice); and

(3) the notice of a proposed post-closure order must include the applicable information required by §39.804 of this title (relating to Text of Public Notice), including the assumptions the response action was based on, in particular those related to land use characterization.

*§39.808. Notice of a Proposed Decision that Remedial Action is Complete.*

(a) Prior to the executive director's determination that the remedial action is complete, the executive director shall file the proposed decision that remedial action is complete with the chief clerk.

(b) Not later than 30 days after the executive director files the proposed decision that remedial action is complete with the chief clerk:



(1) the applicant shall publish notice of the [a] proposed decision that remedial action is complete once under §39.803 of this title (relating to General Notice Provisions);

(2) the chief clerk shall mail the notice of the [a] proposed decision that remedial action is complete to those listed in §39.805 of this title (relating to Mailed Notice); and

(3) the notice of the [a] proposed decision that remedial action is complete must include the applicable information required by §39.804 of this title (relating to Text of Public Notice).

*§39.809. Notice for Amendments to Post-Closure Orders.*

(a) When the executive director determines that an application for an amendment to a post-closure order is technically complete, the chief clerk shall mail the notice of application and preliminary decision to the applicant.

(b) Not later than 30 days after the executive director declares an application technically complete [~~the notice of application and preliminary decision~~]:

(1) the applicant shall publish the notice of application and preliminary decision once under §39.803 of this title (relating to General Notice Provisions);

(2) the chief clerk shall mail the notice of [~~receipt of an~~] application and preliminary decision to those listed in §39.805 of this title (relating to Mailed Notice); and

(3) the notice must include the information required by §39.804 of this title (relating to Text of Public Notice).

*§39.810. Notice of Post-Closure Order Contested Case Hearing.*

For any post-closure order contested case hearing, the chief clerk shall mail notice to the statutory parties, applicant, and persons who have requested to be on a mailing list for the pleadings in the action no less than 13 days before a hearing in accordance with the Administrative Procedures Act [APA], §2001.052. In addition, public notice and opportunity for comment before the commission relating to a proposed action shall be given under Chapter 10 of this title (relating to Commission Meetings).

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

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## SUBCHAPTER O. PUBLIC NOTICE FOR MARINE SEAWATER DESALINATION PROJECTS

### 30 TAC §39.902, §39.903

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.013 which establishes the general jurisdiction of the commission; TWC, §5.102 which provides the commission with the au-

thority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §5.103; TWC, §5.103 which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.120 which requires the commission to administer the law so as to promote judicious use and maximum conservation and protection of the environment and the natural resources of the state; TWC, §26.011 which provides the commission with the authority to establish the level of quality to be maintained in, and to control the quality of the water in the state by subjecting waste discharges or impending waste discharges to reasonable rules or orders adopted or issued by the commission in the public interest; TWC, §26.027 and §26.041 which authorize the commission to issue permits for the discharge of waste or pollutants into or adjacent to water in the state, and to set standards to prevent the discharge of waste that is injurious to the public health; and TWC, §18.005(e) which directs the commission to adopt rules to expedite permitting and related processes for the discharge of both treated marine seawater and waste resulting from the desalination process, in accordance with TWC, Chapter 18.

The proposed rules implement TWC, §18.005.

*§39.902. Public Notice and Comment for Treated Marine Seawater Discharges.*

(a) Filing the administrative record. After the technical review is completed, the executive director shall file the application, draft permit, technical summary, and draft notice of application and preliminary decision with the chief clerk.

(b) Notice text. The notice of application and preliminary decision must contain the following information:

(1) the permit number;

(2) the name, address, and telephone number of the applicant;

(3) a brief description of the location and nature of the proposed marine seawater desalination project, including the location of each outfall and the total quantity of water proposed to be discharged by the facility;

(4) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit;

(5) if applicable, a statement that the application is subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies;

(6) the website address where the administratively and technically complete application, the draft permit, and the technical summary are posted for public review;

(7) a brief description of public comment procedures, including:

(A) a description of the manner in which comments regarding the executive director's preliminary decision may be submitted;

(B) the deadline to file comments; and

(C) the deadline to request a public meeting or a contested case hearing;

(8) a statement that the executive director will respond to comments raising issues that are timely received and are relevant, material, or otherwise significant;

(9) a brief description of procedures by which the public may request a public meeting and a statement that a public meeting

will be held by the executive director if requested by a member of the legislature who represents the general area where the facility will be located or there is substantial public interest in the proposed activity;

(10) a statement that there is an opportunity for a contested case hearing, the procedures by which the public may request a contested case hearing, and that only disputed issues of fact or mixed issues of fact and law that are relevant and material to the commission's decision that are raised during the comment period can be considered if a contested case hearing is granted;

(11) a statement that the executive director may issue final approval of the application unless a timely contested case hearing request is filed with the chief clerk after transmittal of the executive director's decision and response to public comment;

(12) the name, email address, and telephone number of an agency contact that interested persons may contact for further information; and

(13) any additional information required by the executive director.

(c) Publication of the notice. The notice of application and preliminary decision, the administratively and technically complete application, the draft permit, and the technical summary, excluding oversized documents, will be posted on the TCEQ website for public review and comment. Concurrently with posting on the website, the notice of application and preliminary decision will be emailed to the email address on file with the Office of the Chief Clerk for the following individuals and agencies:

(1) the state senator and the state representative who represent the area where the facility is or will be located;

(2) the Texas Parks and Wildlife Department;

(3) the Texas General Land Office;

(4) the county judge who represents the area where the facility is or will be located; and

(5) persons on the mailing lists required by §39.407 of this title (relating to Mailing Lists) that have provided a valid email address.

(d) Amendment after notice. No amendments to an application which would constitute a major amendment under the terms of §318.6 of this title (relating to Amendment of a Permit) can be made by the applicant after the notice of application and preliminary decision has been posted on the TCEQ website, unless new notice is posted on the TCEQ website which includes a description of the proposed amendments to the application. For purposes of this subsection, an attempted transfer of an application shall constitute an amendment requiring additional notice.

(e) Public comment. Public comments must be filed with the chief clerk within the time period specified in the notice. The public notice period shall end 15 calendar days after the date of posting on the TCEQ website unless extended by the executive director for good cause. The public comment period shall be extended to the close of any public meeting.

(f) Public meeting notice. Notice of a public meeting must include the following information:

(1) the information required by subsection (b)(1) - (3) and (12) of this section;

(2) the date, time, and place of the meeting;

(3) a brief description of the nature and purpose of the meeting, including the applicable rules and procedures; and

(4) a brief description of public comment procedures, including a description of the manner in which comments regarding the executive director's preliminary decision may be submitted and a statement in the notice for any permit application for which there is an opportunity for contested case hearing [;] that only relevant and material issues raised during the comment period can be considered if a contested case hearing is granted.

(g) Recipients of public meeting notice. Notice of a public meeting will be mailed or emailed to any person who submitted comments or requested a public meeting; emailed to the state senator and the state representative who represent the area where the facility is or will be located, the Texas Parks and Wildlife Department, and the Texas General Land Office; emailed to the county judge who represents the area where the facility is or will be located; and posted on the TCEQ website at least 14 calendar days prior to the meeting date. The chief clerk need not mail or email notice of the public meeting to persons submitting public comment or public meeting requests who have not provided a return mailing address or email address.

§39.903. *Public Notice and Comment for Off-Shore Discharges.*

(a) Filing the administrative record. After the technical review is completed, the executive director shall file the application, draft permit, technical summary, and draft notice of application and preliminary decision with the chief clerk.

(b) Notice text. The notice of application and preliminary decision must contain the following information:

(1) the permit number;

(2) the name, address, and telephone number of the applicant;

(3) a brief description of the location and nature of the proposed marine seawater desalination project, including the location of each outfall and the total quantity of water proposed to be discharged by the facility;

(4) a summary of the executive director's preliminary decision and whether the executive director has prepared a draft permit;

(5) a statement that the application is subject to the Coastal Management Program and must be consistent with the Coastal Management Program goals and policies;

(6) the website address where the administratively and technically complete application, the draft permit, and the technical summary are posted for public review;

(7) a description of the manner in which comments regarding the executive director's preliminary decision may be submitted and the deadline to submit [file] comments;

(8) a statement that the executive director will evaluate comments raising issues that are timely received and are relevant, material, or otherwise significant and develop a final technical summary;

(9) the name, email address, and telephone number of an agency contact that interested persons may contact for further information; and

(10) any additional information required by the executive director.

(c) Publication of the notice. The notice of application and preliminary decision, the administratively and technically complete application, the draft permit, and the technical summary, excluding oversized documents, will be posted on the TCEQ website for public review and comment. Concurrently with posting on the website, the notice of application and preliminary decision will be emailed to the email ad-

dress on file with the Office of the Chief Clerk for the following individuals and agencies:

- (1) the state senator and the state representative who represent the area where the facility is or will be located;
- (2) the Texas Parks and Wildlife Department;
- (3) the Texas General Land Office;
- (4) the county judge who represents the area where the facility is or will be located; and

(5) persons on the mailing lists required by §39.407 of this title (relating to Mailing Lists) that have provided a valid email address.

(d) Amendment after notice. No amendments to an application which would constitute a major amendment under the terms of §318.6 of this title (relating to Amendment of a Permit) can be made by the applicant after the notice of application and preliminary decision has been posted on the TCEQ website, unless new notice is posted on the TCEQ website which includes a description of the proposed amendments to the application. For purposes of this subsection, an attempted transfer of an application shall constitute an amendment requiring additional notice.

(e) Public comment. Public comment must be filed with the chief clerk within the time period specified in the notice. The public notice period shall end 15 calendar days after the date of posting on the TCEQ website unless extended by the executive director for good cause. A public comment that is not filed with the chief clerk by the deadline provided in the notice shall be accepted by the chief clerk and placed in the application file, but the chief clerk shall not process it.

(f) Response to comments and final decision. After the close of the comment period, the executive director shall:

- (1) evaluate all timely received and relevant, material, or otherwise significant issues raised in public comments;
- (2) develop a final technical summary which includes:
  - (A) a summary of all timely received and relevant, material, or otherwise significant issues raised in public comments;
  - (B) a response to the issues raised in public comments; and
  - (C) a summary of the executive director's final decision;
- (3) revise the draft permit in response to comments, if necessary; and
- (4) file the final technical summary and revised draft permit, if applicable, with the chief clerk within the shortest practical time after the comment period ends.

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

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## SUBCHAPTER P. OTHER NOTICE REQUIREMENTS

### 30 TAC §§39.1003, 39.1005, 39.1009, 39.1011

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; and THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste. In addition, amendments are proposed under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, concerning Hearings for Texas Commission on Environmental Quality, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024.

#### §39.1003. Notice of Application for Minor Amendments.

(a) Except as provided in subsection (d) of this section, the only required notice for applications for a minor amendment of a permit under Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits) is that the chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice). For an application for a minor amendment of an injection well permit, the chief clerk shall also mail notice to the persons entitled to receive notice under §39.651(c)(4) of this title (relating to Application for Injection Well Permit).

(b) The text of the notice of application for minor amendment of a permit must provide:

- (1) the name and address of the agency;
- (2) the name and address of the applicant and, if different, the location of the facility or activity to be regulated by the permit;
- (3) a brief description of the application and business conducted at the facility or activity described in the application or the draft permit;
- (4) the name, address, email address, and telephone number of an agency contact person from whom interested persons may obtain further information;
- (5) a brief description of public comment procedures;
- (6) the application or permit number;

(7) a statement that the executive director may issue final approval of the application;

(8) a statement of whether the executive director has prepared a draft permit; and

(9) the deadline to file comments.

(c) The deadline to file public comment is ten days after mailing.

(d) Subsection (a) of this section does not apply to applications for a minor amendment or minor modification of a wastewater discharge permit. For such applications, the notice requirements are in §39.551 of this title (relating to Application for Wastewater Discharge Permit, Including Application for the Disposal of Sewage Sludge or Water Treatment Sludge).

*§39.1005. Notice of Class 1 Modification of an Industrial Solid Waste or Hazardous Waste Permit.*

(a) Notice requirements for applications for Class 1 modifications are in §305.69 of this title (relating to Solid Waste Permit Modification at the Request of the Permittee) for industrial solid waste or hazardous waste permits.

(b) The text of required notice shall follow the requirements of §305.69 of this title and provide:

(1) the name and address of the agency;

(2) the name and address of the applicant and, if different, the location of the facility or activity to be regulated by the permit;

(3) a brief description of the application and business conducted at the facility or activity described in the application or the draft permit;

(4) the name, address, email address, and telephone number of an agency contact person from whom interested persons may obtain further information;

(5) a brief description of public comment procedures; and

(6) the application or permit number.

(c) When mailed notice is required, the applicant shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice).

*§39.1009. Notice of Modification of a Municipal Solid Waste Permit or Registration.*

(a) When mailed notice is required under §305.70 of this title (relating to Municipal Solid Waste Permit and Registration Modifications), the mailed notice shall be mailed by the permit or registration holder and the text of the notice shall comply with §39.411(b)(1) - (3), (6), (7), (9), and (11) of this title (relating to Text of Public Notice) ~~and shall provide the location and phone number of the appropriate regional office of the commission to be contacted for information on the location where a copy of the application is available for review and copying.~~

(b) When mailed notice is required by §305.70 of this title, notice shall be mailed by the permit or registration holder to the persons listed in §39.413 of this title (relating to Mailed Notice).

*§39.1011. Notice of Application for Voluntary Transfer of Injection Well Permit.*

(a) For notice of application for the voluntary transfer of an injection well permit, the chief clerk shall mail notice to the persons listed in §39.413 of this title (relating to Mailed Notice). The chief clerk shall also mail notice to:

(1) persons who own the property on which the existing or proposed injection well facility is or will be located, if different from the applicant;

(2) landowners adjacent to the property on which the existing or proposed injection well facility is or will be located;

(3) persons who own mineral rights underlying the existing or proposed injection well facility; and

(4) persons who own mineral rights underlying the tracts of land adjacent to the property on which the existing or proposed injection well facility is or will be located.

(b) The text of the notice of application for the voluntary transfer of an injection well permit must provide:

(1) the name and address of the agency;

(2) the name and address of the applicant and, if different, the location of the facility or activity to be regulated by the permit;

(3) a brief description of the application and business conducted at the facility or activity described in the application or the draft permit;

(4) the name, address, email address, and telephone number of an agency contact person from whom interested persons may obtain further information;

(5) a brief description of public comment procedures;

(6) the application or permit number;

(7) a statement that the executive director may issue final approval of the application;

(8) a statement of whether the executive director has prepared a draft permit; and

(9) the deadline to file comments.

(c) The deadline to file public comment for the voluntary transfer of an injection well permit is ten days after mailing.

(d) If the executive director determines that changes to the injection well permit in addition to the transfer are necessary, other notice requirements may apply.

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

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## CHAPTER 55. REQUESTS FOR RECONSIDERATION AND CONTESTED CASE HEARINGS; PUBLIC COMMENT

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§55.103, 55.152, 55.154, 55.156, 55.200, 55.201, 55.203, 55.209 - 55.211, 55.250, 55.251, and 55.254.

If adopted, the proposed amendments to §55.152 and §55.154 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).

#### Background and Summary of the Factual Basis for the Proposed Rules

TCEQ underwent Sunset review during the 88th Regular Legislative Session, 2023. The Sunset bill, SB 1397, continuing the Texas Commission on Environmental Quality (TCEQ), included provisions requiring certain changes to TCEQ's public participation rules, which are found primarily in Title 30 Texas Administrative Code (TAC) Chapters 39 and 55.

The agency engaged in an extended stakeholder process for this rulemaking. A hybrid virtual/in-person stakeholder meeting was held on July 15, 2024, in Austin, with in-person meeting rooms also open in TCEQ regional offices in Midland and Harlingen. Spanish language interpretation was available for this meeting. In-person meetings were held on July 16, 2024, in Arlington and on July 18, 2024, in Houston. Because the July 18, 2024, meeting in Houston was shortly after the city experienced a hurricane, a second in-person meeting was held in Houston on October 3, 2024. Professional Spanish-language interpretation was available at both Houston meetings, and an agency interpreter was available for Spanish language assistance at the Arlington meeting. Stakeholder comments were accepted until October 8, 2024. The agency received robust participation from stakeholders during this process, receiving many comments and suggestions for changes to improve the agency's public participation rules.

The TCEQ Sunset bill required the extension of public comment period and opportunity to request a hearing for a specific subset of air quality permit applications. Specifically, air quality permit applications that are required to publish notice in a consolidated Notice of Receipt of Application and Intent to Obtain Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) (consolidated notice) must extend the close of the comment period and the opportunity to request a contested case hearing to at least 36 hours following a public meeting held on the permit application. During the stakeholder process a large number of comments requested that this extension be given to all types of permit applications. Although many other comments were beyond the scope of the current rulemaking, there was a general request to make the rules less confusing and more helpful to assist the public participation process. The proposed amendments to Chapter 55, along with the companion rulemaking proposing changes to Chapter 39, seek to improve and clarify the rules in addition to satisfying the requirements of the Sunset bill.

The proposed amendments in Chapter 55 will expand the current definitions section to add definitions relating to the public participation processes. The proposed amendments will extend the public comment period and opportunity to request a contested case hearing for at least 36 hours following the close of a public meeting for air quality permit applications with consolidated notice. This proposed requirement will apply to applications that the executive director receives on or after March 1, 2026. Because the agency is continually processing permit applications, a specific date by which new requirements will be in place is necessary to ensure smooth and fair processing of permit applications and not require current applications to follow new requirements that do not exist when the applications are submitted. As the executive director has the authority to extend comment periods and

the requirement for the extension has been a statutory requirement since September 1, 2023, when the agency has held public meetings for air quality permit applications with consolidated notice, the comment period has been extended. The current rule changes will make that requirement clear to both the regulated industry and the public. The commission is specifically soliciting comments on an appropriate date for these requirements to apply in rule. The proposed amendments will specify that the commission will follow new notice procedures that are being proposed in Chapter 39 when a comment period or period to request a contested case hearing is extended, to allow the public to know what the process is. The proposed amendments will clarify and update language, including removing a requirement for a fax number and adding a requirement for a valid email address in requests submitted to the commission for a contested case hearing or request for reconsideration. Further proposed changes update language to conform with current stylistic and grammar conventions.

#### Section by Section Discussion

##### *Subchapter D. Applicability and Definitions.*

Current §55.103 is proposed to be amended to revise and clarify the existing definition for affected person as new §55.103(1). Proposed new §§55.103(2)-(7) will add new definitions for contested case hearing, personal justiciable interest, motion to overturn, motion for rehearing, public meeting, and request for reconsideration. These are terms that the public has indicated consistently cause confusion; therefore, the new definitions are intended to provide clarity and assist the public in understanding the different components that are part of public participation process.

##### *Subchapter E. Public Comment and Public Meetings.*

Section §55.152(b) is proposed to be amended to extend the public comment period to at least the close of a public meeting by adding new §55.152(b)(1) for existing language and §55.152(b)(2) to specify that the comment period is extended for at least 36 hours following the close of a public meeting for air quality applications with a consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision that are received by the executive director on or after March 1, 2026. Proposed new §55.152(c) specifies that any extension of time for filing public comments or hearing requests must follow the notice procedures of §39.422 (relating to Notice of Extension of Comment Period). New §55.152(d) specifies that timely comments are those received by the Office of the Chief Clerk by the end of the comment period. Section 55.154(a) is proposed to be amended to add the word "hearing" to be clear that a public meeting is not a contested case hearing under the Texas Administrative Procedure Act.

##### *Subchapter F. Requests for Reconsideration or Contested Case Hearings.*

Section 55.200 is proposed to remove obsolete language regarding the date of applicability. Subsections 55.201(d) and (e) are proposed to be amended to remove the requirement for a fax number and to add the requirement for a valid email address to be included in a request for hearing. New subsection 55.201(g)(3) adds the requirement that extensions of time for filing public comments or hearing requests must follow the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period). Subsections 55.209(d) and (g) are proposed to be amended to allow responses to requests for rehearing to be served by a notice which states that the responses are elec-

tronically available on the commission's website, and to clarify when written responses are due. The commission is specifically soliciting comments on this proposed change and the potential impacts on interested stakeholders. Subsection 55.210(c)(4) is amended to extend the public comment period to at least the close of any public meeting, and for at least 36 hours following the close of a public meeting for air quality permit applications with a consolidated notice that are received on or after March 1, 2026. Subsection 55.210(c)(6) is proposed to be amended to update the type of recording to the more appropriate audio recording.

#### *Subchapter G. Requests for Contested Case Hearing and Public Comment on Certain Applications.*

Section 55.250 is proposed to remove obsolete language regarding the date of applicability. Subsection 55.251(c)(1) is proposed to be amended to remove the requirement for a fax number and add the requirement for a valid email address. The proposed amendment to §55.251(f)(2) clarifies that the commission may extend the time for submission of public comments and hearing requests. New §55.251(f)(3) adds the requirement that extensions of time for filing public comments or hearing requests must follow the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period). Subsections 55.254(e) and (f) are amended to allow responses to requests for rehearing to be served by notice that the responses are electronically available on the commission's website and to clarify when written responses are due. Section 55.251(g) is proposed for repeal as obsolete, as the commission no longer has authority over weather modification licenses or permits and Texas Water Code Chapter 18 does allow for the opportunity for a contested case hearing on certain types of permit applications. The commission specifically solicits comments on proposed changes and the potential impacts on stakeholders.

#### *Fiscal Note: Costs to State and Local Government*

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

#### *Public Benefits and Costs*

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public will benefit from improved public participation opportunities that are consistent with requirements and recommendations resulting from the Sunset review of TCEQ during the 88th Regular Legislative Session. Additionally, the public will benefit from the removal of obsolete information, clarifications, and other nonsubstantive changes. The proposed rulemaking is not anticipated to result in fiscal implications for individuals.

#### *Local Employment Impact Statement*

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

#### *Rural Community Impact Statement*

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that

the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

#### *Small Business and Micro-Business Assessment*

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

#### *Small Business Regulatory Flexibility Analysis*

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

#### *Government Growth Impact Statement*

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

#### *Draft Regulatory Impact Analysis Determination*

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined that the action is not subject to TGC, §2001.0225, because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Additionally, the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in TGC, §2001.0225(a).

The proposed rulemaking is not specifically intended to protect the environment or reduce risks to human health from environmental exposure, nor does it affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health. The purpose of the proposed rulemaking is to update and clarify the requirements for public participation in the permitting process for air quality, water quality, and waste permit applications. The proposed rulemaking would implement changes to comply with the requirements in the Sunset bill, SB 1397, 88th Regular Legislature, as well as other recommended changes. The TCEQ Sunset bill required the extension of the public comment period and opportunity to request a hearing for a subset of air quality permit applications that have a consolidated notice. Following extensive stakeholder outreach, the commission is proposing that the comment period and opportunity to request a contested case hearing be extended for at least 36 hours following the close of a public meeting for

air quality permit applications with a consolidated notice that are received on or after March 1, 2026. The proposed amendments will specify that the commission will follow new notice procedures that are being simultaneously proposed in Chapter 39 when a comment period or period to request a contested case hearing is extended, to allow the public to know what the process is. The proposed amendments will clarify and update language, including removing a requirement for a fax number and adding a requirement for a valid email address in requests submitted to the commission for a contested case hearing or request for reconsideration. Further proposed changes update language to conform with current stylistic and grammar conventions.

As defined in TGC, TGC, §2001.0225, only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The proposed amendments do not exceed an express requirement of state law or a requirement of a delegation agreement and were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and the Texas Water Code that are cited in the Statutory Authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of TGC, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an analysis of whether Texas Government Code (TGC), Chapter 2007, is applicable. The proposed amendments are procedural in nature and would not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under TGC, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action would not constitute a taking under TGC, Chapter 2007.

#### Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(b)(2) or (4), nor would the amendments affect any action or authorization identified in Coastal Coordination Act implementation rules, 31 TAC §29.11(a)(6). Therefore, the proposed amendments are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Effect on Sites Subject to the Federal Operating Permits Program

The proposed amendments would not require any changes to outstanding federal operating permits.

#### Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Monday September 8, 2025, at 2:00pm in building F room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 4, 2025. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 5, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/e8de5895-29fd-4bae-9e74-2e1714305675@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or (800) RELAY-TX (TDD). Requests should be made as far in advance as possible.

#### Submittal of Comments

Written comments may be submitted to Corey Bowling, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2024-003-039-LS. The comment period closes at 11:59 p.m. on September 9, 2025. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/proposal\\_adapt.html](https://www.tceq.texas.gov/rules/proposal_adapt.html). For further information, please contact Amy Browning, Environmental Law Division, (512) 239-0891.

## SUBCHAPTER D. APPLICABILITY AND DEFINITIONS

### 30 TAC §55.103

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt

any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments are proposed under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules.

The proposed rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

#### *§55.103. Definitions.*

The following words and terms, when used in Subchapters D - G of this chapter (relating to Applicability and Definitions; Public Comment and Public Meetings; Requests for Reconsideration or Contested Case Hearing; and Requests for Contested Case Hearing and Public Comment on Certain Applications) shall have the following meanings.

(1) Affected person--A person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

(A) The determination of whether a person is affected shall be governed by §55.203 of this title (relating to Determination of Affected Person), or, if applicable, under §55.256 of this title (relating to Determination of Affected Person).

(B) Notwithstanding any other law, a state agency, except a river authority, may not file a request for a contested case hearing or request for reconsideration, nor may it be considered an affected person or named a party, or otherwise contest ~~[of a permit or license on]~~ an application for a permit or license received by the commission on or after September 1, 2011 unless the state agency is the applicant.

(C) For an air quality standard permit for a concrete batch plant, only a person actually residing within 440 yards of the proposed plant may be an affected person

(2) Contested case hearing--A proceeding, including occupational licensing hearings, in which the legal rights, duties, or privileges of a person are determined by a state agency after an opportunity for adjudicative hearing.

(3) Personal justiciable interest--A legally protected interest related to a legal right, duty, privilege, power or economic interest potentially impacted by a draft or proposed permit that is within the jurisdiction and authority of the commission and that can be considered in an administrative hearing or judicial appeal that is related to the draft or proposed permit. An interest common to members of the general public does not qualify as a personal justiciable interest.

(4) Motion to overturn--A request for the commission to overturn a final decision made by the executive director under §50.139 of this title (relating to Motion to Overturn the Executive Director's Decision).

(5) Motion for rehearing--A request for the commission to reconsider its final decision on a permit application under §50.119 (relating to (Notice of Commission Action, Motion for Rehearing) and §80.272 (relating to Motion for Rehearing) of this title.

(6) Public meeting--A meeting held under §55.154 (relating to Public Meetings) of this title that is intended for the taking of public comments. A public meeting is not a contested case hearing.

(7) Request for reconsideration--A request that the commission reconsider the decision of the executive director on a permit application.

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

Filed with the Office of the Secretary of State on July 28, 2025.

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Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 239-2678

## SUBCHAPTER E. PUBLIC COMMENT AND PUBLIC MEETINGS

### 30 TAC §§55.152, 55.154, 55.156

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commis-



sion to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. The amendments are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; and THSC, §382.056, concerning Notice of Intent to Obtain Permit or Permit Review; Hearing, which prescribes the public participation requirements for certain applications filed with the commission. In addition, the amendments are proposed under Texas Government Code, §2001.004, concerning Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions, which requires state agencies to adopt procedural rules; and the Federal Clean Air Act, 42 United States Code, §§7401, *et seq.*, which requires states to submit state implementation plan revisions that specify the manner in which the national ambient air quality standards will be achieved and maintained within each air quality control region of the state.

The proposed rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §§361.024, 382.011, and 382.056.

*§55.152. Public Comment Period.*

(a) Public comments must be filed with the chief clerk within the time period specified in the notice. The public comment period shall end 30 days after the last publication of the Notice of Application and Preliminary Decision, except that the time period shall end:

(1) 30 days after the last publication of Notice of Receipt of Application and Intent to Obtain Permit under §39.418 of this title (relating to Notice of Receipt of Application and Intent to Obtain Permit), or 30 days after Notice of Application and Preliminary Decision if a second notice is required under §39.419 of this title (relating to Notice of Application and Preliminary Decision), for an air quality permit application not otherwise specified in this section;

(2) 30 days after the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision under §39.603 of this title (relating to Newspaper Notice) for a registration for a concrete batch plant under the Air Quality Standard Permit for Concrete Batch Plants adopted by the commission under Chapter 116, Subchapter F of this title (relating to Standard Permits), unless the plant is to be temporarily located in or contiguous to the right-of-way of a public works project;

(3) 30 days after the last publication of the consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision under §39.603 of this title for an application for a new permit or permit amendment under Chapter 116, Subchapters B and G of this title (relating to New Source Review Permits and Flexible Permits);

(4) 15 days after the last publication of Notice of Receipt of Application and Intent to Obtain Permit under §39.418 of this title, or 30 days after Notice of Application and Preliminary Decision if a second notice is required under §39.419 of this title, for a permit renewal under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification);

(5) 45 days after the last publication of the notice of Application and Preliminary Decision for an application for a hazardous waste facility permit, or to amend, extend, or renew or to obtain a Class

3 Modification of such a permit, or 30 days after the publication of Notice of Application and Preliminary Decision for Class 3 modifications of non-hazardous industrial solid waste permits;

(6) 30 days after the mailing of the notice of draft production area authorization under Chapter 331 of this title (relating to Underground Injection Control);

(7) the time specified in commission rules for other specific types of applications; or

(8) as extended by the executive director for good cause.

(b) The public comment period shall automatically be extended if a public meeting is held: ~~[to the close of any public meeting:]~~

(1) to at least the close of any public meeting for permit applications; and

(2) for at least 36 hours following the close of any public meeting for air quality permit applications with a consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision that are received by the executive director on or after March 1, 2026.

(c) Notice of extension of time for filing public comments or hearing requests will comply with the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period).

(d) Timely comments are those received by the Office of the Chief Clerk by the end of the comment period.

*§55.154. Public Meetings.*

(a) A public meeting is intended for the taking of public comment~~[;]~~ and is not a contested case hearing under the Texas Administrative Procedure Act.

(b) During technical review of the application, the applicant, in cooperation with the executive director, may hold a public meeting in the county in which the facility is located or proposed to be located in order to inform the public about the application and obtain public input.

(c) At any time, the executive director or the Office of the Chief Clerk may hold public meetings. The executive director or the Office of the Chief Clerk shall hold a public meeting if:

(1) the executive director determines that there is a substantial or significant degree of public interest in an application;

(2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held;

(3) for Prevention of Significant Deterioration and Nonattainment permits subject to Chapter 116, Subchapter B of this title (relating to New Source Review Permits), an interested person requests a public meeting regarding the executive director's draft permit or air quality analysis; a public meeting held in response to a request under this paragraph will be held after Notice of Application and Preliminary Decision is published;

(4) for applications for Hazardous Air Pollutant permits subject to Chapter 116, Subchapter E of this title (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)), an interested person requests a public meeting regarding the executive director's draft permit or air quality analysis; a public meeting held in response to a request under this paragraph will be held after Notice of Application and Preliminary Decision is published; or

(5) when a public meeting is otherwise required by law.

(d) Notice of the public meeting shall be given as required by §39.411(d) or (g) of this title (relating to Text of Public Notice), as applicable. The notice must also meet the requirements of §39.426(d) of this title (relating to Alternative Language Requirements), when applicable.

(e) The applicant shall attend any public meeting held by the executive director or Office of the Chief Clerk. The applicant shall comply with the requirements of §39.426(d)(2) of this title, when applicable.

(f) An audio recording or written transcript of the public meeting shall be made available to the public.

(g) The executive director will respond to comments as required by §55.156(b) and (c) of this title (relating to Public Comment Processing).

*§55.156. Public Comment Processing.*

(a) The chief clerk shall deliver or mail to the executive director, the Office of Public Interest Counsel, the director of the Alternative Dispute Resolution Office, and the applicant copies of all documents filed with the chief clerk in response to public notice of an application.

(b) If comments are received, the following procedures apply to the executive director.

(1) Before an application is approved, the executive director shall prepare a response to all timely, relevant and material, or significant public comment, whether or not withdrawn, and specify if a comment has been withdrawn. Before any air quality permit application for a Prevention of Significant Deterioration or Nonattainment permit subject to Chapter 116, Subchapter B of this title (relating to New Source Review Permits) or for applications for the establishment or renewal of, or an increase in, a plant-wide applicability limit permit under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification), filed on or after the effective date of this section, is approved, the executive director shall prepare a response to all comments received. The response shall specify the provisions of the draft permit that have been changed in response to public comment and the reasons for the changes.

(2) The executive director may call and conduct public meetings, under §55.154 of this title (relating to Public Meetings), in response to public comment.

(3) The executive director shall file the response to comments with the chief clerk within the shortest practical time after the comment period ends, not to exceed 60 days.

(c) After the executive director files the response to comments, the chief clerk shall mail (or otherwise transmit) instructions for electronically accessing the executive director's decision, the executive director's response to public comments, and instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing or information about how to request a hard copy of these documents. The chief clerk shall provide the information required by this section to the applicant, any person who submitted comments during the public comment period, any person who requested to be on the mailing list for the permit action, any person who timely filed a request for a contested case hearing in response to the Notice of Receipt of Application and Intent to Obtain a Permit for an air application, the Office of Public Interest Counsel, and the director of the External Relations Division. Instructions for requesting reconsideration of the executive director's decision or requesting a contested case hearing are not required to be included in this transmittal for the applications listed in:

(1) §39.420(e) of this title (relating to Transmittal of the Executive Director's Response to Comments and Decision); and

(2) §39.420(f) and (g) of this title.

(d) The instructions sent under §39.420(a) of this title regarding how to request a contested case hearing shall include at least the following statements; however, this subsection does not apply to post-closure order applications:

(1) a contested case hearing request must include the requester's ~~[requestor's]~~ location relative to the proposed facility or activity;

(2) a contested case hearing request should include a description of how and why the requester ~~[requestor]~~ will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's ~~[requestor's]~~ uses of property which may be impacted by the proposed facility or activity;

(3) only relevant and material disputed issues of fact raised during the comment period can be considered if a contested case hearing request is granted for an application filed before September 1, 2015;

(4) only relevant and material disputed issues of fact and mixed questions of fact and law raised during the comment period by a hearing requester ~~[requestor]~~ who is an affected person and whose request is granted can be considered if a contested case hearing request is granted for an application filed on or after September 1, 2015; and

(5) a contested case hearing request may not be based on issues raised solely in a comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

(e) The instructions sent under §39.420(c) of this title regarding how to request a contested case hearing shall include at least the following statements:

(1) a contested case hearing request must include the requester's ~~[requestor's]~~ location relative to the proposed facility or activity;

(2) a contested case hearing request should include a description of how and why the requester will be adversely affected by the proposed facility or activity in a manner not common to the general public, including a description of the requester's ~~[requestor's]~~ uses of property which may be impacted by the proposed facility or activity;

(3) only relevant and material disputed issues of fact raised during the comment period can be considered if a contested case hearing request is granted for an application filed before September 1, 2015;

(4) only relevant and material disputed issues of fact and mixed questions of fact and law raised during the comment period by a hearing requester ~~[requestor]~~ who is an affected person and whose request is granted can be considered if a contested case hearing request is granted for an application filed on or after September 1, 2015; and

(5) a contested case hearing request may not be based on issues raised solely in a comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

(f) For applications referred to State Office of Administrative Hearings under §55.210 of this title (relating to Direct Referrals):

(1) for air quality permit applications subsections (c) and (d) of this section do not apply; and

(2) for all other permit applications, subsections (b)(2), (c), and (d) of this section do not apply.

(g) Regardless of the requirements in §39.420 of this title, the commission shall make available by electronic means on the commission's website the executive director's decision and the executive director's response to public comments.

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

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Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2678



## SUBCHAPTER F. REQUESTS FOR RECONSIDERATION OR CONTESTED CASE HEARING

### 30 TAC §§55.200, 55.201, 55.203, 55.209 - 55.211

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC), §361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air; and THSC, §382.059, which authorized certain permit applications to be filed prior to September 1, 2001. In addition, the amendments are proposed under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt procedural rules; and TGC, §2003.047, which authorizes the State Office of Administrative Hearings to conduct hearings for the commission.

The proposed rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024 and §382.011.

§55.200. *Applicability.*

This subchapter applies only to applications filed under Texas Water Code, Chapter 26, 27, or 32 or Texas Health and Safety Code, Chapter 361 or 382 [that are declared administratively complete on or after September 1, 1999].

#### §55.201. *Requests for Reconsideration or Contested Case Hearing.*

(a) A request for reconsideration or contested case hearing must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director's decision and response to comments and provides instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing.

(b) The following may request a contested case hearing under this chapter:

- (1) the commission;
- (2) the executive director;
- (3) the applicant; and
- (4) affected persons, when authorized by law.

(c) A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided by subsection (a) of this section, may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment, and, for applications filed on or after September 1, 2015, must be based only on the requester's [requester's] timely comments.

(d) A hearing request must substantially comply with the following:

(1) give the name, address, daytime telephone number, and, where possible, a valid email address [fax number] of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, a valid email address [fax number], who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's [requester's] location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester [requester] believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

- (3) request a contested case hearing;
- (4) for applications filed:

(A) before September 1, 2015, list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester [requester] should, to the extent possible, specify any of the executive director's responses to comments that the requester [requester] disputes and the factual basis of the dispute and list any disputed issues of law or policy; or

(B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requester [requester] during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester [requester] should, to the extent possible, specify any of the executive

director's responses to the requester's [requestor's] comments that the requester [requestor] disputes, the factual basis of the dispute, and list any disputed issues of law; and

(5) provide any other information specified in the public notice of application.

(e) Any person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license as set forth in §55.103 of this title (relating to Definitions), may file a request for reconsideration of the executive director's decision. The request must be in writing and be filed by United States mail, facsimile, or hand delivery with the chief clerk within the time provided by subsection (a) of this section. The request should also contain the name, address, day-time telephone number, and, where possible, a valid email address [fax number] of the person who files the request. The request for reconsideration must expressly state that the person is requesting reconsideration of the executive director's decision[.] and give reasons why the decision should be reconsidered.

(f) Documents that are filed with the chief clerk before the public comment deadline that comment on an application but do not request reconsideration or a contested case hearing shall be treated as public comment.

(g) Procedures for late filed public comments, requests for reconsideration, or contested case hearing are as follows.

(1) A request for reconsideration or contested case hearing, or public comment shall be processed under §55.209 of this title (relating to Processing Requests for Reconsideration and Contested Case Hearing) or under §55.156 of this title (relating to Public Comment Processing), respectively, if it is filed by the deadline. The chief clerk shall accept a request for reconsideration or contested case hearing, or public comment that is filed after the deadline, but the chief clerk shall not process it. The chief clerk shall place the late documents in the application file.

(2) The commission may extend the time allowed to file a request for reconsideration, or a request for a contested case hearing.

(3) Notice of extension of time for filing public comments or hearing requests must be provided by the commission following the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period).

(h) Any person, except the applicant, the executive director, the public interest counsel, and a state agency that is prohibited by law from contesting the issuance of a permit or license as set forth in §55.103 of this title, who was provided notice as required under Chapter 39 of this title (relating to Public Notice) but who failed to file timely public comment, failed to file a timely hearing request, failed to participate in the public meeting held under §55.154 of this title (relating to Public Meetings), and failed to participate in the contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings) may file a motion for rehearing under §50.119 of this title (relating to Notice of Commission Action, Motion for Rehearing), or §80.272 of this title (relating to Motion for Rehearing) or may file a motion to overturn the executive director's decision under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision) only to the extent of the changes from the draft permit to the final permit decision.

(i) Applications for which there is no right to a contested case hearing include:

(1) a minor amendment or minor modification of a permit under Chapter 305, Subchapter D of this title (relating to Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits);

(2) a Class 1 or Class 2 modification of a permit under Chapter 305, Subchapter D of this title;

(3) any air permit application for the following:

(A) initial issuance of an electric generating facility permit;

(B) permits issued under Chapter 122 of this title (relating to Federal Operating Permits Program);

(C) a permit issued under Chapter 116, Subchapter B, Division 6 of this title (relating to Prevention of Significant Deterioration Review) that would authorize only emissions of greenhouse gases as defined in §101.1 of this title (relating to Definitions); or

(D) amendment, modification, or renewal of an air application that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. The commission may hold a contested case hearing if the application involves a facility for which the applicant's compliance history contains violations that are unresolved and that constitute a recurring pattern of egregious conduct that demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations;

(4) hazardous waste permit renewals under §305.65(8) of this title (relating to Renewal);

(5) an application, under Texas Water Code, Chapter 26, to renew or amend a permit if:

(A) the applicant is not applying to:

(i) increase significantly the quantity of waste authorized to be discharged; or

(ii) change materially the pattern or place of discharge;

(B) the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;

(C) any required opportunity for public meeting has been given;

(D) consultation and response to all timely received and significant public comment has been given; and

(E) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit;

(6) an application for a Class I injection well permit used only for the disposal of nonhazardous brine produced by a desalination operation or nonhazardous drinking water treatment residuals under Texas Water Code, §27.021, concerning Permit for Disposal of Brine from Desalination Operations or of Drinking Water Treatment Residuals in Class I Injection Wells;

(7) the issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit, or the authorization for the use of an injection well under a general permit under Texas Water Code, §27.025, concerning General Permit Authorizing Use of Class I Injection Well to Inject Nonhazardous Brine from Desalination Operations or Nonhazardous Drinking Water Treatment Residuals;

(8) an application for a permit, registration, license, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project as defined in §91.30 of this title (relating to Definitions), if the application was submitted on or before January 1, 2018;

(9) other types of applications where a contested case hearing request has been filed, but no opportunity for hearing is provided by law; and

(10) an application for a production area authorization, except as provided in accordance with §331.108 of this title (relating to Opportunity for a Contested Case Hearing on a Production Area Authorization Application).

*§55.203. Determination of Affected Person.*

(a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

(b) Except as provided by §55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

(c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:

(1) whether the interest claimed is one protected by the law under which the application will be considered;

(2) distance restrictions or other limitations imposed by law on the affected interest;

(3) whether a reasonable relationship exists between the interest claimed and the activity regulated;

(4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;

(5) likely impact of the regulated activity on use of the impacted natural resource by the person;

(6) for a hearing request on an application filed on or after September 1, 2015, whether the requester [~~requestor~~] timely submitted comments on the application that were not withdrawn; and

(7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

(d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:

(1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;

(2) the analysis and opinions of the executive director; and

(3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requester [~~requestor~~].

(e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.

*§55.209. Processing Requests for Reconsideration and Contested Case Hearing.*

(a) This section and §55.211 of this title (relating to Commission Action on Requests for Reconsideration or Contested Case Hearing) apply only to requests for reconsideration and contested case hearing that are timely filed.

(b) After the final deadline to submit requests for reconsideration or contested case hearing, the chief clerk shall process any requests for reconsideration or hearing by both:

(1) referring the application and requests for reconsideration or contested case hearing to the alternative dispute resolution director. The alternative dispute resolution director shall try to resolve any dispute between the applicant and the requesters [~~requestors~~]; and

(2) scheduling the hearing request and request for reconsideration for a commission meeting. However, if only a request for reconsideration is submitted and the commission has delegated its authority to act on the request to the general counsel, the request for reconsideration shall be scheduled for a commission meeting only if the general counsel directs the chief clerk to do so. The chief clerk should try to schedule the requests for a commission meeting that will be held approximately 44 days after the final deadline for timely filed requests for reconsideration or contested case hearing.

(c) The chief clerk shall mail notice to the applicant, executive director, public interest counsel, and all timely commenters and requesters [~~requestors~~] at least 35 days before the first meeting at which the commission considers the requests. The notice shall explain how to participate in the commission decision, describe alternative dispute resolution under commission rules, and explain the relevant requirements of this chapter.

(d) The executive director, the public interest counsel, and the applicant may submit written responses to the requests no later than 12 days after the chief clerk mails notice of the first meeting at which the commission will consider the hearing request, unless extended by the general counsel [23 days before the commission meeting at which the commission will evaluate the requests]. Responses shall be filed with the chief clerk; and notice of the filing shall be served on the same day to the executive director, the public interest counsel, the director of the External Relations Division, the applicant, and any requesters that the responses are available electronically on the commission's website along with instructions for accessing the responses or requesting a mailed copy [~~requestors~~].

(e) Responses to hearing requests must specifically address:

(1) whether the requester [~~requestor~~] is an affected person;

(2) which issues raised in the hearing request are disputed;

(3) whether the dispute involves questions of fact or of law;

(4) whether the issues were raised during the public comment period;

(5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;

(6) whether the issues are relevant and material to the decision on the application; and

(7) a maximum expected duration for the contested case hearing.

(f) Responses to requests for reconsideration should address the issues raised in the request.

(g) The requesters [~~requestors~~] may submit written replies to a response no later than 26 days after the chief clerk mails notice of the first meeting at which the commission will consider the request for reconsideration and the hearing request, unless extended by the general counsel [nine days before the commission meeting at which the commission will evaluate the request for reconsideration and contested case

hearing]. A reply shall be filed with the chief clerk and notice of the filing shall be served on the same day to the executive director, the public interest counsel, and the applicant that the reply is available electronically on the commission's website.

*§55.210. Direct Referrals.*

(a) The executive director or the applicant may file a request with the chief clerk that the application be sent directly to State Office of Administrative Hearings (SOAH) for a hearing on the application.

(b) After receipt of a request filed under this section and after the executive director has issued his preliminary decision on the application, the chief clerk shall refer the application directly to SOAH for a hearing on whether the application complies with all applicable statutory and regulatory requirements.

(c) A case which has been referred to SOAH under this section shall not be subject to the public meeting requirements of §55.154 of this title (relating to Public Meetings). The agency may, however, call and conduct public meetings in response to public comment. A public meeting is intended for the taking of public comment[,] and is not a contested case proceeding under the Administrative Procedure Act. Public meetings held under this section shall be subject to following procedures.

(1) The executive director shall hold a public meeting when there is a significant degree of public interest in a draft permit, or when required by law.

(2) To the extent practicable, the public meeting for any case referred under this section shall be held prior to or on the same date as the preliminary hearing.

(3) Public notice of a public meeting may be abbreviated to facilitate the convening of the public meeting prior to or on the same date as the preliminary hearing, unless the timing of notice is set by statute or a federal regulation governing a permit under a federally authorized program. In any case, public notice must be provided at least ten days before the meeting.

(4) If a public meeting is held, the [The] public comment period shall be extended to at least the close of any public meeting and for at least 36 hours following the close of a public meeting for air quality permit applications with a consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision that are received by the executive director on or after March 1, 2026.

(5) The applicant shall attend any public meeting held.

(6) An audio [A tape] recording or written transcript of the public meeting shall be filed with the chief clerk and will be included in the chief clerk's case file to be sent to SOAH as provided by §80.6 of this title (relating to Referral to SOAH).

(d) A case which has been referred to SOAH under this section shall be subject to the public comment processing requirements of §55.156(a) and (b)(1) and (3) of this title (relating to Public Comment Processing). The requirements of §39.426(e) of this title (relating to Alternative Language Requirements) shall also be met, as applicable.

(e) For applications filed before September 1, 2015, if Notice of Application and Preliminary Decision is provided at or after direct referral under this section, this notice shall include, in lieu of the information required by §39.411(c) and (e) of this title (relating to Text of Public Notice), the following:

(1) the information required by §39.411(b)(1) - (3), (4)(A), (6) - (11), and (13) and (e)(10), (11)(A), (C) and (D), (13) and (14) of this title;

(2) the information required by §39.411(c)(4) and (5) of this title; and

(3) a brief description of public comment procedures, including a description of the manner in which comments regarding the executive director's preliminary decision may be submitted, the deadline to file public comments or request a public meeting, and a statement that a public meeting will be held by the executive director if there is significant public interest in the proposed activity. These public comment procedures must be printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice.

(f) For applications filed on or after September 1, 2015, the administrative law judge may not hold a preliminary hearing until after the issuance of the executive director's response to comment.

*§55.211. Commission Action on Requests for Reconsideration and Contested Case Hearing.*

(a) Commission consideration of the following items is not itself a contested case subject to the Texas Administrative Procedure Act (APA):

- (1) public comment;
- (2) executive director's response to comment;
- (3) request for reconsideration; or
- (4) request for contested case hearing.

(b) The commission will evaluate public comment, executive director's response to comment, requests for reconsideration, and requests for contested case hearing and may:

- (1) grant or deny the request for reconsideration;
- (2) determine that a hearing request does not meet the requirements of this subchapter, and act on the application; or
- (3) determine that a hearing request meets the requirements of this subchapter and:

(A) if the request raises disputed issues of fact that were raised during the comment period, that were not withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment, and that are relevant and material to the commission's decision on the application:

- (i) specify the number and scope of the specific factual issues to be referred to the State Office of Administrative Hearings (SOAH);
- (ii) specify the maximum expected duration of the hearing; and
- (iii) direct the chief clerk to refer the issues to SOAH for a hearing; or

(B) if the request raises only disputed issues of law or policy, make a decision on the issues and act on the application; or

(4) direct the chief clerk to refer the hearing request to SOAH. The referral may specify that SOAH should prepare a recommendation on the sole question of whether the requester [requestor] is an affected person. If the commission refers the hearing request to SOAH, it shall be processed as a contested case under the APA. If the commission determines that a requester [requestor] is an affected person, SOAH may proceed with a contested case hearing on the application if either the commission has specified, or the parties have agreed to, the number and scope of the issues and maximum expected duration of the hearing.

(c) A request for a contested case hearing shall be granted if the request is:

- (1) made by the applicant or the executive director;
- (2) made by an affected person if the request:

(A) is on an application filed:

(i) before September 1, 2015, and raises disputed issues of fact that:

(I) were raised during the comment period;

(II) were not withdrawn by the commenter by filing a withdrawal letter with the chief clerk prior to the filing of the executive director's response to comment; and

(III) are relevant and material to the commission's decision on the application; or

(ii) on or after September 1, 2015, and raises disputed issues of fact or mixed questions of fact or law that:

(I) were raised during the comment period by the affected person whose request is granted;

(II) were not withdrawn by filing a withdrawal letter with the chief clerk prior to the filing of the executive director's response to comment; and

(III) are relevant and material to the commission's decision on the application;

(B) is timely filed with the chief clerk;

(C) is pursuant to a right to hearing authorized by law; and

(D) complies with the requirements of §55.201 of this title (relating to Requests for Reconsideration or Contested Case Hearing).

(d) Notwithstanding any other commission rules, the commission may refer an application to SOAH if the commission determines that:

(1) a hearing would be in the public interest; or

(2) the application is for an amendment, modification, or renewal of an air permit under Texas Health and Safety Code, §382.0518 or §382.055 that involves a facility for which the applicant's compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations.

(3) the application is for renewal of a hazardous waste permit, subject to §305.65(8) of this title (relating to Renewal) and the applicant's compliance history as determined under Chapter 60 of this title (relating to Compliance History) raises an issue regarding the applicant's ability to comply with a material term of its permit.

(4) the application is for renewal or amendment of a wastewater discharge permit and the applicant's compliance history as determined under Chapter 60 of this title raises an issue regarding the applicant's ability to comply with a material term of its permit.

(e) If a request for a contested case hearing is granted, a decision on a request for reconsideration or contested case hearing is an interlocutory decision on the validity of the request or issue and is not binding on the issue of designation of parties under §80.109 of this title (relating to Designation of Parties) or the issues referred to SOAH

under this section. A judge may consider additional issues beyond the list referred by the commission as provided by §80.4(c)(16) of this title (relating to Judges). A person whose request for reconsideration or contested case hearing is denied may still seek to be admitted as a party under §80.109 of this title if any hearing request is granted on an application. Failure to seek party status shall be deemed a withdrawal of a person's request for reconsideration or hearing request.

(f) If all requests for reconsideration or contested case hearing are denied, §80.272 of this title (relating to Motion for Rehearing) applies. A motion for rehearing in such a case must be filed not later than 25 days after the date that the commission's final decision or order is signed, unless the time for filing the motion for rehearing has been extended under Texas Government Code, §2001.142 and §80.276 of this title (relating to Request for Extension to File Motion for Rehearing), by agreement under Texas Government Code, §2001.147, or by the commission's written order issued pursuant to Texas Government Code, §2001.146(e). If the motion is denied under §80.272 and §80.273 of this title (relating to Motion for Rehearing and Decision Final and Appealable) the commission's decision is final and appealable under Texas Water Code, §5.351 or Texas Health and Safety Code, §361.321 or §382.032, or under the APA.

(g) If all hearing requesters [requestors] whose requests for a contested case hearing were granted with regard to an issue, withdraw in writing their hearing requests with regard to the issue before issuance of the notice of the contested case hearing, the scope of the hearing no longer includes that issue except as authorized under §80.4(c)(16) of this title.

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

Filed with the Office of the Secretary of State on July 28, 2025.

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Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2678



## SUBCHAPTER G. REQUESTS FOR CONTESTED CASE HEARING AND PUBLIC COMMENT ON CERTAIN APPLICATIONS

### 30 TAC §§55.250, 55.251, 55.254

#### Statutory Authority

The amendments are proposed under Texas Water Code (TWC), Chapter 5, Subchapter M; TWC, §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by the TWC; TWC, §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director; TWC, §26.011, which authorizes the commission to maintain the quality of water in the state of Texas; and TWC, §27.019, which authorizes the commission to adopt rules to implement the statutes regarding injection wells. The amendments are also proposed under Texas Health and Safety Code (THSC),

§361.011, which provides the commission's authority to manage solid waste; THSC, §361.017, which provides the commission's authority to manage industrial solid waste and hazardous municipal waste; THSC, §361.024, which authorizes the commission to adopt rules regarding the management and control of solid waste; THSC, §382.011, which authorizes the commission to control the quality of the state's air; and THSC, §382.017, which authorizes the commission to adopt any rules necessary to carry out its powers and duties to control the quality of the state's air. In addition, the amendments are proposed under Texas Government Code, §2001.004, which requires state agencies to adopt procedural rules.

The proposed rulemaking implements TWC, Chapter 5, Subchapter M; TWC, §§5.013, 5.102, 5.103, 5.122, 26.011, and 27.019; and THSC, §361.024 and §382.011.

*§55.250. Applicability.*

This subchapter applies to applications filed with the commission except applications filed under Texas Water Code (TWC), Chapter 26 or 27, Texas Health and Safety Code, Chapter 361 or 382, or TWC, §11.036 or §11.041. ~~[Any permit application that is declared administratively complete on or after September 1, 1999 is subject to this subchapter.]~~

*§55.251. Requests for Contested Case Hearing, Public Comment.*

(a) The following may request a contested case hearing under this section:

- (1) the commission;
- (2) the executive director;
- (3) the applicant; and
- (4) affected persons, when authorized by law.

(b) A request for a contested case hearing by an affected person must be in writing and be filed by United States mail, facsimile, or hand delivery with the chief clerk within the time provided by subsection (d) of this section.

(c) A hearing request must substantially comply with the following:

(1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number and, where possible, a valid email address ~~[fax number]~~, who shall be responsible for receiving all official communications and documents for the group.

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's ~~[requestor's]~~ location and distance relative to the activity that is the subject of the application and how and why the requester ~~[requestor]~~ believes he or she will be affected by the activity in a manner not common to members of the general public;

(3) request a contested case hearing; and

(4) provide any other information specified in the public notice of application.

(d) Deadline for hearing requests; public comment period. A hearing request must be filed with the chief clerk within the time period specified in the notice. The public comment period shall also end at the end of this time period. The time period shall end as specified in §55.152 of this title (relating to Public Comment Period).

(e) Documents that are filed with the chief clerk that comment on an application but that do not request a hearing will be treated as public comment.

(f) Late filed hearing requests and public comment, extensions.

(1) A hearing request or public comment shall be processed under §55.254 of this title (relating to Hearing Request Processing) or under §55.253 of this title (relating to Public Comment Processing), respectively, if it is filed by the deadline for hearing requests and public comment. The chief clerk shall accept a hearing request or public comment that is filed after the deadline but the chief clerk shall not process it. The chief clerk shall place the late documents in the file for the application.

(2) The commission may extend the time allowed for filing public comments or a hearing request.

(3) Notice of extension of time for filing public comments or hearing requests must be provided by the commission following the requirements of §39.422 of this title (relating to Notice of Extension of Comment Period).

~~[(g) There is no right to a hearing on an application for a weather modification license or permit under Texas Water Code, Chapter 48.]~~

*§55.254. Hearing Request Processing.*

(a) The requirements in this section and §55.255 of this title (relating to Commission Action on Hearing Request) apply only to hearing requests that are filed within the time period specified in §55.251(d) of this title (relating to Requests for Contested Case Hearing, Public Comment).

(b) The executive director shall file a statement with the chief clerk indicating that technical review of the application is complete. The executive director will file the statement with the chief clerk either before or after public notice of the application is issued.

(c) After a hearing request is filed and the executive director has filed a statement that technical review of the application is complete, the chief clerk shall process the hearing request by both:

(1) referring the application and hearing request to the alternative dispute resolution director. The alternative dispute resolution director shall try to resolve any dispute between the applicant and the person making the request for hearing; and

(2) scheduling the hearing request for a commission meeting. The chief clerk shall attempt to schedule the request for a commission meeting that will be held approximately 44 days after the later of the following:

(A) the deadline to request a hearing specified in the public notice of the application; or

(B) the date the executive director filed the statement that technical review is complete.

(d) The chief clerk shall mail notice to the applicant, executive director, public interest counsel, and the persons making a timely hearing request at least 35 days before the first meeting at which the commission considers the request. The chief clerk shall explain how the person may submit public comment to the executive director, describe alternative dispute resolution under commission rules, explain that the agency may hold a public meeting, and explain the requirements of this chapter.

(e) The executive director, the public interest counsel, and the applicant may submit written responses to the hearing request no later



than 12 days after the chief clerk mails notice of the first meeting at which the commission will consider the hearing request, unless extended by the general counsel [23 days before the commission meeting at which the commission will evaluate the hearing request]. Responses shall be filed with the chief clerk and notice of the filing served on the same day to the applicant, the executive director, the public interest counsel, the External Relations Division, and any persons filing hearing requests that the responses are available electronically on the commission's website along with instructions for accessing the responses and requesting a mailed copy.

(f) The person who filed the hearing request may submit a written reply to a response no later than 26 days after the chief clerk mails notice of the first meeting at which the commission will consider the hearing request, unless extended by the general counsel [nine days before the scheduled commission meeting at which the commission will evaluate the hearing request]. A reply may also contain additional information responding to the letter by the chief clerk required by subsection (d) of this section. A reply shall be filed with the chief clerk and notice of the filing served on the same day to the executive director, the public interest counsel, and the applicant that the reply is available electronically on the commission's website.

(g) The executive director or the applicant may file a request with the chief clerk that the application be sent directly to the State

Office of Administrative Hearings (SOAH) for a hearing on the application. If a request is filed under this subsection, the commission's scheduled consideration of the hearing request will be canceled. An application may only be sent to SOAH under this subsection if the executive director, the applicant, the public interest counsel, and all timely hearing requesters ~~[requesters]~~ agree on a list of issues and a maximum expected duration of the hearing.

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

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Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: September 7, 2025

For further information, please call: (512) 239-2678

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# WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 745. LICENSING

#### SUBCHAPTER M. ADMINISTRATIVE

#### REVIEWS AND DUE PROCESS HEARINGS

#### DIVISION 1. ADMINISTRATIVE REVIEWS

#### 26 TAC §745.8802

The Health and Human Services Commission withdraws proposed amendments to §745.8802 which appeared in the February 14, 2025, issue of the *Texas Register* (50 TexReg 816).

Filed with the Office of the Secretary of State on July 25, 2025.

TRD-202502583

Karen Ray

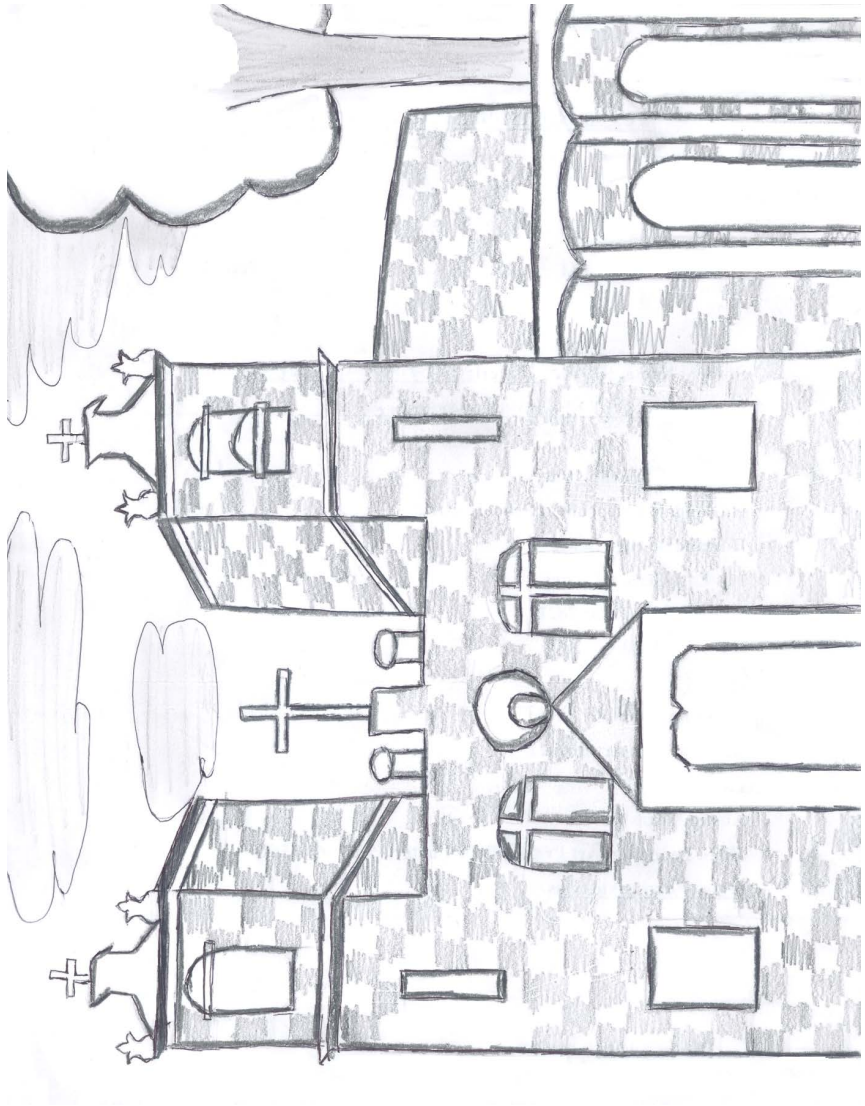
Chief Counsel

Health and Human Services Commission

Effective date: July 25, 2025

For further information, please call: (713) 287-3260

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# 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 10. COMMUNITY DEVELOPMENT

### PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 10. UNIFORM MULTIFAMILY RULES

#### SUBCHAPTER E. POST AWARD AND ASSET MANAGEMENT REQUIREMENTS

##### 10 TAC §10.406

The Texas Department of Housing and Community Affairs (the "Department") adopts the amendment to 10 TAC Chapter 10, Subchapter E, Post Award and Asset Management Requirements, §10.406 Ownership Transfers without changes to the proposed text as published in the May 23, 2025, issue of the *Texas Register* (50 TexReg 3054). The rule will not be republished. The purpose of the amendment is to clarify processes that will ensure accurate processing of post award activities, and to communicate more effectively with multifamily Development Owners regarding their responsibilities after funding or award by the Department.

Tex. Gov't Code §2001.0045(b) does not apply to the amended rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset. In general, most changes were corrective in nature and clarify language or processes to more adequately communicate the language or process. No public comment was received, and there is no change from the proposed amendment.

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.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the amended rule would be in effect, the amendment does not create or eliminate a government program, but relates to changes to an existing activity, concerning the post award activities of Low-Income Housing Tax Credit (LI-HTC) and other Department-funded multifamily Developments.

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

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

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

5. The amendment is not creating a new regulation, but are revisions to provide additional clarification.

6. The amendment will not repeal an existing regulation.

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

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

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

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

2. This amended rule relates to the procedures for the handling of post award and asset management activities of multifamily developments awarded funds through various Department programs. Other than in the case of a small or micro-business that is an owner or a party to one of the Department's properties, no small or micro-businesses are subject to the amended rule. If a small or micro-business is such an owner or participant, the amended rule provides for a more clear, transparent process for doing so and do not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the amended rule because this amended rule is applicable only to the owners or operators of properties in the Department's portfolio, not municipalities.

3. The Department has determined that because this amended rule relates only to the process in use for the post award and asset management activities of the Department's portfolio, 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 amendment 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 amended rule as to its possible effects on local economies and has determined that for the first five years the amended rule will be in effect, there will be no economic effect on local employment, because the amended rule only provides for administrative processes required of properties in the Department's portfolio. No program funds are

channeled through this amended rule, so no activities under this amended rule would support additional local employment opportunities. Alternatively, the amended rule would also not cause any negative impact on employment. Therefore, no local employment impact statement is required to be prepared for the amended rule.

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

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 amended rule is in effect, the benefit anticipated as a result of the amended sections would be increased clarity and consistency across rule sections. There will not be economic costs to individuals required to comply with the amendment.

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 amended rule is in effect, enforcing or administering the amended rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between May 23, 2025, and June 23, 2025. No public comment was received.

The Board adopted the final order adopting the amendment on July 24, 2025.

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

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

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

Filed with the Office of the Secretary of State on July 24, 2025.

TRD-202502582

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Effective date: August 13, 2025

Proposal publication date: May 23, 2025

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



## TITLE 16. ECONOMIC REGULATION

### PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

#### CHAPTER 73. ELECTRICIANS

##### 16 TAC §73.110

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 73, §73.110, regarding the Electricians program, without changes to the proposed text as published in the April 11, 2025, issue of the *Texas Register* (50 TexReg 2371). This rule will not be republished.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 73, implement Texas Occupations Chapter 1305, Electricians.

The adopted amendment reduces, from four to three, the number of "practicum" credits that a high school or college electrical career and technical education (CTE) program must require its students to complete. The Department's current rule at 16 T.A.C. §73.110, which implemented House Bill 1391 (88th Reg. Session, 2023), outlines the standards for electrical CTE programs. Under the current version of §73.110, electrical CTE programs must require students to complete four credits in a practicum course. In a practicum course, students earn academic credit for working off-campus for an electrical contractor, under the supervision of a master electrician. The adopted amendment is necessary because public Texas public high schools are authorized to offer only up to three credits in a practicum course. Requiring schools to provide four credits of a practicum course would impose unnecessary burdens and costs on schools and would adversely affect many students' schedules.

#### SECTION-BY-SECTION SUMMARY

The adopted amendment amends §73.110(b)(4) to reduce, from four to three, the required number of practicum credits that an electrical CTE program must offer.

#### PUBLIC COMMENTS

The Department drafted and distributed the proposed amendment to persons internal and external to the agency. The proposed amendment was published in the April 11, 2025, issue of the *Texas Register* (50 TexReg 2371). The public comment period closed on May 12, 2025. The Department received comments from two interested parties on the proposed amendment. The public comments are summarized below.

Comment: IEC of East Texas, Inc. commented in favor of the proposed amendment.

*Department Response:* The Department thanks IEC of East Texas, Inc. for expressing support for the proposed rules. The Department did not make any changes to the proposed rules in response to this comment.

Comment: Crest Electrical Solutions, LLC commented to inquire about the possibility of future rule changes concerning ovens and ranges. The comment did not address the proposed amendment or take a stance for or against.

*Department Response:* The comment is not relevant to this rule-making and the Department did not make any changes to the proposed rules in response to this comment.

#### COMMISSION ACTION

At its meeting on July 8, 2025, the Commission adopted the proposed rules as published in the *Texas Register*.

#### STATUTORY AUTHORITY

The adopted amendment is adopted under the Texas Occupations Code, Chapters 51 and 1305, which authorize the Texas Commission of Licensing and Regulation, the Department's gov-

erning body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted amendment are those set forth in the Texas Occupations Code, Chapters 51 and 1305. No other statutes, articles, or codes are affected by the adopted rule.

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 July 25, 2025.

TRD-202502629

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Effective date: August 15, 2025

Proposal publication date: April 11, 2025

For further information, please call: (512) 475-4879



## CHAPTER 82. BARBERS

### 16 TAC §§82.1, 82.10, 82.20, 82.80, 82.120

The Texas Commission of Licensing and Regulation (Commission) adopts the repeal of existing rules at 16 Texas Administrative Code (TAC), Chapter 82, §§82.1, 82.10, 82.20, 82.80, and 82.120, regarding the Barbering and Cosmetology program, without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2139). These rules will not be republished.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 82, implement Texas Occupations Code, Chapter 1603, Regulation of Barbering and Cosmetology.

The adopted rules are necessary to repeal obsolete rules that are no longer necessary after the consolidation of the rules for barbering and cosmetology into 16 TAC Chapter 83, which took effect September 1, 2023. Provisions in Chapter 82 were left in place to provide details for barbering regarding definitions, licensing provisions, fees, and curriculum requirements that were in effect prior to September 1, 2023. Those provisions are no longer necessary.

#### SECTION-BY-SECTION SUMMARY

The adopted rules repeal Chapter 82, Barbers, which consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The adopted rules repeal §82.1, Authority, which consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The adopted rules repeal §82.10, Definitions, which consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The adopted rules repeal §82.20, License Requirements--Individuals (before September 1, 2023). This repealed section consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The adopted rules repeal §82.80, Fees (before September 1, 2023). This section consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The adopted rules repeal §82.120, Technical Requirements--Curricula Standards (before August 1, 2023). This section consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

#### PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2139). The public comment period closed on May 5, 2025. The Department received comments from one interested party in response to the required summary of the proposed rules, which was posted on the Department's website and distributed on March 17, 2025, the same day that the proposed rules were filed with the *Texas Register*, but before the official publication of the proposed rules and the official start of the public comment period. The Department received comments from two interested parties on the published proposed rules during the official public comment period. The public comments are summarized below.

#### *Comments in Response to the Posted Summary*

Comment 1: An interested individual commented that she considers the spa pedicure log rule requirement to be unnecessary. This comment is neither for nor against the proposed rules, because the rule relevant to the comment is not part of the current rulemaking.

Department Response: The Department disagrees with the comment because it is outside the scope of the proposed rules. This comment concerns rule §83.108 Health and Safety Standards--Foot Spas, Foot Basins, and Spa Liners, which is not part of the proposed rules. This suggestion did not result in any changes to the proposed rules but could be considered during future rulemaking.

#### *Comments in Response to the Published Proposed Rules*

Comment 2: An interested individual made a comment about license reciprocity. She wanted the requirement for re-testing by out-of-state license holders to be removed. This comment is neither for nor against the proposed rules, because the proposed rule is not undergoing substantive change during this rulemaking.

Department Response: The Department disagrees with the comment because it is outside the scope of the proposed rules. This comment concerns rule §83.28 Substantial Equivalence and Provisional Licensure, which is being only slightly amended during this rule-making by removing obsolete transition language in subsection (a)(6) and amending subsection (k) to remove an obsolete citation and clarify that the subsection applies to documented work experience performed in the jurisdiction outside of Texas in which the person is licensed. The comment requests a substantive rule change that is not part of the proposed rules that address ongoing consolidation of 16 TAC Chapters 82 and 83.

Though the Department did not make a rule change in response to the comment, the Licensing Division contacted the commenter, and after a discussion, the commenter appeared

satisfied with the options that were presented and which did not require re-testing.

Comment 3: An interested individual commented that he was seeking information about updates to cosmetology. This comment was neither for nor against the proposed rules.

Department Response: The Department disagrees with this comment because it is outside the scope of the proposed rules. The Department did not make any changes to the proposed rules as a result of the comment.

This comment was provided to Customer Service so the individual can have his questions addressed.

#### ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION

The Barbering and Cosmetology Advisory Board met on June 16, 2025, to discuss the proposed rules and the public comments received. The Advisory Board recommended that the Commission adopt the proposed rules as published in the *Texas Register*. At its meeting on July 8, 2025, the Commission adopted the proposed rules as recommended by the Advisory Board.

#### STATUTORY AUTHORITY

The adopted repeals are adopted under Texas Occupations Code, Chapters 51 and 1603, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt repeals as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted repeals are those set forth in Texas Occupations Code, Chapters 51 and 1603. No other statutes, articles, or codes are affected by the adopted repeals.

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 July 25, 2025.

TRD-202502628

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Effective date: August 15, 2025

Proposal publication date: March 28, 2025

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



## CHAPTER 83. BARBERS AND COSMETOLOGISTS

The Texas Commission of Licensing and Regulation (Commission) adopts the repeal of existing rules at 16 Texas Administrative Code (TAC), Chapter 83, §§83.2, 83.20, 83.80, 83.120, 83.200, and 83.201; amendments to existing rules at §§83.10, 83.22, 83.23, 83.25, 83.28, 83.72, and 83.202; and new rules at §83.20 and §83.80, regarding the Barbering and Cosmetology program, without changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2140). These rules will not be republished.

The Commission also adopts new rules at 16 TAC Chapter 83, §83.15, regarding the Barbering and Cosmetology program, with

changes to the proposed text as published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2140). These rules will be republished.

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 83, implement Texas Occupations Code, Chapter 1603, Regulation of Barbering and Cosmetology.

The adopted rules repeal obsolete transition provisions; reorganize rule sections; clarify definitions and services regulated by the Department; update terminology and citations; clarify licensing provisions for establishments and schools; update school facility and signage requirements; and clarify curriculum requirements.

Additionally, the Department removed an erroneous reference to §83.31 which appeared in the opening paragraph of the March 28, 2025, issue of the *Texas Register* (50 TexReg 2140). No changes have been made to that section.

#### Four-Year Rule Review

The adopted rules are necessary to implement changes recommended as a result of the required four-year rule review conducted under Texas Government Code §2001.039. The Department's Notice of Intent to Review 16 TAC Chapter 83, was published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1737). At its meeting on October 10, 2023, the Commission readopted the rule chapter in its entirety without changes. The readoption notice was published in the November 10, 2023, issue of the *Texas Register* (48 TexReg 6613).

In response to the Notice of Intent to Review that was published, the Department received public comments from six interested parties requesting amendments to Chapter 83. The comments suggested changes including reinstating the instructor license; allowing licensees to provide micropigmentation and intradermal cosmetic services; requiring licensees to obtain a blood-borne pathogen certification; requiring only one exam for licensure; removing continuing education requirements; allowing licensed public schools to administer practical exams; and making changes to the subjects and hours listed in the curriculum requirements. These suggested changes are not included in the adopted rules. The adopted rules consist only of changes recommended by Department staff during the rule review process.

#### SECTION-BY-SECTION SUMMARY

The adopted rules repeal existing §83.2, Transition Provisions. The provisions in this repealed rule consist of transition language to accommodate the consolidation of the Barbering and Cosmetology rules that took effect September 1, 2023. These provisions are no longer necessary.

The adopted rules amend §83.10, Definitions. The adopted rules add clarifying language to the definition of "esthetician" remove the definition for "esthetician/manicurist" and replace it with the same definition for "manicurist/esthetician" for consistency with statutory terminology; amend the definition for "eyelash extension application" by replacing "and" with "or" and adding language to clarify that the term does not include a temporary strip or cluster of eyelashes attached to the lash line with an adhesive; add clarifying language to the definition for "eyelash extension specialist"; remove an obsolete reference to "cosmetology" in the definition for "guest presenter"; remove obsolete statutory references in the definition for "license"; rephrase the definition

for "safety razor" to provide clarity; and renumber the remaining provisions.

The adopted rules add new §83.15, Application of Chapter, to clarify the Department's interpretation of certain provisions of Texas Occupations Code §1603.0013. The adopted rules add new subsection (a) to explain the intent of the section; add new subsection (b) to clarify the term "cosmetic service" includes any barbering or cosmetology service; add new subsection (c) to clarify the meaning of the term "licensed nursing or convalescent custodial or personal care home"; and add new subsection (d) to clarify that the term "operator license" includes any practitioner license.

The proposed rules included a subsection (b) and (c) to clarify what the practice of "natural hair braiding" does, and does not, include. Texas Occupations Code 1603.0013(7) exempts "natural hair braiding" from the scope of practice of barbering and cosmetology. The Department has removed these subsections from the adopted rules in response to questions from the Barbering and Cosmetology Advisory Board and may explore the topic of natural hair braiding more fully in a possible future rule-making. More information about this change can be found in the "Advisory Board Recommendations" section below.

The adopted rules repeal existing §83.20, License Requirements--Individuals (before September 1, 2023). The provisions in this repealed rule are replaced with new §83.20, License Requirements--Individuals.

The adopted rules add new §83.20, License Requirements--Individuals. This new rule includes provisions that are relocated from existing §83.200, which is being repealed. The relocated provisions are revised to update rule citations, clarify language regarding criminal history background checks, update terminology for consistency with statutory language, and remove unnecessary transition language.

The adopted rules amend §83.22, License Requirements--Establishments. The adopted rules add new subsection (d) to clarify that a single establishment license may be issued for multiple units or suites operated as a single establishment within the same building or premises.

The adopted rules amend §83.23, License Requirements--Schools. The adopted rules add new subsection (f) to clarify that a single school license may be issued for multiple units or suites operated as a single school within the same building or premises.

The adopted rules amend §83.25, License Requirements--Continuing Education. The adopted rules remove an obsolete citation in subsection (h)(3) and amend subsection (k) to clarify that the subsection applies to a licensee who has held a practitioner license in Texas.

The adopted rules amend §83.28, Substantial Equivalence and Provisional Licensure, by removing obsolete transition language in subsection (a)(6) and amending subsection (k) to remove an obsolete citation and clarify that the subsection applies to documented work experience performed in the jurisdiction outside of Texas in which the person is licensed.

The adopted rules amend §83.72, Responsibilities of Schools. The adopted rules amend subsection (c) to remove the requirement for a school to notify the Department of alterations to its floor plan; amend subsection (f) to remove an obsolete citation; rephrase subsection (h) for clarity; amend subsection (k)(2)(C) to update a citation; amend subsection (q) to update

a citation; amend subsection (u) to remove the requirement for a school to have a classroom separated from the laboratory area by walls extending to the ceiling; amend subsection (v)(1) to allow a school to post a copy of the school's most recent inspection report instead of posting a notice that a copy of the report is available upon request; amend subsection (v)(3) to allow a school to post a sign provided by the Department instead of posting a sign in at least 10-inch block letters; and add new subsection (y) to clarify that a school must not allow an instructor to teach services outside the scope of the instructor's practitioner license.

The adopted rules repeal existing §83.80, Fees (before September 1, 2023). The provisions in this repealed rule are replaced with new §83.80, Fees.

The adopted rules add new §83.80, Fees. This new rule includes provisions that are relocated from existing §83.201, which is being repealed. The relocated provisions are revised to update terminology, update citations, and remove obsolete transition language. The Advisory Board added parenthetical language for clarity.

The adopted rules repeal §83.120, Technical Requirements--Curriculum Standards (before August 1, 2023). This repealed section includes curriculum standards that became obsolete on August 1, 2023. The current curriculum standards are provided in existing §83.202.

The adopted rules repeal §83.200, License Requirements--Individuals (on or after September 1, 2023). The provisions in this repealed section are relocated to new §83.20 with revisions as explained in the summary for that section.

The adopted rules repeal §83.201, Fees (on or after September 1, 2023). The provisions in this repealed section are relocated to new §83.80 with revisions as explained in the summary for that section.

The adopted rules amend §83.202, Technical Requirements--Curriculum Standards (on or after August 1, 2023). The adopted rules amend the section title to remove obsolete transition language and amend the section text to add clarifying language, provide consistent terminology, and remove unnecessary language and obsolete transition provisions.

## PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 28, 2025, issue of the *Texas Register* (50 TexReg 2140). The public comment period closed on May 5, 2025. The Department received comments from one interested party in response to the required summary of the proposed rules, which was posted on the Department's website and distributed on March 17, 2025, the same day that the proposed rules were filed with the *Texas Register*, but before the official publication of the proposed rules and the official start of the public comment period. The Department received comments from two interested parties on the published proposed rules during the official public comment period. The public comments are summarized below.

### *Comments in Response to the Posted Summary*

*Comment 1:* An interested individual commented that she considers the spa pedicure log rule requirement to be unnecessary. This comment is neither for nor against the proposed rules, be-



cause the rule relevant to the comment is not part of the current rulemaking.

**Department Response:** The Department disagrees with the comment because it is outside the scope of the proposed rules. This comment concerns rule §83.108 Health and Safety Standards--Foot Spas, Foot Basins, and Spa Liners, which is not part of the proposed rules. This suggestion did not result in any changes to the proposed rules but could be considered during future rulemaking.

#### *Comments in Response to the Published Proposed Rules*

**Comment 2:** An interested individual made a comment about license reciprocity. She wanted the requirement for re-testing by out-of-state license holders to be removed. This comment is neither for nor against the proposed rules, because the proposed rule is not undergoing substantive change during this rulemaking.

**Department Response:** The Department disagrees with the comment because it is outside the scope of the proposed rules. This comment concerns rule §83.28 Substantial Equivalence and Provisional Licensure, which is being only slightly amended during this rule-making by removing obsolete transition language in subsection (a)(6) and amending subsection (k) to remove an obsolete citation and clarify that the subsection applies to documented work experience performed in the jurisdiction outside of Texas in which the person is licensed. The comment requests a substantive rule change that is not part of the proposed rules that address ongoing consolidation of 16 TAC Chapters 82 and 83.

Though the Department did not make a rule change in response to the comment, the Licensing Division contacted the commenter, and after a discussion, the commenter appeared satisfied with the options that were presented and which did not require re-testing.

**Comment 3:** An interested individual commented that he was seeking information about updates to cosmetology. This comment was neither for nor against the proposed rules.

**Department Response:** The Department disagrees with this comment because it is outside the scope of the proposed rules. The Department did not make any changes to the proposed rules as a result of the comment.

This comment was provided to Customer Service so the individual can have his questions addressed.

#### **ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION**

The Barbering and Cosmetology Advisory Board met on June 16, 2025, to discuss the proposed rules and the public comments received. The Advisory Board recommended that the Commission adopt the proposed rules as published in the *Texas Register* with changes to §83.15 made in response to public comments and/or Department recommendations.

At the Commission Meeting on July 8, 2025, the Commission adopted the proposed rules with changes as recommended by the Advisory Board.

#### **16 TAC §§83.2, 83.20, 83.80, 83.120, 83.200, 83.201**

##### **STATUTORY AUTHORITY**

The adopted repeals are adopted under Texas Occupations Code, Chapters 51 and 1603, which authorize the Texas

Commission of Licensing and Regulation, the Department's governing body, to adopt repeals as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The adopted repeals are also adopted under Texas Government Code, Chapter 411, Subchapter F, and Texas Occupations Code, Chapters 51 and 53, which establish the Department's statutory authority to conduct criminal history background checks on an applicant for or a holder of a license, certificate, registration, title, or permit issued by the Department.

The statutory provisions affected by the adopted repeals are those set forth in Texas Occupations Code, Chapters 51 and 1603. No other statutes, articles, or codes are affected by the adopted repeals.

The legislation that enacted the statutory authority under which the adopted repeals are to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

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 July 25, 2025.

TRD-202502633

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Effective date: August 15, 2025

Proposal publication date: March 28, 2025

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



#### **16 TAC §§83.10, 83.15, 83.20, 83.22, 83.23, 83.25, 83.28, 83.72, 83.80, 83.202**

##### **STATUTORY AUTHORITY**

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 1603, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The adopted rules are also adopted under Texas Government Code, Chapter 411, Subchapter F, and Texas Occupations Code, Chapters 51 and 53, which establish the Department's statutory authority to conduct criminal history background checks on an applicant for or a holder of a license, certificate, registration, title, or permit issued by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 1603. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

##### *§83.15. Application of Chapter.*

(a) This section clarifies certain provisions of §1603.0013 of the Act.

(b) For purposes of §1603.0013(4), (5), and (6), the term "cosmetic service" includes any barbering or cosmetology service.

(c) For purposes of §1603.0013(4) and (5), the term "licensed nursing or convalescent custodial or personal care home" means the holder of a license issued under Texas Health and Safety Code, Chapter 242.

(d) For purposes of §1603.0013(5), the term "operator license" includes any practitioner license.

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 July 25, 2025.

TRD-202502630

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 1. AGENCY ADMINISTRATION

#### SUBCHAPTER G. APPLY TEXAS ADVISORY COMMITTEE

##### 19 TAC §1.131

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 1, Subchapter G, §1.131, Duration, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2549). The rule will not be republished.

The amendment continues the Apply Texas Advisory Committee for four more years.

The Apply Texas Advisory Committee provides the Coordinating Board with advice and recommendations regarding the common admission applications and the Apply Texas System. The amendment is adopted under Texas Education Code, §51.762, which creates the Apply Texas advisory committee, and Texas Government Code, §2110.008, which requires the Coordinating Board by rule to provide for a different abolishment date for advisory committees to continue in existence.

Rule §1.131, Duration, is amended to change the Apply Texas Advisory Committee abolishment date from October 31, 2025, to no later than October 31, 2029.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 51.762, and Texas Government Code, chapter 2110, which create the Apply Texas advisory committee and provide the Coordinating Board with the authority to provide for a different abolishment date for advisory committees to continue in existence.

The adopted amendment affects Texas Education Code, §§51.762 - 51.764, and Texas Administrative Code, Chapter 1, Subchapter G.

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 July 25, 2025.

TRD-202502586

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: August 14, 2025

Proposal publication date: April 25, 2025

For further information, please call: (512) 427-6299



## SUBCHAPTER H. CERTIFICATION ADVISORY COUNCIL

##### 19 TAC §1.138

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 1, Subchapter H, §1.138, Duration, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2550). The rule will not be republished.

This amendment continues the Certification Advisory Council four more years.

The Certification Advisory Council provides the Coordinating Board with advice and recommendations regarding Certificates of Authority. The amendment is adopted under Texas Government Code, §2110.008, and Education Code, §61.314, which authorizes the Board to use an advisory committee to recommend processes for the approval of private post-secondary institutions of higher education and requires the Coordinating Board by rule to provide for a different abolishment date for advisory committees to continue in existence.

Rule 1.138, Duration, is amended to change the Certification Advisory Council abolishment date from October 31, 2025, to no later than October 31, 2029.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Government Code, Section 2110.008, which provides the Coordinating Board with the authority to provide for a different abolishment date for advisory committees to continue in existence.

The adopted amendment affects Texas Administrative Code, Chapter 1, Subchapter H, and Texas Education Code, §61.314.

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 July 25, 2025.

TRD-202502588

Nichole Bunker-Henderson  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: August 14, 2025  
Proposal publication date: April 25, 2025  
For further information, please call: (512) 427-6182



## SUBCHAPTER I. FAMILY PRACTICE RESIDENCY ADVISORY COMMITTEE

### 19 TAC §1.145

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 1, Subchapter I, §1.145, Duration, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2550). The rule will not be republished.

This adopted amendment continues the Family Practice Residency Advisory Committee four more years.

The Family Practice Residency Advisory Committee provides the Coordinating Board with advice and recommendations regarding the Family Practice Residency Program. The amendment is adopted under Texas Government Code, §2110.008, which requires the Coordinating Board by rule to provide for a different abolishment date for advisory committees to continue in existence.

Rule 1.145, Duration, is amended to change the Family Practice Residency Advisory Committee abolishment date from October 31, 2025, to no later than October 31, 2029.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Government Code, Section 2110.008, which provides the Coordinating Board with the authority to provide for a different abolishment date for advisory committees to continue in existence.

The adopted amendment affects Texas Administrative Code, Chapter 1, Subchapter I, and Education Code, §61.505.

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

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General Counsel  
Texas Higher Education Coordinating Board  
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For further information, please call: (512) 427-6182



## SUBCHAPTER J. FINANCIAL AID ADVISORY COMMITTEE

### 19 TAC §1.152

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 1, Sub-

chapter J, §1.152, Financial Aid Advisory Committee, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2551). The rule will not be republished.

This adopted amendment extends the committee's duration by four years, through 2029.

The Financial Aid Advisory Committee provides the Coordinating Board with advice and recommendations regarding the development, implementation, and evaluation of state financial aid programs for college students. The Coordinating Board is authorized by Texas Education Code, §61.0776, and Texas Government Code, Chapter 2110, to establish rules relating to the Financial Aid Advisory Committee.

Rule 1.152, Duration, is amended to change the Financial Aid Advisory Committee abolishment date from October 31, 2025, to no later than October 31, 2029.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.0776, which provides the Coordinating Board with the authority to establish and operate the Financial Aid Advisory Committee.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 1.

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 X. PROGRAM OF STUDY ADVISORY COMMITTEE

### 19 TAC §§1.270 - 1.277

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 1, Subchapter X, §§1.270 - 1.277, Program of Study Advisory Committee, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2552). The rules will not be republished.

The new sections establish the Program of Study Advisory Committee and its associated Task Groups in compliance with Texas Education Code, §61.8235.

The Coordinating Board adopts the establishment of the Program of Study Advisory Committee to advise the Coordinating Board on developing programs of study curricula for career and technical education offered in a public two-year institution. The adopted new rules provide clarity and guidance around committee membership, meeting cadence, and charges.

The new sections outline the authority and purpose of the new subchapter, define words and terms used In the subchapter, describe tasks assigned to the Program of Study Advisory Committee, detail the composition of the Program of Study Advisory Committee, provide specifics about meetings of the Program of Study Advisory Committee, detail the composition and tasks assigned to Program of Study Task Groups, establish the duration of this subchapter, and provide an effective date for the rules.

Rule 1.270, Authority and Purpose, states the purpose of the new rules, which is to create a Program of Study Advisory Committee to advise the Coordinating Board on developing Program of Study curricula for career and technical education offered in public two-year institutions under authority provided by Texas Government Code, §2110.0012, and Texas Education Code, §61.8235.

Rule 1.271, Definitions, provides definitions for words and terms within the Program of Study Advisory Committee rules. The definitions provide clarity for words and terms that are key to the understanding the Program of Study Advisory Committee.

Rule 1.272, Tasks Assigned to the Committee, describes the specific tasks assigned to the Program of Study Advisory Committee to support the development of Programs of Study for each approved career cluster.

Rule 1.273, Program of Study Advisory Committee Composition, Officers, and Terms, details the composition of the Program of Study Advisory Committee's membership and representation from various stakeholders, including secondary education, post-secondary education, business and industry, the Texas Workforce Commission, the Texas Education Agency, and the Texas Department of Licensure and Regulation or similar credentialing body. The section stipulates that the Program of Study Advisory Committee be composed of no more than twenty members, provides that the membership will select co-chairs, and specifies the length of term for the chairs and members.

Rule 1.274, Meetings of the Program of Study Advisory Committee, states that meetings of the Program of Study Advisory Committee will be held at least twice a year and that a quorum is equivalent to a simple majority of members being present.

Rule 1.275, Program of Study Task Groups Composition and Duties, describes Program of Study Task Groups as groups of representatives of public two-year institutions, secondary education, business, industry, and career and technical education experts. The section assigns the duties of recommending Program of Study curricula to the Program of Study Advisory Committee and prescribes that the task groups will operate within the procedures and timelines established by the Program of Study Advisory Committee.

Rule 1.276, Duration, notes that the Program of Study Advisory Committee will be abolished on January 1, 2031, and that it may be reestablished by the Coordinating Board.

Rule 1.277, Effective Date, indicates that the subchapter is effective as of September 1, 2025.

No comments were received regarding the adoption of the new rules.

The new sections are adopted under Texas Government Code, §2110.0012, and Texas Education Code, §61.8235, which provide the Coordinating Board with the authority to establish a programs of study advisory committee.

The adopted new sections affect Texas Education Code, §§61.059(p), 61.09021, and 61.8235, and Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter X.

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 2. ACADEMIC AND WORKFORCE EDUCATION

### SUBCHAPTER L. APPROVAL PROCESS FOR A CAREER AND TECHNICAL EDUCATION CERTIFICATE

#### 19 TAC §§2.263, 2.268, 2.269

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 2, Subchapter L, §2.263, and new §2.268, and §2.269, Approval Process for a Career and Technical Education Certificate, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2554). The rules will not be republished.

The amendments and new sections preserve legislative intent and necessary language previously found in Chapter 9, Subchapters B and F, repealed in July and January 2025, respectively.

Rule 2.263, Criteria for Approval, provides clarity to institutions on the content and process requirements that an institution must meet in seeking approval for a certificate. Subsection (d) is amended to add an exception to the contact hour threshold for certain medical programs.

New subsection (h) provides specific categories of courses that may not be included in a certificate program. The amendments reflect language from Chapter 9, Subchapter F, repealed by the Coordinating Board in January 2025 that is still applicable to criteria for approval.

Rule 2.268, Special Requirements for Commercial Driver's License Training Programs, provides language from Chapter 9, Subchapter B, repealed by the Coordinating Board in July 2025 that needs to be retained in rule in order to implement statutory requirements related to mandatory training on human trafficking.

Rule 2.269, Effective Date of Rules, provides language concerning the effective date of rules. The text for this rule is unchanged from its previous version as §2.268 that is repealed in a separate rulemaking.

No comments were received regarding the adoption of the amendments and new rules.

The amendments and new sections are adopted under Texas Education Code (TEC), §61.0512, which provides the Coordinating Board with the authority to approve new certificate programs at institutions of higher education. TEC, §130.001 and §130.008, grant the Coordinating Board the responsibility to adopt policies and establish general rules necessary to carry out statutory duties with respect to a public junior college certificate or degree program. TEC, §130.0105, requires the Coordinating Board to adopt rules requiring each public junior college offering a commercial driver's license training program to include as a part of that program education and training on the recognition and prevention of human trafficking. The Coordinating Board has the responsibility to adopt policies and establish general rules necessary to carry out statutory duties related to a certificate or degree program with respect to Texas State Technical College under TEC, §135.04, and the Josey School of Vocational Education under TEC, §96.63.

The adopted amendments and new sections affect Texas Education Code, §130A.101.

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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## 19 TAC §2.268

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 2, Subchapter L, §2.268, Effective Date of Rules, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2555). The rule will not be republished.

This repeal removes existing rules that will be replaced with new rules in a separate rulemaking.

Rule 2.268, Effective Date of Rules, is repealed and new §2.269, Effective Date of Rules, is adopted in a separate rulemaking. The text of the adopted new rule will be the same as the repealed text.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code (TEC), §61.0512, which provides the Coordinating Board with the authority to approve new certificate programs at institutions of higher education. TEC, §130.001 and §130.008, grant the Coordinating Board the responsibility to adopt policies and establish general rules necessary to carry out statutory duties with respect to a public junior college certificate or degree program. The Coordinating Board has the responsibility to adopt policies and establish general rules necessary to carry out statutory duties related to a certificate or degree program with respect to Texas State Technical College under TEC, §135.04, and the Josey School of Vocational Education under TEC, §96.63.

The adopted repeal affects Texas Education Code, §130A.101.

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 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS SUBCHAPTER B. TRANSFER OF CREDIT, CORE CURRICULUM AND FIELD OF STUDY CURRICULA

### 19 TAC §4.32

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 4, Subchapter B, §4.32, Field of Study Curriculum, without changes to the proposed text as published in the May 2, 2025, issue of the *Texas Register* (50 TexReg 2669). The rule will not be republished.

This amendment extends the opportunity for students completing certain Field of Study Curricula to complete their degree program and will allow time for updated Field of Study Curricula to be developed that are more in line with changes in each discipline. During its April 8, 2025, meeting, the Texas Transfer Advisory Committee voted to extend the expiration date for legacy Field of Study Curricula and recommended that the Coordinating Board establish faculty subcommittees for the Architecture, Engineering, and Music Field of Study Curricula.

The Texas Education Code, §61.821, authorizes the Coordinating Board to develop field of study curricula with the assistance of advisory committees composed of representatives of institutions of higher education. Texas Administrative Code, §4.33, authorizes the Texas Transfer Advisory Committee to review relevant data and courses, and recommend a schedule for development of the Field of Study Curricula.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 61.823, which provides the Coordinating Board with the authority to establish Field of Study Curricula.

The adopted amendment affects Texas Education Code, Section 61.823.

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 7. DEGREE GRANTING  
COLLEGES AND UNIVERSITIES OTHER THAN  
TEXAS PUBLIC INSTITUTIONS  
SUBCHAPTER B. APPROVAL FOR PARTIC-  
IPATION IN THE STATE AUTHORIZATION  
RECIPROCITY AGREEMENT (SARA) FOR  
PRIVATE OR INDEPENDENT INSTITUTIONS  
OF HIGHER EDUCATION AND PRIVATE POST-  
SECONDARY EDUCATIONAL INSTITUTIONS  
19 TAC §7.52, §7.57

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 7, Subchapter B, §7.52, Definitions, and §7.57, Out-of-state SARA Participants, with changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2556). The rules will be republished.

These amendments clarify the requirements for out-of-state students placed at practicum or clinical sites. This amendment limits the number of out-of-state students placed simultaneously at practicum or clinical sites to ten (10) students per academic program as specified in the SARA Policy Manual, paragraph 5.11. The amendment also clarifies that practicum and clinical sites include an entire facility, not offices, departments, etc. This revision does not reflect a substantive change to Coordinating Board rules, but is intended to provide greater clarity around existing limitations aligned to out-of-state institutions' SARA participation.

Texas Education Code, §61.05121 and §61.0512(1), authorize the Coordinating Board to administer state participation in State Authorization Reciprocity Agreements and to ensure the efficient and effective use of higher education resources.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rules.

Paragraph §7.52(3), is amended to read, "Clinical or Practicum Site--A single physical location, such as a hospital, business, or school campus is considered the clinical or practicum site. Individual departments, offices, clinics, classrooms, or other sub-divisions within the location are not considered separate clinical or practicum sites."

Subsection §7.57(c), is amended to read, "SARA out-of-state participating institutions shall be limited to no more than ten (10) placements of students for an individual academic program placed simultaneously at one clinical or practicum site in a physical location."

The following comments were received regarding the adoption of the amendments.

Comment: The University of Phoenix (UOP) submitted a comment highlighting a concern regarding the description of "out-of-state" students placed at practicum or clinical sites. UOP points out that it is most likely Texas residents enrolled at out-of-state SARA participating institutions who are completing practicums or clinicals within Texas.

Response: The Coordinating Board has provided clarity to the language in the preamble in agreement with the concern raised, and has amended §7.57(c) per the recommendations of UOP: §7.57(c), Out-of-State SARA Participants, SARA out-of-state participating institutions shall be limited to no more than ten (10) placements of students for an individual academic program placed simultaneously at one clinical or practicum site in a physical location.

Comment: UOP proposed amending the definition of a clinical site in §7.52(3) to clarify that there may be multiple clinical sites with a single organization if the organization has multiple locations or campuses (such as a hospital system).

Response: The Coordinating Board agrees with the clarification and has amended the definition accordingly in the adopted rules.

The amendments are adopted under Texas Education Code, Section 61.05121, which authorizes the Coordinating Board to adopt rules relating to state participation in SARA.

The adopted amendment affects Texas Education Code, Section 61.05121.

*§7.52. Definitions.*

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

(1) Accredited--Holding institutional accreditation by name as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.

(2) Board or Coordinating Board--The Texas Higher Education Coordinating Board.

(3) Clinical or Practicum Site--A single physical location, such as a hospital, business, or school campus is considered the clinical or practicum site. Individual departments, offices, clinics, classrooms, or other sub-divisions within the location are not considered separate clinical or practicum sites.

(4) Commissioner--The Texas Commissioner of Higher Education.

(5) C-RAC Guidelines--Refers to the Interregional Guidelines for the Evaluation of Distance Education Programs (Online Learning) for best practices in postsecondary distance education developed by leading practitioners of distance education and adopted by the Council of Regional Accrediting Commissions (C-RAC).

(6) Distance Education--Instruction offered by any means where the student and faculty member are in separate physical locations. It includes, but is not limited to, online, interactive video or correspondence courses or programs.

(7) Home State--A member state where the institution holds its legal domicile. To operate under SARA an institution must have a single home state.

(8) Host State--A member state in which an institution operates under the terms of this agreement, other than the home state.

(9) Individual Academic Program--A specific course of study that leads to a distinct degree or certification, characterized by a

unique set of required courses, electives, and academic requirements tailored to a particular field or discipline.

(10) Institution--A degree-granting postsecondary entity.

(11) Member State--Any state, district or territory that has joined SARA.

(12) NC SARA--National Council for State Authorization Reciprocity Agreements.

(13) SARA--State Authorization Reciprocity Agreement is an agreement among its member states, districts and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs.

(14) SREB--Southern Regional Education Board.

*§7.57. Out-of-state SARA Participants.*

(a) The board shall serve as point of contact for all other State Authorization Reciprocity Agreement (SARA) states.

(b) If a public, private or independent out-of-state SARA participant provides courses in Texas and is in apparent violation of the SARA agreement or with Texas Education Code or Administration Code, the board shall take appropriate action to terminate the institution's operation within Texas.

(c) SARA out-of-state participating institutions shall be limited to no more than ten (10) placements of students for an individual academic program placed simultaneously at one clinical or practicum site in a physical location.

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 9. PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES

### SUBCHAPTER B. GENERAL PROVISIONS

#### 19 TAC §§9.21 - 9.27, 9.30 - 9.32

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 9, Subchapter B, §§9.21 - 9.27 and §§9.30 - 9.32, General Provisions, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2557). The rules will not be republished.

This repeal removes sections superseded by rules adopted by the Coordinating Board in July 2024 which are now in Chapter 2 of this title.

The Coordinating Board adopts the repeal of Chapter 9, Subchapter B, as a part of an effort to update agency rules. It is necessary to repeal the rules in Chapter 9, Subchapter B, to update the Texas Administrative Code by removing sections from the

Texas Administrative Code that are superseded by rules adopted by the Coordinating Board in July 2024.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Sections 51.308, 51.403(e), 51.911, 61.051, 61.053, 61.059, 61.060-61.063, 61.084, 130.001(b)(3)-(4), 130.003, 130.005, 130.0051, 130.008, 130.009, and 130.0105, which authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for various functions relating to program development and the general operation of a public two-year college.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 9, Subchapter B, §§9.21 - 9.27 and 9.30 - 9.32.

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. PURPOSE, ROLE, AND MISSION

#### 19 TAC §§9.51 - 9.54

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 9, Subchapter C, §§9.51- 9.54, Purpose, Role and Mission, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2558). The rules will not be republished.

The adopted repeal aligns administrative code with statute.

The Coordinating Board adopts the repeal of Chapter 9, Subchapter C, as part of an effort to update agency rules. It is necessary to repeal the rules in Chapter 9, Subchapter C, because there is no statutory authority or bill requiring Coordinating Board oversight of public two-year college role and mission statements.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Sections 130.0011 and 130.003(e), which identify the role, mission, and purpose of public junior colleges, and 130.001, which provides the Coordinating Board with the authority to adopt policies, enact regulations, and establish rules for carrying out the duties with respect to public junior colleges.

The adopted repeal affects Texas Education Code, Sections 130.0011, 130.003(e), and 130.001.

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

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## SUBCHAPTER H. PARTNERSHIPS BETWEEN SECONDARY SCHOOLS AND PUBLIC TWO-YEAR COLLEGES

### 19 TAC §§9.141 - 9.144, 9.146, 9.147

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 9, Subchapter H, §§9.141 - 9.144, 9.146, and 9.147, Partnerships Between Secondary Schools and Public Two-Year Colleges, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2559). The rules will not be republished.

This repeal removes sections superseded by rules adopted by the Coordinating Board in July 2024 which are now in Chapter 2 of this title.

The Coordinating Board adopts the repeal of Chapter 9, Subchapter H, as a part of an effort to update agency rules. It is necessary to repeal the rules in Chapter 9, Subchapter H, to update the Texas Administrative Code by removing section from the Texas Administrative Code that are superseded by rules approved by the Coordinating Board in July 2024.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Sections 29.182, 29.184, 61.076(a), 61.851 - 61.855, 130.001(b)(3)-(4), 130.008, 130.090, and 135.06(d), which authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for public two-year colleges to enter into agreements with secondary schools to offer courses which grant credit toward the student's high school academic requirements and/or college-level credit.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 9, Subchapter H, §§9.141 - 9.144, 9.146, and 9.147.

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 13. FINANCIAL PLANNING

### SUBCHAPTER A. DEFINITIONS

#### 19 TAC §13.1

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter A, §13.1, Definitions, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2559). The rules will not be republished.

This amendment adds a definition for "class day" and correspondingly modifies the definition for "census date" to add greater specificity.

The Coordinating Board is authorized to adopt rules relating to tuition and fees by Texas Education Code, §54.075, and relating to the reporting of hours for the purpose of formula funding by Texas Education Code, §§130A.005, 54.014, 61.059(r), and 61.0595.

Rule 13.1, Definitions, is amended by modifying the definition of "census date" and adding a definition for "class day." The definition of "census date" is tied to "class day" to allow for emergent circumstances (e.g. natural disaster) that otherwise could affect the institution's ability to capture enrollment accurately. If, for example, an institution's classes are substantially disrupted or cancelled on a day leading up to the census date, that day would not meet the definition of "class day," and the census date would be shifted accordingly to the next class day. The definition of "census date" is further amended to eliminate references to the Coordinating Board Management (CBM) manual; rather, the same criteria for determining the census date in a given term are included in the rule directly via the figure in §13.1(5).

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules relating to tuition, and Sections 130A.005, 54.014, 61.059(r), and 61.0595, which provide the Coordinating Board with the authority to adopt rules relating to the reporting of hours for the purpose of formula funding.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter A.

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. FORMULA FUNDING FOR REPEATED AND EXCESS HOURS OF UNDERGRADUATE STUDENTS



## 19 TAC §13.101

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Title 19, Part 1, Chapter 13, Subchapter F, §13.101, Authority, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2561). The rule will not be republished.

Separately from and concurrently with these amendments, the Coordinating Board adopts repeal of §13.108, Tuition Rate for Students, relocating the substance of that rule to a different location within Chapter 13. The below amendments to subchapter F are necessary to conform with that revision. The Coordinating Board is authorized by Texas Education Code, §54.014, to adopt rules relating to tuition for repeated or excessive undergraduate hours.

First, this amendment retitles subchapter F to remove the reference to tuition charges. Specifically, the adopted amendment removes the phrase "and Tuition Charges" to reflect the removal of §13.108, which pertains to tuition charges, from subchapter F. The new title of the subchapter will then be "Formula Funding for Repeated and Excess Hours of Undergraduate Students."

In addition, the adopted amendment revises §13.101, Authority. Section 13.101 lists a number of statutes that relate to the underlying subject matter of subchapter F. The first sentence of §13.101 is a reference to Texas Education Code, §54.014, pertaining to the authority of institutions to charge a higher rate of tuition for repeated or excess hours. With the repeal of §13.108, this provision is no longer applicable to subchapter F and thus will be removed by this amendment.

No comments were received regarding the adoption of the amendments.

The amendment is adopted under Texas Education Code, Section 54.014, which provides the Coordinating Board with the authority to adopt rules relating to tuition for repeated or excessive undergraduate hours.

The adopted amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 13.

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## 19 TAC §13.108

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 13, Subchapter F, §13.108, Tuition Rate for Students, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2562). The rule will not be republished.

This repeal allows for the rule's relocation to Chapter 13, Subchapter G, Tuition and Fees. The Coordinating Board is authorized by Texas Education Code, §54.014, to adopt rules relating to tuition for repeated or excessive undergraduate hours.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 54.014, which provides the Coordinating Board with the authority to adopt rules relating to tuition for repeated or excessive undergraduate hours.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 13.

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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Nichole Bunker-Henderson

General Counsel

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For further information, please call: (512) 427-6365



## SUBCHAPTER G. TUITION AND FEES

### 19 TAC §§13.120, 13.121, 13.123 - 13.128

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new rules in Title 19, Part 1, Chapter 13, Subchapter G, §§13.120, 13.121, and 13.123 - 13.128, Tuition and Fees, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2563). The rules will not be republished.

This new section consolidates existing rules relating to tuition and fees, adds greater specificity to rules relating to the collection of tuition and fees, and codifies the current practice relating to the calculation of the Reserve Officers' Training Corps (ROTC) program fee.

The purpose of this new subchapter is to establish procedures relating to the determination of various tuition rates; the collection, refunding, and reporting of tuition; and the administration of other tuition-related matters. The Coordinating Board is authorized by Texas Education Code, §54.075, to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B, Tuition Rates.

Rule 13.120, Authority and Purpose, establishes the general statutory authority (more specific references are made in subsequent sections, as needed) for the provisions of the subchapter and outlines the subchapter's purpose.

Rule 13.121, Definitions, establishes definitions for words and terms used throughout the subchapter. These definitions do not substantively deviate from their use elsewhere in Coordinating Board rules.

Rule 13.123, Collection of Tuition and Mandatory Fees, provides guidance to institutions regarding requirements for the collection

of tuition and mandatory fees from students. The rule is the reconstituted rule §21.4 with significant, substantive revisions.

Subsection (a) sets out the expectation that tuition and fees are paid in full by the census date, as required by Texas Education Code, §54.007, unless a student meets specific exceptions. Current §21.4 references formula funding, but §54.007 makes no reference to formula funding, so the reference has been removed.

Subsection (b) is not in the current §21.4. It captures the statutory allowance in Texas Education Code, §54.007(b-2), mirroring statute to acknowledge that there are times when a student might not have been paid in full by the census date. This allows for the fact that there are reasons why a student account might not be at a zero balance by the census date, while still being valid for formula funding reporting if that balance is cleared by the 20th class day.

Subsection (c) references the formula funding requirement, from General Appropriations Act, 88th Legislature, Rider 15 (III-288), to collect tuition and fees by the 20th class day. Much of the rule language mirrors the rider. The provisions of subsection (b) do not apply to subsection (c). Effectively, remaining balances that are allowable at the census date based on subsection (b) must be resolved by the 20th class day.

Subsection (d) is based upon Texas Education Code, §54.0071(d), regarding the Coordinating Board prescribing procedures for the administration of that section.

Subsection (e) is the reconstituted §21.4(a)(4) with no substantive changes, except that "contact hours" is replaced with "semester credit hours, or the equivalent." Subsections (f) and (g) are the reconstituted §21.4(a)(5) and (6), respectively, with no substantive changes.

Rule 13.124, Reporting of Tuition and Fees, details institutional reporting requirements to the Coordinating Board relating to tuition and fee data. Substantively, the section is the reconstituted §13.142, but the provisions of that section have been rewritten for clarity. The effect of the rule is unchanged.

Rule 13.125, Tuition Rate for Excess Hours of Undergraduate Students, specifies the manner in which institutions may charge a higher tuition rate to undergraduate students who have exceeded the excess credit hour limit established in Texas Education Code, §54.014(a), as well as the exceptions to this allowance. The rule is the reconstituted §13.108(a) and (c); the only substantive change was to align with statute by clarifying that institutions that charge a higher tuition rate under the section may adopt a hardship policy but are not obligated to do so.

Rule 13.126, Tuition Rate for Repeated Hours of Undergraduate Students, specifies the manner in which institutions may charge a higher tuition rate to undergraduate students for repeated courses, as described in Texas Education Code, §54.014(f), as well as the exceptions to this allowance. The rule is the reconstituted §13.108(b), (c), and (d), with only nonsubstantive revisions to provide greater detail regarding statutory authority, improve readability, and update citations. Texas Education Code, §54.014, authorizes the Coordinating Board to adopt rules relating to tuition rates for excess or repeated hours of undergraduate students.

Rule 13.127, Notice to Students Regarding Designated Tuition Set Aside for Financial Assistance, outlines institutional requirements to notify students regarding tuition set aside for financial aid purposes. The rule is the reconstituted Chapter 21, Sub-

chapter QQ, with nonsubstantive revisions to consolidate the subchapter into a single section. References to the "Commissioner" are replaced with "Coordinating Board" to align with practice. Texas Education Code, §56.014, authorizes the Coordinating Board to adopt rules relating to institutions' required notice regarding tuition set aside for financial assistance.

Rule 13.128, Reserve Officers' Training Corps (ROTC) Program Fee Calculation, outlines the methodology by which the Coordinating Board calculates, pursuant to Texas Education Code, §51.9112, a standard program fee for ROTC courses at institutions of higher education, as well as the circumstances under which an institution may exceed the fee. Subsection (d) details how the calculation is conducted, codifying current practice. There would be no change in how the ROTC program fee is determined as a result of the adoption of this rule. Texas Education Code, §51.9112, authorizes the Coordinating Board to adopt rules relating to the calculation of the ROTC program fee.

No comments were received regarding the adoption of the new rules.

The new section is adopted under Texas Education Code, Sections 51.9112, 54.014, 54.075, and 56.014, which provide the Coordinating Board with the authority to adopt rules relating to the ROTC program fee, tuition rates for excess or repeated undergraduate hours, tuition rates generally, and institutional notice regarding tuition set aside for financial assistance, respectively.

The adopted new section affects Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G.

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

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General Counsel

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## SUBCHAPTER H. REPORTING OF TUITION AND FEES

### 19 TAC §§13.140 - 13.143

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 13, Subchapter H, §§13.140 - 13.143, Reporting of Tuition and Fees, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2566). The rules will not be republished.

This repeal allows for the provisions of this subchapter to be relocated to Chapter 13, Subchapter G, Tuition and Fees. Texas Education Code, §54.075, authorizes the Coordinating Board to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B, Tuition Rates.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B, Tuition Rates.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 13.

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 21. STUDENT SERVICES

### SUBCHAPTER A. GENERAL PROVISIONS

#### 19 TAC §21.4, §21.7

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter A, §21.4 and §21.7, General Provisions, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2567). The rules will not be republished.

This repeal allows all tuition-related rules to be consolidated into Chapter 13, Subchapter G, Tuition and Fees. The Coordinating Board is authorized by Texas Education Code, §54.075 to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B, Tuition Rates.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B, Tuition Rates.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21.

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 QQ. PROVISIONS FOR NOTICE TO STUDENTS REGARDING TUITION SET ASIDE FOR FINANCIAL ASSISTANCE

#### 19 TAC §§21.2230 - 21.2232

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 21, Subchapter QQ, §§21.2230 - 21.2232, Provisions for Notice to Students Regarding Tuition Set Aside for Financial Assistance, without changes to the proposed text as published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2567). The rules will not be republished.

This repeal allows all tuition-related rules to be consolidated into Chapter 13, Subchapter G, Tuition and Fees. The Coordinating Board is authorized by Texas Education Code, §56.014, to adopt rules to effectuate the provisions of that section.

No comments were received regarding the adoption of the repeal.

The repeal is adopted under Texas Education Code, Section 56.014, which provides the Coordinating Board with the authority to adopt rules to effectuate the provisions of that section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 21.

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 26. PROGRAMS OF STUDY

The Texas Higher Education Coordinating Board (Coordinating Board) adopts repeal of Title 19, Part 1, Chapter 26, Subchapter A, §§26.101 - 26.107, Agriculture, Food and Natural Resources Programs of Study Advisory Committee; Subchapter B, §§26.121 - 26.127, Architecture and Construction Programs of Study Advisory Committee; Subchapter C, §§26.141 - 26.147, Arts, Audio/Visual Technology and Communications Programs of Study Advisory Committee; Subchapter D, §§26.161 - 26.167, Business Management and Administration Programs of Study Advisory Committee; Subchapter E, §§26.181 - 26.187, Education and Training Programs of Study Advisory Committee; Subchapter F, §§26.201 - 26.207, Finance Programs of Study Advisory Committee; Subchapter G, §§26.221 - 26.227, Government and Public Administration Programs of Study Advisory Committee; Subchapter H, §§26.241 - 26.247, Health Science Programs of Study Advisory Committee; Subchapter I, §§26.261 - 26.267, Hospitality and Tourism Programs of Study Advisory Committee; Subchapter J, §§26.281 - 26.287, Human Services Programs of Study Advisory Committee; Subchapter K, §§26.301 - 26.307, Information Technology Programs of Study Advisory Committee; Subchapter L, §§26.321 - 26.327, Law, Public Safety, Correc-

tions, and Security Programs of Study Advisory Committee; Subchapter M, §§26.341 - 26.347, Manufacturing Programs of Study Advisory Committee; Subchapter N, §§26.361 - 26.367, Marketing Programs of Study Advisory Committee; Subchapter O, §§26.381 - 26.387, Science, Technology, Engineering and Mathematics Programs of Study Advisory Committee; and Subchapter P, §§26.401 - 26.407, Transportation, Distribution, and Logistics Programs of Study Advisory Committee, without changes to the proposed text as published in the April 25, 2025 issue of the *Texas Register* (50 TexReg 2568). The rules will not be republished.

The repeal of Chapter 26 eliminates unnecessary rules governing programs of study advisory committees which were set to be abolished no later than January 1, 2020.

The Coordinating Board adopts the repeal of Chapter 26 as part of an effort to update agency rules. It is necessary to repeal the rules in Chapter 26, Subchapters A - P, because the programs of study advisory committees are non-operational, and the rules that govern these programs of study advisory committees should be repealed.

No comments were received regarding the adoption of the repeal.

## **SUBCHAPTER A. AGRICULTURE, FOOD AND NATURAL RESOURCES PROGRAMS OF STUDY ADVISORY COMMITTEE**

### **19 TAC §§26.101 - 26.107**

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter A, §§26.101 - 26.107.

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. ARCHITECTURE AND CONSTRUCTION PROGRAMS OF STUDY ADVISORY COMMITTEE**

### **19 TAC §§26.121 - 26.127**

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter B, §§26.121- 26.127.

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## **SUBCHAPTER C. ARTS, AUDIO/VISUAL TECHNOLOGY AND COMMUNICATIONS PROGRAMS OF STUDY ADVISORY COMMITTEE**

### **19 TAC §§26.141 - 26.147**

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter C, §§26.141 - 26.147.

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## **SUBCHAPTER D. BUSINESS MANAGEMENT AND ADMINISTRATION PROGRAMS OF STUDY ADVISORY COMMITTEE**

### **19 TAC §§26.161 - 26.167**

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter D, §§26.161 - 26.167.

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

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## SUBCHAPTER E. EDUCATION AND TRAINING PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.181 - 26.187

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter E, §§26.181 - 26.187.

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. FINANCE PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.201 - 26.207

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter F, §§26.201 - 26.207.

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## SUBCHAPTER G. GOVERNMENT AND PUBLIC ADMINISTRATION PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.221 - 26.227

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter G, §§26.221 - 26.227.

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

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## SUBCHAPTER H. HEALTH SCIENCE PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.241 - 26.247

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter H, §§26.241 - 26.247.

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

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## SUBCHAPTER I. HOSPITALITY AND TOURISM PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.261 - 26.267

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter I, §§26.261 - 26.267.

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## SUBCHAPTER J. HUMAN SERVICES PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.281 - 26.287

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter J, §§26.281 - 26.287.

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## SUBCHAPTER K. INFORMATION TECHNOLOGY PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.301 - 26.307

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter K, §§26.301 - 26.307.

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## SUBCHAPTER L. LAW, PUBLIC SAFETY, CORRECTIONS, AND SECURITY PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.321 - 26.327

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter L, §§26.321 - 26.327.

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## SUBCHAPTER M. MANUFACTURING PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.341 - 26.347

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter M, §§26.341 - 26.347.

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## SUBCHAPTER N. MARKETING PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.361 - 26.367

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter N, §§26.361 - 26.367.

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## SUBCHAPTER O. SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.381 - 26.387

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter O, §§26.381 - 26.387.

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

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## SUBCHAPTER P. TRANSPORTATION, DISTRIBUTION, AND LOGISTICS PROGRAMS OF STUDY ADVISORY COMMITTEE

### 19 TAC §§26.401 - 26.407

The repeal is adopted under Texas Education Code, Section 61.8235(g), which provides the Coordinating Board with the authority to adopt and publish rules in accordance with the administration of this section.

The adopted repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 26, Subchapter P, §§26.401 - 26.407.

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## PART 2. TEXAS EDUCATION AGENCY

### CHAPTER 149. COMMISSIONER'S RULES CONCERNING EDUCATOR STANDARDS

The Texas Education Agency adopts the repeal of §149.1001 and new §149.1001, concerning teacher standards. The repeal of §149.1001 is adopted without changes to the proposed text as published in the March 7, 2025 issue of the *Texas Register* (50 TexReg 1754) and will not be republished. New §149.1001 is adopted with changes to the proposed text as published in the March 7, 2025 issue of the *Texas Register* (50 TexReg 1754) and will be republished. The adopted repeal and new rule reflect alignment with recent updates to State Board for Educator Certification (SBEC) rules in 19 TAC Chapter 235, Subchapters A-D, as required by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023.

**REASONED JUSTIFICATION:** Section 149.1001 identifies the performance standards to be used to inform the training, appraisal, and professional development of Early Childhood-Grade 12 pre-service and in-service teachers in Texas.

The adopted repeal of and new §149.1001 aligns with recent updates to SBEC rules in 19 TAC Chapter 235, Subchapters A-D, as required by HB 1605.

The adopted repeal of and new §149.1001 reflects a reorganization of the teacher standards and also includes definitions that provide clarity for educators and promote a common understanding of terms used within the updated teacher standards.

The standards included in adopted new §149.1001 outline the necessary knowledge and skills related to instructional preparation, instructional delivery and assessment, content pedagogy for all teachers and for teachers leading English language arts and reading and math classes, learning environments, and professional practices and responsibilities.

Based on public comments regarding the need for these standards to be closer aligned to recently revised 19 TAC §235.2 and §235.21, modifications have been made at adoption throughout the rule to ensure language in §149.1001 reflects the language in §235.2 and §235.21.

Based on public comment related to the implementation of new §149.1001, subsection (d) was added at adoption to specify that new §149.1001 will be implemented beginning with teacher evaluations conducted after the next update of 19 TAC Chapter 150, Commissioner's Rules Concerning Educator Appraisal, and that evaluations conducted before that time are subject to the requirements as they existed prior to August 17, 2025.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began March 7, 2025, and ended April 7, 2025. Following is a summary of public comments received and agency responses.

**Comment:** An educator commended efforts to incorporate research-based practices and modernize instruction in the proposed revisions but expressed concern that the proposal poses several issues that undermine teacher autonomy, devalue traditional literacy practices, overload educators with unrealistic expectations, and ignore the critical need for sustainable workload management.

**Response:** The agency disagrees and provides the following clarification. The standards implement three key pieces of legislation related to the training requirements for certified teachers in Texas. They outline the knowledge and skills necessary to demonstrate proficient use of open educational resource instructional materials (HB 1605), skilled application of instructional strategies to educate all students (HB 159, 87 Texas Legislature, Regular Session, 2021), and an understanding of best instructional practices in digital literacy (Senate Bill 226, 87 Texas Legislature, Regular Session, 2021).

**Comment:** An educator expressed concern with the current school calendar and proposed a trimester model that supports a 4-day week to ensure educators and students receive adequate time for planning, rest, and recuperation.

**Response:** This comment is outside the scope of the proposed rulemaking.

**Comment:** The Texas State Teachers Association (TSTA), Texas American Federation of Teachers (Texas AFT), and Texas Coalition for Educator Preparation (TCEP) expressed support for the revised teacher pedagogy standards in 19 TAC Chapter 235 and noted the need for these standards to remain tightly aligned to commissioner's rules so that expectations of teachers are clear and actionable.

**Response:** The agency agrees with the need for the proposed standards to align with Chapter 235 to promote clear expectations throughout a teacher's professional journey from pre-service to in-service. Modifications have been made at adoption to ensure language in new §149.1001 mirrors language in §235.2 and §235.21.

**Comment:** Texas AFT and TCEP suggested the agency more explicitly state in new §149.1001(a) the intent of this repeal and replacement of these standards and their connection to the appraisal and professional development rules and processes.

**Response:** The agency agrees. The existing language states that these performance standards should be "used to inform the preparation, appraisal, and professional development" of teachers, and subsection (d) was added at adoption to specify that new §149.1001 will be implemented beginning with teacher evaluations conducted after the next update of 19 TAC Chapter 150, Commissioner's Rules Concerning Educator Appraisal, and that evaluations conducted before that time are subject to the requirements as they existed prior to August 17, 2025.

**Comment:** Texas AFT and TCEP requested clarification regarding the accountability for math and English language arts (ELA) content standards found in §149.1001(c)(3)(C) and (D), as related to assignments in non-math and ELA courses.

**Response:** The agency disagrees that additional clarification is needed. Subsection §149.1001(c)(3) states that teachers must "show a full understanding of their content and related pedagogy."

**Comment:** TSTA commented that teacher standards should not be narrowly aligned to the use of high quality instructional materials (HQIM) or open education resources and should make space for teachers to develop instructional materials to best meet the unique needs of students.

**Response:** The agency disagrees that the standards are narrowly aligned to the use of HQIM or open education resources and do not make space for teachers to develop instructional materials to meet student needs. Subsection §149.1001(c)(1) states that teachers must "prepare for instructional delivery by designing lessons, evaluating materials, leveraging their knowledge of students, and engaging in a thorough process for lesson internalization."

**Comment:** TSTA inquired if the new Domain I found in 19 TAC Chapter 150 will assess instructional preparation and support the fair evaluation of an educator when development of instructional materials and initial lesson design is best for students.

**Response:** This comment is outside the scope of the current rule proposal.

## **SUBCHAPTER AA. TEACHER STANDARDS**

### **19 TAC §149.1001**

**STATUTORY AUTHORITY.** The repeal is adopted under Texas Education Code, §21.351, which authorizes the commissioner to adopt a recommended appraisal process and criteria on which to appraise the performance of teachers.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code, §21.351.

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





## 19 TAC §149.1001

**STATUTORY AUTHORITY.** The new section is adopted under Texas Education Code, §21.351, which authorizes the commissioner to adopt a recommended appraisal process and criteria on which to appraise the performance of teachers.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §21.351.

### *§149.1001. Teacher Standards.*

(a) **Purpose.** The standards identified in this section are performance standards used to inform the preparation, appraisal, and professional development of Early Childhood-Grade 12 pre-service and in-service teachers in Texas. The standards:

(1) emphasize the knowledge and skills required for teachers to select, evaluate, internalize, and implement high-quality instructional materials;

(2) assume that practicing teachers are aware of Open Educational Resource (OER) instructional materials, customize materials as directed by their district, and engage in initial lesson plan design when directed by their district;

(3) describe the knowledge and skills required for teachers to prepare, deliver, and assess instruction that results in positive outcomes for all students;

(4) describe the knowledge and skills required for teachers to build positive relationships with and among students in a safe and productive learning environment;

(5) reflect research- and evidence-based practices that ensure all students are held to rigorous grade-level academic and nonacademic standards; and

(6) define a teacher's role as a professional, ethical, and reflective practitioner.

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

(1) **Academic language**--the oral, written, auditory, and visual language specific to a discipline. It includes vocabulary, grammar, punctuation, syntax, discipline-specific terminology, and rhetorical conventions that allow students to acquire knowledge and academic skills.

(2) **Accelerated instruction**--includes aligned research-driven strategies and supports within a multi-tiered instructional model that helps students make more than one year of growth in one year of time.

(3) **Complex text**--texts that provide students opportunities to work with new language, knowledge, and ways of thinking. Text complexity is evaluated along quantitative dimensions such as word and sentence length; qualitative dimensions such as text structure, lev-

els of meaning, and language conventions; and considerations including the reader's background, motivation, and knowledge of the topic.

(4) **Deliberate practice**--practice that is systematic, requires sustained attention, and is conducted with the specific goal of improving performance on targeted skills.

(5) **Encoding**--the process by which information is initially coded to be stored and retrieved. Encoding requires attention to key concepts and knowledge structures and is aided by reducing extraneous cognitive load or information in the learning environment.

(6) **Engagement**--a state in which students are cognitively and behaviorally connected to and involved in their learning experience, characterized by participation, curiosity, and perseverance.

(7) **Evidence-based**--a concept or strategy that has been evaluated as a whole and found to have positive effects when implemented with programmatic fidelity.

(8) **Explanatory feedback**--feedback that provides the learner with an explanation of strengths and weaknesses related to the learning activity or assignment.

(9) **Explicit instruction**--instruction in which the teacher's actions are clear, unambiguous, direct, and visible. Explicit instruction makes it clear what the students are to do and learn.

(10) **Fixed personality traits**--the misconception that personality traits become fixed at certain stages of an individual's development and do not change over time.

(11) **Formative assessment**--A deliberate low- or no-stakes process used by teachers during instruction to elicit and use evidence of student learning to provide actionable feedback and improve students' attainment of learning targets.

(12) **Hemispheric dominance**--the misconception that each brain hemisphere is specialized to process information differently and that the dominant hemisphere determines a person's personality and way of thinking.

(13) **High-quality instructional materials**--instructional materials, approved by the State Board of Education (SBOE), that ensure full coverage of Texas Essential Knowledge and Skills (TEKS); are aligned to evidence-based best practices in the relevant content areas; support all learners, including students with disabilities, emergent bilingual students, and students identified as gifted and talented; enable frequent progress monitoring through embedded and aligned assessments; include implementation supports for teachers; and provide teacher- and student-facing lesson-level materials.

(14) **Instructional preparation**--describes the process by which a teacher uses knowledge of students and student learning to prepare instructional delivery to a unique group of students. Instructional preparation may include activities such as lesson plan design, evaluation of instructional materials, and lesson internalization.

(15) **Interleaving**--an instructional technique that arranges practice of topics in such a way that consecutive problems cannot be solved by the same strategy.

(16) **Just-in-time supports**--a learning acceleration strategy that integrates small, timely supports to address gaps in the most critical prerequisite knowledge and skills that students will need to access grade- or course-level content in upcoming units.

(17) **Learning styles**--the disproven theory that identifies learners by type (visual, auditory, reading and writing, and kinesthetic) and adapts instruction to the individual's learning style.

(18) Lesson plan design--describes the process by which a teacher creates the planned learning experiences and related instructional materials for a topic. Lesson plan design includes activities such as developing or selecting objectives, learning experiences, sequencing, scaffolds, resources, materials, tasks, assessments, and planned instructional practices.

(19) Lesson internalization--an aspect of instructional preparation specific to teaching a lesson or unit. It includes activities such as evaluating sequencing, learning goals, and expected outcomes; using assessment data to identify prior knowledge; studying lesson content; rehearsing lesson delivery; identifying possible misconceptions; as well as planning instructional strategies, materials, and pacing.

(20) Metacognition--the awareness of how one's mind learns and thinks and the use of that awareness to optimize the efficiency of learning and cognition.

(21) Multiple means of engagement--a range of options provided to engage and motivate students in learning.

(22) Multiple means of representation--a range of options provided in the ways that information is presented to students.

(23) Multiple means of action and expression--a range of options provided in the ways that students express or demonstrate their learning.

(24) Open education resource instructional materials --state-developed materials included on the list of approved instructional materials maintained by the SBOE under Texas Education Code (TEC), §31.022, where the underlying intellectual property is either owned by the state of Texas or can be freely used and modified by the state in perpetuity.

(25) Patterns of student thinking--common patterns in the ways in which students think about and develop understanding and skill in relation to particular topics and problems.

(26) Productive struggle--expending effort to understand a challenging situation and determine a course of action when no obvious strategy is stated and receiving support that encourages persistence without removing the challenge.

(27) Recall--also referred to as "retrieval," the mental process of retrieving information that was previously encoded and stored in long-term memory.

(28) Remediation--strategies that focus on the drilling of isolated skills that bear little resemblance to current curriculum. Activities connect to past standards and aim to master content from past years.

(29) Research-based--a concept or strategy with positive findings from studies effective in isolation or combination with other researched strategies or evidence-based programs.

(30) Retrieval practice--also referred to as "testing effect" or "active recall," it is the finding that trying to remember previously learned material, including by responding to questions, tests, assessments, etc., leads to better retention than restudying or being retold the material for an equivalent amount of time.

(31) Science of learning--the summarized existing cognitive-science, cognitive psychology, educational psychology, and neuroscience research on how people learn, as it connects to practical implications for teaching.

(32) Second language acquisition--the process through which individuals leverage their primary language to learn a new

language. A dynamic process of learning and acquiring proficiency in the English language, supported by exposure to comprehensible input, interaction, formal instruction, and access to resources and support in English and primary language.

(33) Spaced practice/Distributed practice--spaced practice sequences learning in a way that students actively retrieve learned information from long-term memory through multiple opportunities over time with intervals in between--starting with shorter intervals initially (e.g., hours or days) and building up to longer intervals (e.g., weeks).

(34) State Board of Education-approved instructional materials--materials included on the list of approved instructional materials maintained by the State Board of Education under TEC, §31.022.

(35) Summative assessment--medium- to high-stakes assessments, administered at the conclusion of an instructional period that are used to evaluate student learning, knowledge, proficiency, or mastery of a learning target.

(c) Standards.

(1) Standard 1--Instructional Preparation. Teachers understand how students learn, and they prepare for instructional delivery by designing lessons, evaluating instructional materials, leveraging their knowledge of students, and engaging in a thorough process for lesson internalization.

(A) Teachers apply basic principles of lesson plan design from the learning sciences to prepare for instruction.

(i) Teachers understand learning as an active and social process of meaning-making that results in changes in student knowledge and behavior based on connections between past and new experiences.

(ii) Teachers prepare instruction that uses research and evidence-based teaching strategies for eliciting and sustaining attention and motivation and supporting encoding, such as use of multimedia learning principles, reduction of extraneous cognitive load, use of worked examples, interleaving, and deep integration of new experiences with prior knowledge.

(iii) Teachers prepare instruction that uses research and evidence-based strategies for memory and recall such as interleaving, spacing, retrieval practice, and metacognition.

(iv) Teachers recognize misconceptions about learning, the brain, and child and adolescent development, including myths such as learning styles, personality traits, and hemispheric dominance, and avoid unsupported instructional practices based on these misunderstandings.

(B) Teachers evaluate instructional materials and select or customize the highest quality district-approved option to prepare for instruction.

(i) Teachers identify the components of high-quality instructional materials, such as a logical scope and sequence, clear learning objectives, grade- or course-level content, explicit instruction, student engagement, academic language, deliberate practice, and assessment, appropriate to the discipline.

(ii) Teachers identify the benefits of using high-quality instructional materials.

(iii) Teachers apply knowledge of the components of high-quality instructional materials to select or customize materials when appropriate.

(iv) Teachers analyze instructional materials and digital resources to ensure quality, rigor, and access to grade- or course-level content.

(v) Teachers use high-quality materials to plan instruction that connects students' prior understanding and real-world experiences to new content and contexts.

(C) Teachers understand initial lesson plan design and, when district-approved materials are not available and when directed by their district, engage in initial lesson plan design using science of learning concepts.

(i) Teachers design lessons based on the components of high-quality instructional materials, such as a logical scope and sequence, clear learning objectives, application of explicit instruction, and grade- or course-level content.

(ii) Teachers design lessons that effectively connect learning objectives with explicit instruction, student engagement, academic language, deliberate practice, and assessment.

(iii) Teachers design lessons that connect students' prior understanding and real-world experiences to new content and contexts.

(iv) Teachers plan for the use of digital tools and resources to engage students in active deep learning.

(D) Teachers ensure lesson sequence and materials meet the needs of all learners and adapt methods when appropriate.

(i) Teachers plan for the use of multiple means to engage students, varied ways of representing information, and options for students to demonstrate their learning.

(ii) Teachers leverage student data to prepare flexible student groups that facilitate learning for all students.

(iii) Teachers differentiate instruction and align methods and techniques to diverse student needs, including acceleration, just-in-time supports, technology, intervention, linguistic supports, appropriate scaffolding, and implementation of individualized education programs.

(E) Teachers recognize students' backgrounds (familial, educational, linguistic, and developmental) as assets and apply knowledge of students to engage them in meaningful learning.

(i) Teachers plan to present information in a meaningful way that activates or provides any prerequisite knowledge to maximize student learning.

(ii) Teachers collaborate with other professionals, use resources, and plan research- and evidence-based instructional strategies to anticipate and respond to the unique needs of students, including disabilities, giftedness, bilingualism, and biliteracy.

(iii) Teachers plan instructional practices and strategies that support language acquisition so that language is comprehensible and instruction is fully accessible.

(iv) Teachers apply knowledge of how each category of disability under the Individuals with Disabilities Act (20 U.S.C. §1400, et seq.) or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) can affect student learning and development.

(F) Teachers engage in a thorough process of lesson internalization to prepare well-organized, sequential instruction that builds on students' prior knowledge.

(i) Teachers identify how the intentional sequencing of units, lessons, and learning tasks supports student knowledge and mastery throughout the year.

(ii) Teachers identify how the learning goals of units and lessons are aligned to state standards.

(iii) Teachers use assessment data to identify prior knowledge and plan for the learning needs of students.

(iv) Teachers internalize lesson content by reading the texts, completing learning tasks and assessments, rehearsing lesson delivery, and identifying any personal gaps in understanding.

(v) Teachers plan for pacing, use of teacher resources, and transitions between activities.

(vi) Teachers create or analyze and customize exemplar responses and anticipate potential barriers to learning.

(vii) Teachers strategically plan instructional strategies, formative assessments, technology, scaffolds, and enrichment to make learning accessible to all students.

(2) Standard 2--Instructional Delivery and Assessment. Teachers intentionally apply their knowledge of students and the learning process to implement high-quality instruction and assessment practices that are research- and evidence-based and informed by student work.

(A) Teachers deliver research- and evidence-based instruction to meet the needs of all learners and adapt methods when appropriate.

(i) Teachers effectively communicate grade- or course-level expectations, objectives, and goals to help all students reach high levels of achievement.

(ii) Teachers apply research- and evidence-based teaching strategies for eliciting and sustaining attention and motivation and supporting memory encoding and recall, such as interleaving, spacing, metacognition, and distributed practice.

(iii) Teachers ensure a high degree of student engagement through explicit instruction, student discussion, feedback, and opportunities for deliberate practice.

(iv) Teachers apply research- and evidence-based teaching strategies that connect students' prior understanding and real-world experiences to new content and contexts and invite student perspectives.

(v) Teachers implement appropriate scaffolds in response to student needs.

(vi) Teachers strategically implement tools, technology, and procedures that lead to increased participation from all students, elicit patterns of student thinking, and highlight varied responses.

(vii) Teachers provide multiple means of engagement to encourage all students to remain persistent in the face of challenges.

(viii) Teachers collaborate with other educational professionals, when appropriate, to deliver instruction that addresses students' academic and non-academic needs.

(B) Teachers scaffold instruction, from initial knowledge and skill development through automaticity, toward complex, higher-order thinking, providing opportunities for deeper learning.

(i) Teachers set high expectations and facilitate rigorous grade- or course-level learning experiences for all students that encourage them to apply disciplinary and cross-disciplinary knowledge to real-world problems.

(ii) Teachers apply instructional strategies to deliberately engage all students in critical thinking and problem solving.

(iii) Teachers validate student responses utilizing them to advance learning for all students.

(iv) Teachers respond to student errors and misconceptions with prompts or questions that build new understanding on prior knowledge.

(v) Teachers use strategic questioning to build and deepen student understanding.

(vi) Teachers strategically incorporate technology that removes barriers and allows students to interact with the curriculum in more authentic, significant, and effective ways.

(C) Teachers consistently check for understanding, give feedback, and make lesson adjustments as necessary.

(i) Teachers use a variety of formative assessments during instruction to gauge and respond to student progress and address misconceptions.

(ii) Teachers implement frequent or low- or no-stakes assessments to promote retrieval of learned information.

(iii) Teachers continually monitor and assess students' progress to guide instructional outcomes and determine next steps to ensure student mastery of grade- or course-level content.

(iv) Teachers build student capacity to self-monitor their progress.

(v) Teachers provide frequent, timely, and specific explanatory feedback that emphasizes effort, improvement, and acknowledges students' strengths and areas for growth.

(vi) Teachers strategically implement instructional strategies, formative assessments, scaffolds, and enrichment to make learning accessible to all students.

(vii) Teachers set goals for each student in response to previous outcomes from formative and summative assessments.

(viii) Teachers involve all students in self-assessment, goal setting, and monitoring progress.

(D) Teachers implement formative and summative methods of measuring and monitoring student progress through the regular collection, review, and analysis of data.

(i) Teachers regularly review and analyze student work, individually and collaboratively, to understand students' thinking, identify strengths and progress toward mastery, and identify gaps in knowledge.

(ii) Teachers combine results from different measures to develop a holistic picture of students' strengths and learning needs.

(iii) Teachers apply multiple means of assessing learning, including the use of digital tools, to accommodate according to students' learning needs, linguistic differences, and/or varying levels of background knowledge.

(iv) Teachers use assessment results to inform and adjust instruction and intervention.

(v) Teachers clearly communicate the results of assessments with students, including setting goals, identifying areas of strength and opportunities for improvement.

(3) Standard--Content Pedagogy Knowledge and Skills. Teachers show a full understanding of their content and related pedagogy and the appropriate grade-level TEKS.

(A) Teachers understand the major concepts, key themes, multiple perspectives, assumptions, processes of inquiry, structure, and real-world applications of their grade-level and subject-area content.

(i) Teachers demonstrate a thorough understanding of and competence in the use of open education resource instructional materials when available for the grade level and subject area.

(ii) Teachers have expertise in how their content vertically and horizontally aligns with the grade-level/subject-area continuum, leading to an integrated curriculum across grade levels and content areas.

(iii) Teachers identify gaps in students' knowledge of subject matter and communicate with their leaders and colleagues to ensure that these gaps are adequately addressed across grade levels and subject areas.

(iv) Teachers deliberately and regularly share multiple different examples of student representations and resolutions.

(v) Teachers stay current with developments, new content, new approaches, and changing methods of instructional delivery within their discipline.

(B) Teachers demonstrate content-specific pedagogy that meets the needs of diverse learners, utilizing engaging instructional materials to connect prior content knowledge to new learning.

(i) Teachers teach both the key content knowledge and the key skills of the discipline and requisite linguistic skills making the information accessible to all learners by constructing it into usable knowledge.

(ii) Teachers make appropriate and authentic connections across disciplines, subjects, and students' real-world experiences to build knowledge from year to year.

(iii) Teachers provide multiple means of representation and engagement to promote literacy and ensure discipline-specific academic language is accessible for all students.

(iv) Teachers explicitly teach, encourage, and reinforce the use of academic language, including vocabulary, use of symbols, and labeling.

(v) Teachers prepare for and apply scaffolds in the lesson to make content accessible to all students, including diverse learners such as emergent bilingual students, students with disabilities, and students working above and below grade level.

(vi) Teachers engage students in productive struggle by allowing them time to work, asking questions to deepen their thinking, encouraging multiple approaches, praising effort on successful and unsuccessful attempts, and contrasting student attempts and correct solutions.

(C) Teachers demonstrate research- and evidence-based best practices specific to planning, instruction, and assessment of mathematics.

(i) Teachers communicate, using multiple means of representation, the relationship between mathematical concepts and mathematical procedures.

(ii) Teachers engage students in recursive lesson activities that reinforce automaticity in prerequisite knowledge and skills to mitigate the use of working memory when engaging those knowledge and skills as task complexity increases.

(iii) Teachers use multiple means of representation to engage students in mathematical tasks that deepen students' understanding of conceptual understanding, procedural fluency, and mathematical reasoning.

(iv) Teachers prepare and deliver instruction and questioning to deliberately solicit different explanations, representations, solutions, and reasoning from all students.

(v) Teachers prepare and deliver explicit instruction and modeling that links grade-level conceptual understanding with mathematical procedures and avoids shortcuts to problem solving.

(vi) Teachers analyze instructional plans to ensure an appropriate balance between conceptual understanding and procedural fluency.

(vii) Teachers facilitate discourse through regular opportunities for students to communicate the relationship between mathematical concepts and mathematical procedures.

(viii) Teachers provide time for students to collaboratively and independently apply conceptual understanding and procedural fluency to problem-solving.

(ix) Teachers communicate and model the connections between mathematics and other fields that use mathematics to problem solve, make decisions, and incorporate real-world applications in instruction.

(x) Teachers explicitly teach and model that math abilities are expandable and improvable.

(D) Teachers demonstrate research- and evidence-based best practices specific to planning, instruction, and assessment of language arts and reading.

(i) Teachers analyze instructional materials in preparation for instruction to ensure they provide grade-level appropriate, systematic, and explicit practice in foundational literacy skills.

(ii) Teachers analyze instructional materials in preparation for instruction to ensure that foundational literacy skills are reached at each grade or course level.

(iii) Teachers implement clear and explicit reading instruction aligned to the Science of Teaching Reading competencies and engage students in deliberate practice to make meaning from text.

(iv) Teachers identify and analyze grade- or course-level and complex texts for quality in preparation for instruction.

(v) Teachers prepare and deliver explicit reading instruction that uses grade-level and complex texts to build student knowledge.

(vi) Teachers strategically plan and implement supports such as read-aloud and questioning at varied levels of complexity to support comprehension of high-quality complex texts.

(vii) Teachers engage students in writing practice, including text-based writing that builds comprehension and higher-order thinking skills.

(viii) Teachers engage students in speaking practice that builds comprehension, language acquisition, and higher-order thinking skills.

(ix) Teachers use high-quality assessments to monitor grade-level appropriate foundational skills development.

(x) Teachers implement and analyze a variety of high-quality literacy assessments to monitor grade-level appropriate comprehension and identify gaps.

(xi) Teachers apply just-in-time supports and intervention on prerequisite skills and continually monitor to determine the need for additional learning support.

(4) Standard 4--Learning Environment. Teachers maintain a safe and supportive learning environment that is characterized by respectful interactions with students, consistent routines, high expectations, and the development of students' self-regulation skills.

(A) Teachers establish, implement, and communicate consistent routines for effective classroom management, including clear expectations for student behavior and positive interventions, that maintain a productive learning environment for all students.

(i) Teachers arrange their classrooms and virtual learning spaces in an organized way that is safe, flexible, and accessible to maximize learning that accommodates all students' learning and physical needs.

(ii) Teachers implement consistent classroom and behavior management systems to maintain an environment where all students are engaged and can reach academic and nonacademic goals.

(iii) Teachers model and provide explicit instruction on effective behavior regulation skills to build students' resilience and self-discipline.

(iv) Teachers maintain a safe and positive culture of student ownership and group accountability that fosters engagement by all students in the classroom expectations, culture, and norms.

(B) Teachers lead and maintain classroom environments in which students are motivated and cognitively engaged in learning.

(i) Teachers maintain a classroom environment that is based on high expectations and student self-efficacy.

(ii) Teachers strategically use instructional time, including transitions, to maximize learning.

(iii) Teachers manage and facilitate strategic and flexible groupings to maximize student learning.

(5) Standard 5--Professional Practices and Responsibilities. Teachers are self-aware and consistently hold themselves to a high standard for individual development. They collaborate with other educational professionals; communicate regularly with stakeholders; maintain professional relationships; comply with federal, state, and local laws; and conduct themselves ethically and with integrity.

(A) Teachers model ethical and respectful behavior and demonstrate integrity in all settings and situations.

(i) Teachers understand and comply with applicable federal, state, and local laws pertaining to the professional behaviors and responsibilities of educators.

(ii) Teachers adhere to the Educators' Code of Ethics in §247.2 of this title (relating to Code of Ethics and Standard Practices for Texas Educators), including following policies and procedures at their specific school placement(s).

(iii) Teachers demonstrate understanding of their role in strengthening American democracy and are willing to support and defend the constitutions of the United States and Texas.

(iv) Teachers advocate for and apply knowledge of students' progress and learning plans through the maintenance of thorough and accurate records.

(v) Teachers model and promote for students the use of safe, ethical, and legal practices with digital tools and technology.

(B) Teachers actively self-reflect on their practice and collaborate with other educational professionals to deepen knowledge, demonstrate leadership, and improve their instructional effectiveness.

(i) Teachers apply consistent reflective practices, analysis of student work, and video evidence of teaching to identify and communicate professional learning needs.

(ii) Teachers seek and apply job-embedded feedback from colleagues, including supervisors, mentors, coaches, and peers.

(iii) Teachers establish and strive to achieve professional goals to strengthen their instructional effectiveness and better meet students' needs.

(iv) Teachers engage in relevant professional learning opportunities that align with their growth goals and student learning needs.

(v) Teachers seek to lead other adults on campus through professional learning communities, grade- or subject-level team leadership, committee membership, or other opportunities.

(vi) Teachers collaborate with educational professionals to ensure learning is accessible and enables all students to reach their academic and non-academic goals.

(C) Teachers communicate consistently, clearly, and respectfully with all community stakeholders, including students, parents and families, colleagues, administrators, and staff.

(i) Teachers clearly communicate the mission, vision, and goals of the school to students, colleagues, parents and families, and other community members.

(ii) Teachers communicate regularly, clearly, and appropriately with families about student progress, providing detailed and constructive feedback in a language that is accessible to families to support students' developmental and learning goals.

(iii) Teachers build mutual understanding of expectations with students, parents, and families through clear, respectful, and consistent communication methods.

(iv) Teachers communicate with students and families regularly about the importance of collecting data and monitoring progress of student outcomes, sharing timely and comprehensible feedback so they understand students' goals and progress.

(d) This section will be implemented beginning with teacher evaluations conducted after the next update of Chapter 150 of this title (relating to Commissioner's Rules Concerning Educator Appraisal). Evaluations conducted before that time are subject to the requirements of this section as it existed prior to August 17, 2025.

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 July 28, 2025.

TRD-202502642

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 745. LICENSING

##### SUBCHAPTER M. ADMINISTRATIVE REVIEWS AND DUE PROCESS HEARINGS

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §745.8801, concerning Introduction; §745.8803, concerning Administrative Review Requestors; §745.8805, concerning How to Request an Administrative Review; §745.8807, concerning Waiving the Right to an Administrative Review; §745.8809, concerning Administrative Review Conductors; §745.8811, concerning Conducting an Administrative Review; §745.8813, concerning Administrative Review Decisions and Actions; §745.8815, concerning Timeframe for Administrative Review Decisions; §745.8835, concerning Who may request a due process hearing; and new §745.8802, concerning Requesting Records for an Administrative Review.

Sections 745.8801, 745.8805, and 745.8813 are adopted with changes to the proposed text as published in the February 14, 2025, issue of the *Texas Register* (50 TexReg 816). These rules will be republished.

Sections 745.8803, 745.8807, 745.8809, 745.8811, 745.8815, and 745.8835 are adopted without changes to the proposed text as published in the February 14, 2025, issue of the *Texas Register* (50 TexReg 816). Section 745.8802 is withdrawn. These rules will not be republished.

##### BACKGROUND AND JUSTIFICATION

The amendments and new section are necessary to update Texas Administrative Code (TAC), Title 26, Part 1, Chapter 745, Licensing, as it relates to administrative reviews and due process hearings. The rule adoption establishes guidelines regarding records that an operation or individual requests in relation to an administrative review, including the records that are relevant to different administrative review subjects and the effect of a records request on when a review may occur. The rule adoption addresses the ability to request an administrative review related to a waiver or variance decision that matches the language in 26 TAC Chapter 745, Subchapter J, Waivers and Variances for Minimum Standards. The rule adoption also clarifies a person's inability to request an administrative review or due process hearing related to certain subjects and amends certain rule titles from the question format.

##### COMMENTS

The 31-day comment period ended March 17, 2025.

During this period, HHSC received comments regarding the proposed rules from five commenters. HHSC received comments from Texas Alliance of Child and Family Services, Texas Kinder Prep, Tiger-Rock Portland, Wonderland Montessori, and Epiphany Soul. A summary of comments relating to the rules and the response from HHSC follows.

**Comment:** Based on the proposed language in §745.8801, a commenter expressed concern that if there is a lack of clarity regarding what constitutes an administrative review, or the specific grounds upon which a review can be requested, unequal application or arbitrary enforcement could result in a violation of due process.

**Response:** HHSC disagrees with this comment. The proposed rules at §745.8801 and Figure §745.8801(b) make clear that an administrative review (AR) can be requested to determine whether a decision or action was appropriate under applicable law and rules and defines the scope of the AR for each decision or action that is subject to AR. The proposed rules also make clear that the requestor may present evidence and arguments at the AR to dispute the decision or action.

**Comment:** Based on the proposed language in §745.8803, the commenter expressed concerns that "proposed changes" could limit who may request an administrative review "in an unclear or overly restrictive manner" in violation of due process, especially if stakeholders were prevented from appealing decisions that affect their ability to operate.

**Response:** HHSC disagrees with this comment. No amendments change who may request an administrative review. An administrative review of a decision that impacts the ability to operate can be requested by the applicant, owner, partner, governing body, director, licensed administrator, or designee—all stakeholders who are responsible for the management of the child care operation. A person who is designated as a controlling person and a person who is determined to pose an immediate threat to the health and safety of children may also request an administrative review.

**Comment:** Based on the proposed language in §745.8807, the commenter expressed concerns that if the amendments include implications that individuals can waive their right to an administrative review without informed consent or understanding of the implications, it could raise concerns about coercion and potentially violate procedural due process. The commenter observed that regulations should ensure that waivers are made voluntarily and with clear communication of consequences.

**Response:** HHSC declines to amend the proposed rule based on this comment. No amendments were made to the existing rule language related to waiving the right to an administrative review. Upon notification of a decision or action for which an administrative review may be requested, the operation is given notification of how to request an administrative review and a clear statement that if the time limit to request an administrative review expires, the right to an administrative review is waived. The rule clearly describes how an administrative review is waived—by either not meeting requirements for requesting the administrative review or by submitting a written statement waiving the right to administrative review. The rule also explains that the consequence of waiving the administrative review is that the decision or action is upheld, and when applicable, HHSC will send notice of the right to a due process hearing.

**Comment:** Based on the proposed language in §745.8813 and §745.8815, the commenter expressed concerns that the rules

could allow actions or decisions that lack a transparent rationale or do not adhere to factual determinations derived from the administrative review process.

**Response:** In response to comments, HHSC has amended §745.8813 to remove a reviewer's option to alter a decision or action during an administrative review. The proposed language in §745.8815 is specifically related to timeframes to issue a decision and provides that good cause must be established for delays.

**Comment:** The commenter expressed concerns that identifying some decisions or actions as ineligible for administrative review could create operational risks for childcare providers without offering recourse.

**Response:** HHSC disagrees with this comment. The proposed rules do not remove any rights to request an administrative review. While some decisions and actions may not be eligible for an administrative review, formal due process is available for such decisions and actions, and no decision or action is final until all due process has been exhausted.

**Comment:** Based on the proposed language in §745.8802, commenters expressed concerns that the rule could unfairly limit the type of records available to the requestor.

**Response:** HHSC disagrees with these comments. The language proposed for new §745.8802, which has been moved to §745.8805, makes clear that copies of HHSC and Texas Department of Family and Protective Services (DFPS) records directly related to the disputed decision or action may be requested, and prescribes the methods and timeline for requesting such records. This section allows requests for records that are relevant to the decision or action that have not already been provided to the operation or received from the operation; when such records are provided, the requestor has all the necessary information to dispute the deficiency or action. Requestors may request records from other sources and may present any relevant evidence at the administrative review.

**Comment:** The commenter expressed concerns that the proposed rules could disproportionately burden smaller child care operations compared to larger operations, and providers and families in communities with fewer child care operations. The commenter expressed concern that such burdens could constitute indirect discrimination.

**Response:** HHSC reviewed and noted the concerns but declines to make changes to the rules based on this comment. In furtherance of the effort to protect all children in care equally, the proposed rules apply equally to all regulated operations without regard to operation funding or geographic location. The reviewer does not uphold or overturn a decision or action based upon operation size or location. The reviewer considers the evidence gathered and determines if the decision or action is appropriate based on applicable laws and rules.

**Comment:** A commenter suggested that the administrative review procedure should take into account the repercussions of citations issued by HHSC. Another commenter suggested that the whole program related to administrative reviews and due process hearings needs to be reviewed and requested advice on how the regulated community can properly help to make changes to increase fairness.

**Response:** These comments did not suggest specific changes to the proposed rules; therefore, HHSC declines to make changes to the rules based on these comments. This rulemaking process

shows that HHSC is reviewing procedures related to administrative reviews and due process hearings and is responding to comments from the regulated community. Furthermore, pursuant to Texas Government Code §2001.021, any interested person may petition HHSC to adopt a rule; procedures for submitting a petition for adoption of a rule to HHSC may be found at 1 TAC §351.2.

Comment: A commenter suggested that in the event that an administrative review results in citation of a different minimum standard deficiency, the requestor should be allowed to request another administrative review to dispute the citation as altered.

Response: In response to comments, HHSC has amended §745.8813 to remove a reviewer's option to alter a decision or action during an administrative review.

Comment: A commenter described a perceived trend of issuance of unwarranted citations, and that such citations are often subsequently overturned. The commenter suggested that such activity may be related to inspectors feeling pressure from management to "find something wrong." The commenter reported hearing that program staff regularly acknowledge that evidence of a cited deficiency is insufficient to meet a preponderance of evidence standard but still issue the citation on the basis that the operation could "just 'AR' it." The commenter suggested that this shows a willingness to issue unwarranted citations without regard to the burdens and expenses incurred by operations that request administrative reviews. The commenter further suggested that it was fundamentally unfair to allow a reviewer to unilaterally change a cited deficiency to a different minimum standard deficiency, and that if evidence does not support the originally cited deficiency, the citation should be overturned rather than altered.

Response: An administrative review allows a requestor an opportunity to present all relevant evidence that the facts do not support a minimum standard deficiency, which could include evidence of an admission by HHSC staff that a citation is not supported by a preponderance of evidence. Additionally, regulated operations that believe they have been cited for a minimum standard deficiency despite a clear statement by inspection staff that the citation is not supported by a preponderance of evidence may file a complaint with the HHSC Office of the Ombudsman. In response to comments, HHSC has amended §745.8813 to remove a reviewer's option to alter a decision or action during an administrative review.

Comment: A commenter expressed concerns that proposed language in §745.8801 could imply that HHSC may impose an enforcement action prior to expiration of due process.

Response: HHSC reviewed and noted the concerns. HHSC clarified the rule language. Most enforcement actions are imposed on operations that, without including all pending administrative reviews, have significant associated risk and have demonstrated failure to comply with standards, rules, and laws. Exceptions are when enforcement actions are taken for emergency purposes, single serious incidents, or determinations of immediate threat. An enforcement action is not final until all due process has been exhausted.

Comment: Related to §745.8803 and §745.8835, a commenter recommended allowing an operation to request an administrative review and due process hearing to dispute a determination of immediate threat made with regard to a person.

Response: HHSC declines to revise the rules based on this comment. Because a person may request an administrative review and due process hearing to dispute a determination that the person poses an immediate threat, HHSC believes it is unnecessary and duplicative to allow the operation to request an administrative review and due process hearing to dispute the determination. This would be especially true in a situation where the person elects to waive the right to an administrative review or due process hearing to dispute the determination. Moreover, a determination that a person poses an immediate threat may be based on information to which the operation does not have access.

Comment: Related to §745.8803, a commenter recommended allowing an operation to request an administrative review to dispute the designation of a controlling person.

Response: HHSC declines to revise the rule based on this comment. Because a person may request an administrative review to dispute the person's designation as a controlling person, HHSC believes it is unnecessary and duplicative to allow the operation to request an administrative review to dispute the designation. Again, this would be especially true in a situation where the person elects to waive the right to an administrative review to dispute the designation.

Comment: Related to §745.8803, a commenter recommended allowing an operation to request an administrative review to dispute the imposition of an administrative penalty.

Response: HHSC declines to revise the rule based on this comment. An operation seeking to dispute the imposition of an administrative penalty may request administrative review of the deficiency for which the administrative penalty is imposed. If the underlying deficiency is overturned, no administrative penalty is imposed. If a deficiency is upheld and an administrative penalty is imposed, the operation can request a formal due process hearing before the State Office of Administrative Hearings (SOAH) to dispute the administrative penalty.

Comment: Related to §745.8803 and §745.8835, a commenter recommended that the operation be allowed to request an administrative review and due process hearing to dispute a determination that the operation poses an immediate threat.

Response: HHSC disagrees with this comment and declines to revise the rules based on this comment. A determination that an operation poses an immediate threat is made in the context of an adverse action. The adverse action may be eligible for an administrative review and due process hearing; exceptions include certain automatic or emergency suspensions or revocations imposed under Chapter 42 of the Texas Human Resources Code. Because the determination of immediate threat is usually based on the same on the same deficiencies and history of non-compliance that inform the intent to take adverse action, HHSC believes that allowing an operation to request an administrative review and due process hearing to dispute the determination that the operation poses an immediate threat would effectively duplicate any due process available to dispute the accompanying adverse action. Pursuant to §745.8875(b), when HHSC revokes or refuses to renew a permit, the operation cannot continue to operate pending the outcome of an administrative review and due process hearing if HHSC has determined that the operation poses an immediate threat. HHSC notes that it usually takes a significant amount of time to proceed through an administrative review and due process hearing; exhausting this process to dispute a determination of immediate threat would not allow for the possibility of more immediate relief to allow continued oper-



ation. Accordingly, HHSC believes it is more appropriate for an operation disputing a determination that the operation poses an immediate threat to seek injunctive relief from a district court in Travis County or in the county where the operation is located as prescribed by §745.8877.

Comment: Related to §745.8803, a commenter recommended striking language that permits non-attorney, subjective determinations that criminal conduct or possible abuse, neglect, or exploitation would support an immediate threat determination.

Response: HHSC disagrees with this comment and declines to revise the rules based on this comment. HHSC disagrees with the contention that determinations of immediate threat are unduly subjective or otherwise inappropriate. The criteria that HHSC considers when making an immediate threat determination are prescribed by §745.751, and HHSC believes that non-attorney program staff are competent to evaluate those criteria in making a determination.

Comment: Related to §745.8805, a commenter recommended that any requirements related to requesting records be combined here and that there should be deadlines by which records must be produced.

Response: HHSC agrees with the comment related to moving the requirements related to requesting records to §745.8805. Proposed new §745.8802 is withdrawn; the language related to requesting records for an administrative review was added to §745.8805.

Comment: Related to §745.8811, a commenter recommended requiring HHSC to specify a good cause determination for a delay HHSC wishes to put into place.

Response: HHSC disagrees with the comment and declines to amend the rule based on this comment. Section 745.8815 discusses "good cause" for the reviewer's delay in preparation of the review decision by reference to the definition in §745.8811(f).

Comment: Comments were received related to §§745.273, 745.8641, 745.9075, 745.9077, 745.9089, 745.9093, and 745.9149.

Response: HHSC declines to make changes. These rules are not part of this rule project.

## **DIVISION 1. ADMINISTRATIVE REVIEWS**

**26 TAC §§745.8801, 745.8803, 745.8805, 745.8807, 745.8809, 745.8811, 745.8813, 745.8815**

### **STATUTORY AUTHORITY**

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

#### *§745.8801. Introduction.*

(a) An administrative review is an informal review that determines whether a decision or action was appropriate under applicable laws and rules. An administrative review is not a formal hearing and does not involve formal examination and cross-examination of witnesses.

(b) The scope of an administrative review is based on the specific decision or action that is the subject of the review, as described in the following chart.

Figure: 26 TAC §745.8801(b)

(c) If you request an administrative review to dispute a deficiency, we may consider the deficiency when determining whether to impose an enforcement action and we may issue notice of intent to impose an enforcement action before the person who conducts the administrative review issues a decision on the deficiency. If the person who conducts the review overturns the deficiency, we will consider that outcome when determining whether to continue with the enforcement action and during an administrative review related to the enforcement action.

(d) If you do not waive your right to request an administrative review, we may not finalize any decision or action that is the subject of the review until you exhaust your due process rights concerning the decision or action. However, you may not be able to operate pending due process for some enforcement actions as provided by Division 3 of this subchapter (relating to Operating Pending an Administrative Review and Due Process Hearing).

#### *§745.8805. How to Request an Administrative Review.*

(a) To request an administrative review, a person must submit a written request by regular mail, email, or fax to the name and address indicated in the notification letter or inspection report.

(b) The written request must:

(1) Describe the specific decision or action that the requestor is disputing;

(2) Describe the reasons why the decision or action should not be upheld;

(3) Include any documentation, if applicable, that supports the requestor's position, such as photographs, diagrams, or written and signed statements; and

(4) Be timely.

(c) For a request to be timely:

(1) A mailed request must be postmarked within 15 days after the person receives notification of the right to request an administrative review; or

(2) An emailed or faxed request must be received within the 15 days after the person receives notification of the right to request an administrative review.

(d) When determining whether a request was made timely:

(1) If the notification or inspection report was delivered in person or by email:

(A) Add 15 calendar days to the date the notification or inspection report was delivered; and

(B) Identify the first date after adding the 15 calendar days that is not a Saturday, Sunday, or legal holiday; or

(2) If the notification or inspection report was delivered by regular mail:

(A) Add 18 calendar days to the date the notification or inspection report was mailed (a requestor is presumed to have received the notification or inspection report three days after it was mailed); and

(B) Identify the first date after the 18 calendar days that is not on a Saturday, Sunday, or legal holiday.

(e) Requesting records for an administrative review.

(1) Upon notice of a Texas Health and Human Services Commission (HHSC) decision or action for which you may request an administrative review, you may request a copy of an investigation report or administrator licensure records related to the subject of the administrative review from the following databases. This request must be made before we schedule an administrative review if we determine that the investigation report or administrator licensure records are directly related to the decision or action. Request the report or records from the:

(A) Texas Department of Family and Protective Services Information Management Protecting Adults and Children in Texas; and

(B) HHSC Child-Care Licensing Automation Support System.

(2) HHSC must receive the request under paragraph (1) of this subsection via email or by online submission within the timeframe for requesting the administrative review as described in §745.8805 of this division (relating to How to Request an Administrative Review). You must provide verification to HHSC that you made the records request within the 15-day timeframe.

(3) Except as described in paragraph (4) of this subsection, HHSC will proceed with the administrative review process according to timeframes identified in this subchapter after HHSC has produced documents described in paragraph (1) of this subsection.

(4) HHSC will not delay the administrative review process for you to obtain a record if:

(A) The record is not an investigation report or administrator licensure record from a database listed in paragraph (1) of this subsection;

(B) You did not request the record as described in paragraph (2) of this subsection;

(C) We determine that the record is not directly related to the decision or action that is the subject of the administrative review;

(D) You were provided the record prior to your administrative review request; or

(E) The record is related to a deficiency for which you waived the right to an administrative review under §745.8805 of this division or that was upheld prior to the request.

*§745.8813. Administrative Review Decisions and Actions.*

(a) The person conducting an administrative review may uphold or overturn the decision or action.

(b) If the telephone conference or meeting did not occur for a reason outlined in §745.8811(d) of this division (relating to Conducting an Administrative Review), the person conducting the administrative review will base the decision to uphold or overturn the decision or action on the written request for a review, any supporting documentation submitted with the request, and any other information that the person gathered.

(c) If the person conducting the administrative review overturns the decision or action, the Texas Health and Human Services Commission (HHSC) will update HHSC records to reflect the change.

(d) If the requestor has the right to request a due process hearing related to the upheld decision or action, the upheld decision or action will be the subject of the hearing.

(e) If the requestor does not have the right to request a due process hearing, the upheld decision or action will be final.

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 July 25, 2025.

TRD-202502584

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2025

Proposal publication date: February 14, 2025

For further information, please call: (713) 287-3260



## DIVISION 2. DUE PROCESS HEARINGS

### 26 TAC §745.8835

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority. In addition, Texas Human Resources Code (HRC) §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

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 July 25, 2025.

TRD-202502585

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: August 14, 2025

Proposal publication date: February 14, 2025

For further information, please call: (713) 287-3260



## TITLE 34. PUBLIC FINANCE

### PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

#### CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

##### SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

### 34 TAC §41.12

The Board of Trustees of the Teacher Retirement System of Texas (TRS) adopts amended §41.12 (relating to Relating to the Alternative Plan for Medicare-Eligible Participants and Medicare Part B Requirement) of Subchapter A, Chapter 41, Title 34, Part 3, of the Texas Administrative Code with a change to the proposed text as originally published in the May 9, 2025, issue of

the *Texas Register* (50 TexReg 2750), and the rule will be republished.

#### REASONED JUSTIFICATION

TRS adopts the amendments to §41.12 to close new enrollment to the TRS-Care Alternative Plan. The TRS-Care Alternative Plan, offered under §1575.158(d) of the Insurance Code and administered under Chapter 1575 of the same, no longer offers value to TRS retirees and their eligible dependents due to various factors.

First, the TRS-Care Alternative Plan was originally established to address members who lacked adequate access to TRS-Care Medicare Advantage (TRS-Care MA) providers. However, the TRS-Care MA network has since expanded significantly, and the initial justification for the TRS-Care Alternative plan ceases to exist.

Second, TRS established the TRS-Care Alternative Plan to help offset the financial burdens imposed on Medicare-eligible TRS members by federal laws such as the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). These provisions negatively impacted Social Security benefits for public school retirees. Because Part B premiums are deducted from Social Security payments, public school retirees affected by these provisions waived Part B coverage when they first became eligible. Members who did not obtain Part B coverage when first eligible faced increasingly higher premiums over time. Since Part B coverage is required for participation in TRS-Care MA, forcing these retirees to get Part B coverage to be able to enroll in TRS-Care MA could be cost-prohibitive for them. Therefore, the TRS-Care Alternative Plan was designed to support these members. However, with the recent repeal of the GPO and the WEP, the TRS-Care Alternative Plan no longer serves this purpose.

Amended §41.12 establishes that the TRS-Care Alternative Plan will be closed to new enrollment on January 1, 2026. TRS-Care eligible members who meet the current requirements of the TRS-Care Alternative Plan may be enrolled in the program until December 31, 2025. All existing members of the TRS-Care Alternative Plan on January 1, 2026, will be grandfathered into and may remain in the program.

Beginning January 1, 2026, TRS will require Medicare-eligible retirees and their dependents to purchase and maintain Medicare Part B coverage to enroll in and remain in a TRS-Care program. This applies to both new TRS-Care enrollees and those transitioning from TRS-Care Standard to TRS-Care MA due to their new Medicare eligibility.

The change to the proposed text, as originally published in the May 9, 2025, issue of the *Texas Register* (50 TexReg 2750), remedies an inadvertent, nonsubstantive deletion of the term "Medicare-" from the title of the proposed amended rule. The change corrects this inadvertent deletion by reinstating the term "Medicare-" before "Eligible" in the title of amended §41.12.

#### COMMENTS

No comments on the proposed adoption were received.

#### STATUTORY AUTHORITY

Amended §41.12 is adopted under the authority of Chapter 1575 of the Insurance Code, which establishes the Texas Public

School Retired Employees Group Benefits Act (TRS-CARE), §1575.052, which allows the trustee to adopt rules, plans, procedures, and orders reasonably necessary to implement Chapter 1575; Chapter 825, Government Code, which governs the administration of TRS, and §825.102 of the Government Code, which authorizes the Board of Trustees to adopt rules for the transaction of its business.

#### CROSS-REFERENCE TO STATUTE

Amended §41.12 implements Insurance Code §1575.158(d), concerning Group Health Benefit Plans.

*§41.12. Relating to the Alternative Plan for Medicare-Eligible Participants and Medicare Part B Requirement.*

(a) Enrollment in the Alternative Plan. Up to and including December 31, 2025, an individual is eligible to enroll in the Alternative Plan offered under TRS-Care if:

- (1) the individual is eligible to enroll in TRS-Care; and
- (2) the individual is eligible for Medicare and either:

(A) does not have reasonable access to a particular provider, as determined by TRS; or

(B) as of January 1, 2018, does not have Medicare Part B coverage and the individual's ability to obtain Medicare Part B coverage is cost prohibitive, as determined by TRS.

(b) Closing Enrollment in the Alternative Plan. Effective January 1, 2026, new enrollees under TRS-Care will no longer be eligible for the Alternative Plan described under subsection (a) of this section.

(c) Medicare Part B Requirement. Effective January 1, 2026, retirees, dependents, surviving spouses, and surviving dependent children who are eligible to enroll in Medicare and desire to enroll in or stay in a TRS-Care plan must have and maintain Medicare Part B coverage.

(1) High Deductible Health Plan Transition. Effective January 1, 2026, retirees, dependents, surviving spouses, and surviving dependent children enrolled in the high deductible health plan offered under TRS-Care who turn age 65 and are eligible to enroll in Medicare must have and maintain Medicare Part B coverage to transition into the Medicare Advantage plan and the Medicare prescription drug plan offered under TRS-Care. These enrollees have until the end of their Medicare Initial Enrollment Eligibility Period (IEP) to secure Medicare Part B coverage in order to transition into the Medicare Advantage plan and the Medicare prescription drug plan offered under TRS-Care. Enrollees that fail to secure Medicare Part B coverage within this period shall be terminated from the TRS-Care program.

(2) Continued Enrollment in the TRS-Care Medicare Advantage Plan. Effective January 1, 2026, retirees, dependents, surviving spouses, and surviving dependent children enrolled in the Medicare Advantage Plan offered under TRS-Care who terminate or lose their Medicare Part B coverage no longer meet TRS-Care eligibility criteria and shall be terminated from the TRS-Care program as soon as TRS is notified of the Part B coverage loss by CMS.

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 July 22, 2025.  
TRD-202502566

Don Green  
Chief Financial Officer  
Teacher Retirement System of Texas  
Effective date: August 11, 2025  
Proposal publication date: May 9, 2025  
For further information, please call: (512) 584-4773





# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Department of State Health Services

### Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 99, Occupational Diseases

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 99, Occupational Diseases, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [hhsrulescoordinationoffice@hhs.texas.gov](mailto:hhsrulescoordinationoffice@hhs.texas.gov).

When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 99" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202502675

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: July 29, 2025



Texas Health and Human Services Commission

### Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 967, Client Care of Individuals Receiving Services at State Supported Living Centers

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 967, Client Care of Individuals Receiving Services at State Supported Living Centers, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [hhsrulescoordinationoffice@hhs.texas.gov](mailto:hhsrulescoordinationoffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 967" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202502638

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: July 28, 2025



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 985, Human Immunodeficiency Virus Prevention And Treatment In State Supported Living Centers

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 985, Human Immunodeficiency Virus Prevention And Treatment In State Supported Living Centers, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [hhsrulescoordinationoffice@hhs.texas.gov](mailto:hhsrulescoordinationoffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 985" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([www.sos.texas.gov](http://www.sos.texas.gov)).

TRD-202502639

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: July 28, 2025



## Adopted Rule Reviews

### Texas Higher Education Coordinating Board

#### Title 19, Part 1

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter G, Apply Texas Advisory Committee, §§1.128 - 1.130 and §§1.132 - 1.134 without changes, and §1.131 with changes as published concurrently with this notice.

The proposed notice of review was published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2627). No comments were received regarding the review of this subchapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Sections 1.128 - 1.130 and 1.132 - 1.134 are readopted, and §1.131 is readopted with amendments in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter G, as required by the Texas Government Code, §2001.039.

TRD-202502587

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: July 25, 2025



The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter H, Certification Advisory Council, §§1.135 - 1.137 and §§1.139 - 1.141 without changes, and §1.138 with changes as published concurrently with this notice.

The proposed notice of review was published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2627). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Sections 1.135 - 1.137 and 1.139 - 1.141 are readopted, and §1.138 is readopted with amendments in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter H, as required by the Texas Government Code, §2001.039.

TRD-202502589

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: July 25, 2025



The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter I, Family

Practice Residency Advisory Committee, §§1.142 - 1.144 and §§1.146 - 1.148 without changes, and §1.145 with changes as published concurrently with this notice.

The proposed notice of review was published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2627). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Sections 1.142 - 1.144 and 1.146 - 1.148 are readopted, and §1.145 is readopted with amendments in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter I, as required by the Texas Government Code, §2001.039.

TRD-202502591

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: July 25, 2025



The Texas Higher Education Coordinating Board (Coordinating Board) adopts the review of Title 19, Part 1, Chapter 1, Subchapter J, Financial Aid Advisory Committee, §§1.149 - 1.151 and §§1.153 - 1.155 without changes, and §1.152 with changes as published concurrently with this notice.

The proposed notice of review was published in the April 25, 2025, issue of the *Texas Register* (50 TexReg 2627). No comments were received regarding the review of this chapter. During its review, the Coordinating Board determined that the initial reasons for adopting these sections continue to exist. Sections 1.149 - 1.151 and 1.153 - 1.155 are readopted, and §1.152 is readopted with amendments in accordance with the requirements of the Government Code, §2001.039.

This concludes the Coordinating Board's review of Chapter 1, Subchapter J, as required by the Texas Government Code, §2001.039.

TRD-202502594

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Filed: July 25, 2025



### Department of State Health Services

#### Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

#### Chapter 91, Cancer

Notice of the review of this chapter was published in the June 6, 2025, issue of the *Texas Register* (50 TexReg 3484). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 91 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 91. Any amendments, if applicable, to Chapter 91 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 25 TAC Chapter 91 as required by Texas Government Code §2001.039.

TRD-202502593

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: July 25, 2025



The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 101, Tobacco

Notice of the review of this chapter was published in the June 6, 2025 issue of the *Texas Register* (50 TexReg 3484). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 101 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 101, Tobacco. Any amendments, if applicable, to Chapter 101 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 25 TAC Chapter 101 as required by Texas Government Code §2001.039.

TRD-202502595

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: July 25, 2025



Texas Health and Human Services Commission

#### **Title 26, Part 1**

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 279, Contracting to Provide Emergency Response Services

Notice of the review of this chapter was published in the June 6, 2025, issue of the *Texas Register* (50 TexReg 3484). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 279 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 279. Any amendments, if applicable, to Chapter 279 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 279 as required by Texas Government Code §2001.039.

TRD-202502676

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: July 30, 2025



The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 368, Intellectual and Developmental Disabilities (IDD) Habilitative Specialized Services

Notice of the review of this chapter was published in the May 30, 2025, issue of the *Texas Register* (50 TexReg 3257). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 368 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 368. Any amendments, if applicable, to Chapter 368 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 368 as required by Texas Government Code §2001.039.

TRD-202502596

Jessica Miller

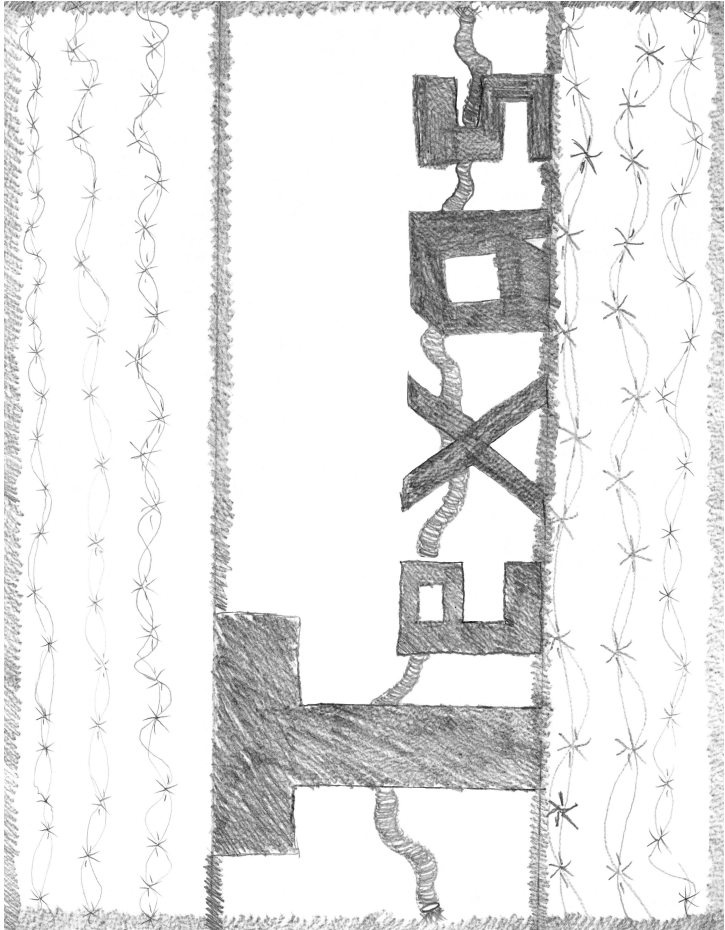
Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: July 25, 2025







# TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

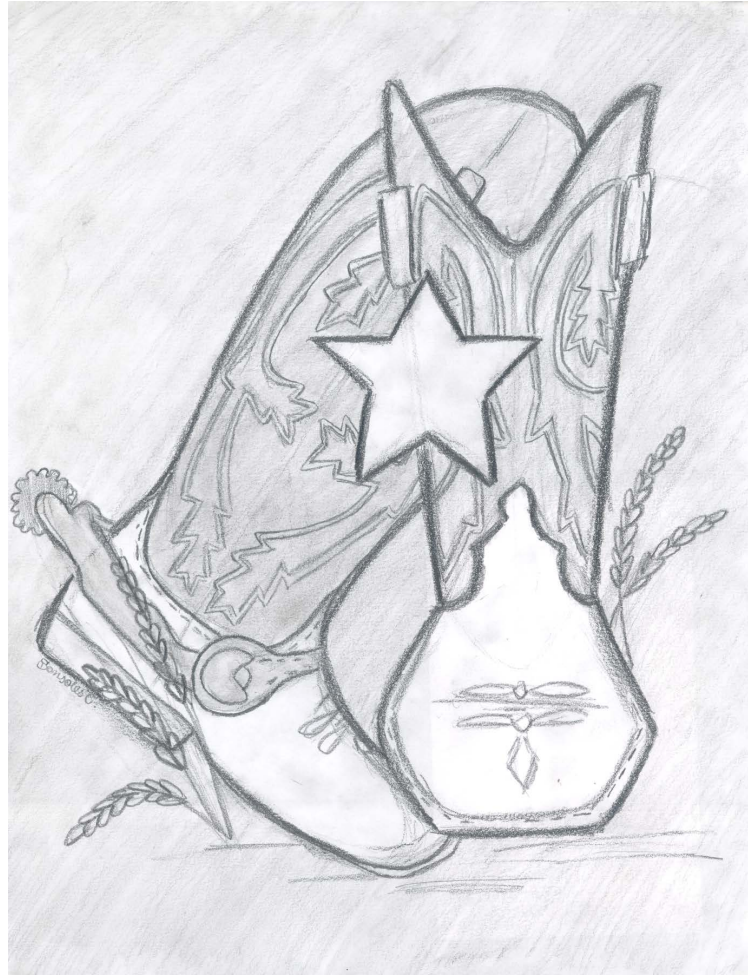
Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 26 TAC §745.8801(b)

Decision or action	Subject of the review
(1) A deficiency in a minimum standard, rule, or statute	Whether the operation was deficient in the identified minimum standard, rule, or statute.
(2) The imposition of an enforcement action	Whether the enforcement action is appropriate based on factors identified in §745.8605 of this chapter (relating to When can Licensing recommend or impose an enforcement action against my operation?) and any other rule in Subchapter L of this chapter (relating to Enforcement Actions) that relates to the imposition of the enforcement action. We will not consider whether evidence supports a deficiency that is a basis for the enforcement action unless we are combining the review of the enforcement action with a review of the deficiency.
(3) A controlling person designation	Whether the person meets the definition of "controlling person" as described in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).
(4) A denial, amendment, or revocation of a waiver or variance or disagreement with the original expiration date or conditions associated with a waiver or variance	<p>Whether Child Care Regulation correctly applied the factors identified in the following rules that apply to the decision:</p> <ul style="list-style-type: none"><li>• §745.8311 of this chapter (relating to What conditions may Licensing place on an approved waiver or variance);</li><li>• §745.8313 of this chapter (relating to What factors do we consider when deciding whether to grant a waiver or variance?),</li><li>• §745.8315 of this chapter (relating to What additional factors does Licensing consider when deciding whether to grant a waiver or variance for a foster home?); and</li><li>• §745.8317 of this chapter (relating to What factors do we consider when determining the expiration date and conditions for a waiver or variance?).</li></ul>

(5) A denial of voluntary suspension	Whether the decision was appropriate under §745.5155 of this chapter (relating to What actions may Licensing take after receiving written notice that you are requesting a voluntary suspension?).
(6) The addition of a condition to a probation that the operation is currently on.	Whether the addition of the condition was appropriate. We will not consider whether evidence supports a deficiency that is a basis for the additional condition unless we are combining the review of the addition with a review of the deficiency.
(7) A determination that a program is not exempt from regulation.	Whether the program qualifies for an exemption.
<p>(8) A determination that the person poses an immediate threat or danger to the health or safety of children because of:</p> <p>(A) A juvenile adjudication; or</p> <p>(B) Another issue unrelated to:</p> <p>(i) A criminal conviction or an arrest or charge that may result in a conviction;</p> <p>(ii) A finding of child abuse, neglect, or exploitation by the Texas Department of Family and Protective Services or an open investigation that may result in such a finding; or</p> <p>(iii) A finding of child abuse, neglect, or exploitation by the Texas Health and Human Services Commission for which the person has the right to request due process or an open investigation that may result in such a finding.</p>	Whether the application of the factors listed in §745.751 of this chapter (relating to What factors does Licensing consider when determining if a person or an operation is an immediate threat to the health or safety of children?) was correct.

<p>(9) Remedial action against an administrator's license or an administrator's license application.</p>	<p>Whether the remedial action is appropriate based on factors identified in §745.9037 of this chapter (relating to Under what circumstances may Licensing take remedial action against my administrator's license or administrator's license application?) and any other rule in Subchapter N of this chapter (relating to Administrator's Licensing) that relates to the imposition of the remedial action.</p>
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# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/04/25 - 08/10/25 is 18.00% for consumer<sup>1</sup> credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/04/25 - 08/10/25 is 18.00% for commercial<sup>2</sup> credit.

<sup>1</sup> Credit for personal, family, or household use.

<sup>2</sup> Credit for business, commercial, investment, or other similar purpose.

TRD-202502677

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 30, 2025



## Texas Education Agency

### Request for Applications Concerning the 2025-2026 Charter School Program (Subchapter C and D) Grant

**Filing Authority.** The availability of grant funds under Request for Applications (RFA) #701-25-127 is authorized by Public Law 114-95, Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, Title IV, Part C, Expanding Opportunity Through Quality Charter Schools; Texas Education Code, Chapter 12; and 19 Texas Administrative Code Chapter 100, Subchapter AA.

**Eligible Applicants.** The Texas Education Agency (TEA) is requesting applications under RFA #701-25-127 from eligible applicants, which include open-enrollment charter schools that meet the federal definition of a charter school, have never received funds under this grant program, and are one of the following. (1) An open-enrollment charter school campus designated by the commissioner of education, for the 2024-2025, 2025-2026, or 2026-2027 school year, as a high-quality campus pursuant to 19 TAC §100.1033(b)(9) and (13). (2) Open-enrollment charter schools submitting an expansion amendment request and corresponding application for high-quality campus designation for the 2025-2026 or 2026-2027 school year by September 22, 2025, are considered eligible to apply for the grant. However, the commissioner must approve the expansion amendment request and designate the campus as a high-quality campus prior to the charter receiving grant funding, if awarded. (3) A campus charter school authorized by the local board of trustees pursuant to TEC, Chapter 12, Subchapter C, on or before September 22, 2025, as a new charter school, or as a charter school that is designed to replicate a new charter school campus, based on the educational model of an existing high-quality charter school, and that submits all required documentation as stated in this RFA. A campus charter school must apply through its public school district, and the application must be signed by the district's superintendent or the appropriate designee.

**Important:** Any charter school that does not open prior to Wednesday, September 2, 2026, after having been awarded grant funds, may be required to forfeit any remaining grant funds and may be required to reimburse any expended amounts to TEA.

**Description.** The purpose of the Texas Quality Charter Schools Program Grant is to support the growth of high-quality charter schools in Texas, especially those focused on improving academic outcomes for educationally disadvantaged students. This will be achieved through administering the 2025-2026 Charter School Program (Subchapter C and D) Grant to assist eligible applicants in opening and preparing for the operation of newly-authorized charter schools and replicated high-quality schools.

**Dates of Project.** The 2025-2026 Charter School Program (Subchapter C and D) Grant will be implemented during the 2025-2026 and 2026-2027 school years. Applicants should plan for a starting date of no earlier than November 17, 2025, and an ending date of no later than September 30, 2026.

**Project Amount.** Approximately \$13,248,365 is available for funding the 2025-2026 Charter School Program (Subchapter C and D) Grant. It is anticipated that approximately 14 grants will be awarded up to \$900,000. This project is funded 100% with federal funds.

**Selection Criteria.** Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

**Applicants' Conference.** A webinar will be held on Tuesday, August 19, 2025, from 11:00 a.m. to 12:30 p.m. Register for the webinar at <https://zoom.us/meeting/register/Prn97ZTIQq-NJ1XIN56fYQ>. Questions relevant to the RFA may be emailed to Chelsea Garcia at [CharterSchools@tea.texas.gov](mailto:CharterSchools@tea.texas.gov) prior to 12:00 p.m. (noon) CST by Monday, August 18, 2025. These questions, along with other information, will be addressed during the webinar. The applicants' conference webinar will be open to all potential applicants and will provide general and clarifying information about the grant program and the RFA.

**Requesting the Application.** The complete RFA will be posted on the TEA Grant Opportunities web page at <https://tea4avalonzo.tea.state.tx.us/GrantOpportunities/forms/GrantProgramSearch.aspx> for viewing and downloading. In the "Available Grant Opportunities" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view and download all documents that pertain to this RFA.

Further Information. In order to make sure that no prospective applicant obtains a competitive advantage because of acquisition of information unknown to other prospective applicants, any and all questions must be submitted in writing to [CharterSchools@tea.texas.gov](mailto:CharterSchools@tea.texas.gov), the TEA email address identified in the Program Guidelines of the RFA, no later than 12:00 p.m. (noon) CST on September 2, 2025. All questions and the written answers thereto will be posted on the TEA Grant Opportunities web page in the format of Frequently Asked Questions (FAQs) by September 9, 2025.

Deadline for Receipt of Applications. Applications must be submitted to [competitivegrants@tea.texas.gov](mailto:competitivegrants@tea.texas.gov). Applications must be received no later than 11:59 p.m. CST, September 22, 2025, to be considered eligible for funding.

Issued in Austin, Texas, on July 30, 2025.

TRD-202502689

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: July 30, 2025

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 9, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **September 9, 2025**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Avalon Water Supply and Sewer Service Corporation; DOCKET NUMBER: 2025-0247-PWS-E; IDENTIFIER: RN101226397; LOCATION: Foreston, Ellis County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to

the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$50; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: Baylor Surgicare at Baylor Plano, LLC dba Baylor Scott and White Surgicare at Plano Alliance; DOCKET NUMBER: 2025-0257-PST-E; IDENTIFIER: RN110196334; LOCATION: Plano, Collin County; TYPE OF FACILITY: hospital emergency generator; RULES VIOLATED: 30 TAC §334.48(g)(1)(A)(ii) and (B) and TWC, §26.3475(c)(2), by failing to test the spill prevention equipment and containment sumps used for interstitial monitoring of piping at least once every three years to ensure the equipment is liquid tight, and failing to inspect the overfill prevention equipment at least once every three years to ensure that the equipment is set to activate at the correct level and will activate when a regulated substance reaches that level; and 30 TAC §334.50(b)(1)(B), (2)(A)(iii), and (B)(i) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tank and associated pressurized piping installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring, and failing to equip each separate pressurized pipe with an automatic line leak detector; PENALTY: \$5,997; ENFORCEMENT COORDINATOR: Eunice Adegele, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Boling Municipal Water District; DOCKET NUMBER: 2024-0433-MWD-E; IDENTIFIER: RN102806056; LOCATION: Boling, Wharton County; TYPE OF FACILITY: wastewater treatment facility; RULE VIOLATED: 30 TAC §305.125(1) and (17) and Texas Pollutant Discharge Elimination System Permit Number WQ0010843001, Other Requirements Number 6, by failing to timely submit monitoring results at intervals specified in the permit; PENALTY: \$600; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Borden County; DOCKET NUMBER: 2025-0601-PWS-E; IDENTIFIER: RN101200731; LOCATION: Gail, Borden County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(g), by failing to disinfect a repaired water main in accordance with American Water Works Association requirements and collect and submit water samples until the results indicate that the water system is free of microbiological contamination before placing the repaired water main back into service; and 30 TAC §290.46(q)(2) and (3) and Texas Health and Safety Code, §341.033(i)(6), by failing to issue a boil water notice to customers of the facility using one or more of the Tier 1 delivery methods as described in 30 TAC §290.122(a)(2); PENALTY: \$1,275; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(5) COMPANY: Bottom Line Holding Co; DOCKET NUMBER: 2025-0104-MWD-E; IDENTIFIER: RN101513638; LOCATION: Alba, Wood County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0013975001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$8,775; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: City of Chillicothe; DOCKET NUMBER: 2024-1976-PWS-E; IDENTIFIER: RN101389542; LOCATION:

Chillicothe, Hardeman County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; and 30 TAC §290.117(c)(2)(C), (h), and (i)(1), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2022 - December 31, 2024, monitoring period; PENALTY: \$3,250; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(7) COMPANY: City of Hamlin; DOCKET NUMBER: 2025-0428-PWS-E; IDENTIFIER: RN101392504; LOCATION: Hamlin, Jones County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$50; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: City of Star Harbor; DOCKET NUMBER: 2025-0422-PWS-E; IDENTIFIER: RN101184034; LOCATION: Malakoff, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$52; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: Eastern Cass Water Supply Corporation; DOCKET NUMBER: 2025-0200-PWS-E; IDENTIFIER: RN101256444; LOCATION: Bivins, Cass County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$61; ENFORCEMENT COORDINATOR: Mason DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(10) COMPANY: Echo Environmental Holdings, LLC; DOCKET NUMBER: 2023-1299-IHW-E; IDENTIFIER: RN102338027; LOCATION: Carrollton, Dallas County; TYPE OF FACILITY: electronics recycling facility; RULE VIOLATED: 30 TAC §335.6(h), by failing to submit a written notice to the TCEQ which includes the type(s) of industrial solid waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity 90 days prior to engaging in such activities; PENALTY: \$1,875; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(11) COMPANY: Enterprise Hydrocarbons L.P.; DOCKET NUMBER: 2024-1445-AIR-E; IDENTIFIER: RN100220078; LOCATION: Yoakum, DeWitt County; TYPE OF FACILITY: oil and gas plant; RULES VIOLATED: 30 TAC §§106.6(c), 106.261, and 122.143(4), Permit by Rule Registration Number 99582, Federal Operating Permit (FOP) Number O3184, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Numbers 7, 9, and 10, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the certified emissions rates; and 30 TAC §122.143(4) and §122.146(1) and (2), FOP Number O3184, GTC and STC Number 1.A, and THSC, §382.085(b), by failing to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance and failing to submit a

permit compliance certification within 30 days of any certification period; PENALTY: \$80,800; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$32,170; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(12) COMPANY: FASTBOY COCHRAN ROAD, LLC; DOCKET NUMBER: 2025-0283-WQ-E; IDENTIFIER: RN111554069; LOCATION: Waller, Waller County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR1575NC, Part III, Section F.6(a), by failing to install and maintain best management practices in effective operating condition; and 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR1575NC, Part III, Section F.6(d), by failing to remove accumulations of sediment at a frequency that minimizes off-site impacts; PENALTY: \$8,001; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(13) COMPANY: Grand Harbor Water Supply Corporation; DOCKET NUMBER: 2025-0390-PWS-E; IDENTIFIER: RN104497946; LOCATION: Runaway Bay, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$81; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: LEMA MATERIALS, LLC; DOCKET NUMBER: 2025-0069-WQ-E; IDENTIFIER: RN110541455; LOCATION: Roymer, Liberty County; TYPE OF FACILITY: construction sand and gravel; RULES VIOLATED: 30 TAC §21.4 and TWC, §5.702, by failing to pay associated late fees for TCEQ Financial Administration Account Number 20048764; and 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System General Permit Number TXR05FX28, Part III, Section E, Standard Permit Conditions Number 6, by failing to submit monitoring results at the intervals specified in the permit; PENALTY: \$2,725; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(15) COMPANY: Luminant Generation Company LLC; DOCKET NUMBER: 2023-1738-IWD-E; IDENTIFIER: RN100673490; LOCATION: Sunnyvale, Dallas County; TYPE OF FACILITY: steam electric station; RULES VIOLATED: 30 TAC §305.121(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0001245000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(16) COMPANY: Methodist Healthcare System of San Antonio, Ltd., L.L.P.; DOCKET NUMBER: 2024-1707-PWS-E; IDENTIFIER: RN100624485; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the Executive Director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; and 30 TAC §290.45(f)(3) and THSC, §341.0315(c), by failing to provide a purchase water contract which establishes the maximum rate at which water may be drafted on a daily and hourly basis or a uniform purchase rate for the contract period; PENALTY: \$1,000; ENFORCEMENT COORDINA-



TOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(17) COMPANY: Munir Ahmad Munawar; DOCKET NUMBER: 2023-1162-PST-E; IDENTIFIER: RN104003827; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; and 30 TAC §334.48(g)(1)(B) and TWC, §26.3475(c)(2), by failing to inspect the overfill prevention equipment at least once every three years to ensure that the equipment is set to activate at the correct level and will activate when a regulated substance reaches that level; PENALTY: \$5,208; ENFORCEMENT COORDINATOR: Ramya Wendt, (512) 239-2513; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: Nelson Equipment, Ltd.; DOCKET NUMBER: 2024-0190-AIR-E; IDENTIFIER: RN111304960; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: air curtain incinerator rental company; RULES VIOLATED: 30 TAC §106.496(h)(4)(D), 116.110(a)(4), and 122.143(4), Permit by Rule Registration Number 166034L001, Federal Operating Permit (FOP) Number O4330/General Operating Permit (GOP) Number 518, Qualification Criteria Number (a)(2)(B), and Texas Health and Safety Code (THSC), §382.085(b), by failing to clearly and permanently mark the air curtain incinerator with the regulated entity number; and 30 TAC §122.143(4) and §122.146(2), FOP Number O4330/GOP Number 518, Terms and Conditions Numbers (b)(3)(D)(i) and (ii), and THSC, §382.085(b), by failing to submit a permit compliance certification within 30 days of any certification period; PENALTY: \$7,020; ENFORCEMENT COORDINATOR: Amy Cox, (512) 239-4631; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(19) COMPANY: Nueces County Water Control and Improvement District Number 5; DOCKET NUMBER: 2025-0242-PWS-E; IDENTIFIER: RN101427037; LOCATION: Banquete, Nueces County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$57; ENFORCEMENT COORDINATOR: Mason DeMasi, (210) 657-8425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(20) COMPANY: Oxy Vinyls, LP; DOCKET NUMBER: 2023-1226-AIR-E; IDENTIFIER: RN100224674; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical plant; RULES VIOLATED: 30 TAC §§111.111(a), 116.115(c), and 122.143(4), New Source Review Permit Number 3855B, Special Conditions Number 1, Federal Operating Permit Number O1324, General Terms and Conditions and Special Terms and Conditions Number 23, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$25,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,500; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(21) COMPANY: Patricia Koontz dba Waynes Liquor Store; DOCKET NUMBER: 2025-0225-PWS-E; IDENTIFIER: RN102689023; LOCATION: Slaton, Lubbock County; TYPE OF FACILITY: public

water supply; RULE VIOLATED: 30 TAC §290.39(o)(1), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$450; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(22) COMPANY: PLEASANT OAKS LANDFILL TX, LP; DOCKET NUMBER: 2023-1782-MSW-E; IDENTIFIER: RN102049103; LOCATION: Mount Pleasant, Titus County; TYPE OF FACILITY: landfill; RULE VIOLATED: 30 TAC §305.124 and Municipal Solid Waste Disposal Permit Number 797B, Site Operating Plan (SOP) Sections 4.2.5 Prohibited Wastes and 4.2.2 Waste Excluded from Disposal at the Site, by failing to prevent the disposal of unauthorized wastes and to follow the SOP which lists specific wastes excluded from being disposed of in the landfill; PENALTY: \$45,577; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(23) COMPANY: SOUTHERN OAKS WATER SYSTEM, INCORPORATED; DOCKET NUMBER: 2025-0746-WQ-E; IDENTIFIER: RN111862850; LOCATION: New Waverly, Walker County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System General Permit Number TXR1582PH, Part III, Section F.6, by failing to maintain best management practices in effective operating conditions; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Alejandra Basave, (512) 239-4168; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(24) COMPANY: Sportsman's World Municipal Utility District; DOCKET NUMBER: 2025-0454-PWS-E; IDENTIFIER: RN102691128; LOCATION: Strawn, Palo Pinto County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(d)(5), by failing to provide a flow-measuring device to measure the raw water supplied to the plant, the recycled decant water, the treated water used to backwash the filters, and the treated water discharged from the plant; and 30 TAC §290.45(b)(2)(B) and Texas Health and Safety Code, §341.0315(c), by failing to provide a minimum treatment plant capacity of 0.6 gallons per minute per connection; PENALTY: \$625; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(25) COMPANY: Texas Parks and Wildlife Department; DOCKET NUMBER: 2024-1619-MWD-E; IDENTIFIER: RN102805025; LOCATION: San Felipe, Austin County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010896001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$11,812; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$9,450; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202502669

Gitanjali Yadav

Deputy Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 29, 2025



Enforcement Orders

An agreed order was adopted regarding SAM BROTHERS, INC. dba Greentop 3, Docket No. 2023-0098-PST-E on July 29, 2025, assessing \$4,619 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TEXCON HOLDINGS INC, Docket No. 2024-0230-WQ-E on July 29, 2025, assessing \$3,563 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202502686

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



## Notice of an Amendment to a Certificate of Adjudication Application No. 12-2878A

Notice Issued July 23, 2025

Wiggs Land and Cattle, LLC (Owner/Applicant), 2000 Stanolind Ave., Midland, Texas 79705-8657, seeks to amend Certificate of Adjudication No. 12-2878 to add a place of use for agricultural purposes to irrigate 1,026.91 acres of land in Hamilton County. The applicant also seeks to add a diversion reach on the Leon River in Hamilton County and to store the diverted water in an off-channel reservoir. More information on the application and how to participate in the permitting process is given below.

The application and partial fees were received on April 22, 2022. Additional fees were received on November 2, 2022. The application was declared administratively complete and filed with the Office of the Chief Clerk on November 16, 2022. Additional information was received May 17, 2023.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to, installation of a measuring device. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ webpage at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps).

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by August 6, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by August 6, 2025. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by August 6, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representa-

tive), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 2878 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202502679

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



## Notice of an Amendment to a Certificate of Adjudication Application No. 12-2879A

Notices Issued July 23, 2025

Wiggs Land and Cattle, LLC (Owner/Applicant), 2000 Stanolind Ave., Midland, Texas 79705-8657, seeks to amend Certificate of Adjudication No. 12-2879 to add a place of use for agricultural purposes to irrigate 1,026.91 acres of land in Hamilton County. The applicant also seeks to add a diversion reach on the Leon River in Hamilton County and to store the diverted water in an off-channel reservoir. More information on the application and how to participate in the permitting process is given below.

The application and partial fees were received on April 22, 2022. Additional fees were received on November 2, 2022. The application was declared administratively complete and filed with the Office of the Chief Clerk on November 16, 2022. Additional information was received May 17, 2023.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to, installation of a measuring device. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ webpage at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps).

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by August 6, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by August 6, 2025. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by August 6, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 2879 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040.

General information regarding the TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202502680

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



## Notice of an Amendment to a Certificate of Adjudication Application No 14034

Notice Issued July 25 2025

Mondo Gardens, Inc., 3931 County Road 154, Wharton, Texas 77488, Applicant, seeks authorization to use the bed and banks of unnamed tributaries of Post Oak Point Creek, tributary of the Brazos River, Brazos River Basin, to convey 465 acre-feet of groundwater per year from the Evangeline Aquifer for subsequent diversion for agricultural purposes in Austin County. More information on the application and how to participate in the permitting process is given below.

The application was received on October 30, 2024, and partial fees were received on November 6, 2024. Additional information and fees were received on January 24, 2025 and February 3, 2025, respectively.

The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on February 6, 2025.

The Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would include special conditions including, but not limited to, installation and maintenance of measuring devices. The application, technical memorandum, and Executive Director's draft permit are available for viewing on the TCEQ webpage at: [https://www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/view-wr-pend-apps](https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps). Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by August 27, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by August 27, 2025. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by August 27, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions to the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 14034 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202502681

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



## Notice of District Petition - D-07032025-014

Notice issued July 30, 2025

TCEQ Internal Control No. D-07032025-014: Peter S. Terpstra, Individually and as a Trustee of the Peter S. Terpstra Trust, and Sagebrush 1, LLC, (Petitioners) filed a petition for creation of Waller County Municipal Utility District No. 64 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Centennial Lone Star LLC, on the property to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 327.265 acres located within Waller County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain, and operate such additional facilities systems, plants and enterprises, road facilities, and park and recreational facilities as shall be consistent with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$91,600,000 (\$61,850,000 for water, wastewater, and drainage plus \$7,900,000 for recreation plus \$21,850,000 for roads).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our website at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Dis-

tricts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202502685

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025

#### Notice of District Petition - D-07072025-011

Notice issued July 30, 2025

TCEQ Internal Control No. D-07072025-011: Collin County Land Investments, LLC, a Texas limited liability company (Petitioner) filed a petition for creation of CC Municipal Utility District No. 1 of Collin County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land in the proposed District; (2) there is one lienholder, Vantage Bank Texas, a Texas State Financial Institution, on the property to be included in the proposed District and the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 47.99 acres located within Collin County, Texas; and (4) none of the land within the proposed district is located within corporate limits or extraterritorial jurisdiction of any city. The petition further states that the work proposed to be done by the District at the present time is to purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; to collect, transport, process, dispose of and control domestic, and commercial wastes; to gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water in the District; to design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and to purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created, all as more particularly described in an engineer's report filed simultaneously with the filing of this Petition, to which reference is made for a more detailed description. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$2,990,000 (including \$1,530,000 for water, wastewater, and drainage plus \$1,460,000 for roads).

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our website at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief

description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202502684

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



#### Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 9, 2025**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 9, 2025**. The commission's attorney is available to discuss the DO and/or the comment

procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Allen Christian dba Christian Parts; DOCKET NUMBER: 2022-0222-MLM-E; TCEQ ID NUMBER: RN103971784; LOCATION: 14565 Farm-to-Market Road 14 in Tyler, Smith County; TYPE OF FACILITY: an automotive service shop; RULES VIOLATED: 30 TAC §328.56(c), by failing to use manifests, work orders, invoices, or other records to document removal and management of all scrap tires generated on-site; Texas Health and Safety Code (THSC), §361.112(a) and 30 TAC §328.56(d)(2) and §328.60(a), by failing to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers; 30 TAC §328.56(d)(4), by failing to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks; 30 TAC §328.58(a), by failing to maintain a record of each individual load of used or scrap tires or tire pieces transported from the Facility and make it available upon request by agency personnel; THSC, §371.041, 30 TAC §324.1, and 40 Code of Federal Regulations (CFR) §279.22(b), by failing to ensure that containers used to store used oil are in good condition and not leaking; 30 TAC §324.1 and 40 CFR §279.22(c)(1), by failing to mark or clearly label used oil storage containers with the words "Used Oil"; 30 TAC §324.1 and §328.23(a) and 40 CFR §279.22(a), by failing to store used oil and oil filters in approved containers; 30 TAC §335.112(a)(8) and 40 CFR §265.173(a), by failing to maintain hazardous waste containers closed except when adding or removing waste, and 30 TAC §335.69(a)(3) and 40 CFR §262.34(d)(4), by failing to label all hazardous waste containers with the words "Hazardous Waste"; PENALTY: \$21,750; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202502673

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 29, 2025



#### Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **September 9, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on September 9, 2024**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS; DOCKET NUMBER: 2019-0623-IWD-E; TCEQ ID NUMBER: RN100218973; LOCATION: 201 Formosa Drive in Point Comfort, Calhoun County; TYPE OF FACILITY: a plastic, organic, and inorganic chemicals manufacturing facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number (TPDES) WQ0002436000, Effluent Limitations and Monitoring Requirements Number 3, by failing to prevent the discharge of floating solids or visible foam in other than trace amounts into or adjacent to any water in the state; TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0002436000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0002436000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0002436000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0002436000, Effluent Limitations and Monitoring Requirements Number 3, by failing to prevent the discharge of floating solids or visible foam in other than trace amounts into or adjacent to any water in the state; and TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0002436000, Effluent Limitations and Monitoring Requirements Number 3, by failing to prevent the discharge of floating solids or visible foam in other than trace amounts into or adjacent to any water in the state; PENALTY: \$274,500; Supplemental Environmental Project offset amount of \$137,250 applied to City of Point Comfort Commercial Water Meter Replacement; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: Corpus Christi Regional Office, 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, (361) 881-6900.

(2) COMPANY: KERRVILLE RV PARK LLC; DOCKET NUMBER: 2023-0513-MLM-E; TCEQ ID NUMBER: RN106054810; LOCATION: 3900 Bandera Highway in Kerrville, Kerr County; TYPE OF FACILITY: a public water system (PWS); RULES VIOLATED: TWC, §11.1272(c) and 30 TAC §288.20(a) and §288.30(5)(B), by failing to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier; 30 TAC §290.46(f)(2) and (3)(A)(iv) and (B)(v), by failing to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request; 30 TAC §290.46(n)(2), by failing to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly; 30 TAC §290.46(t), by failing to post a legible sign at the Facility's production, treatment, and storage facilities that contains the name of the Facility and an

emergency telephone number where a responsible official can be contacted; 30 TAC §290.43(c)(6), by failing to ensure that clearwells and potable water storage tanks, including associated appurtenances such as valves, pipes, and fittings, are thoroughly tight against leakage; 30 TAC §290.43(c)(4), by failing to provide all ground storage tanks with a liquid level indicator; Texas Health and Safety Code (THSC), §341.0315(c) and 30 TAC §290.45(b)(1)(C)(i), by failing to provide a well capacity of 0.6 gallons per minute (gpm) per connection; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(C)(iv), by failing to provide a pressure tank capacity of 20 gallons per connection; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(C)(ii), by failing to provide a total storage capacity of 200 gallons per connection; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(C)(iii), by failing to provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane; and 30 TAC §290.46(n)(1), by failing to maintain at the PWS accurate and up-to-date detailed as-build plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the Facility is decommissioned; PENALTY: \$10,860; STAFF ATTORNEY: Taylor Pack-Ellis, Litigation, MC 175, (512) 239-3400; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Mary Richbourg; DOCKET NUMBER: 2022-0739-MLM-E; TCEQ ID NUMBER: RN110510781; LOCATION: 1500 feet north from the intersection of Farm-to-Market Road 242 and Farm-to-Market Road 1314 near Conroe, Montgomery County; TYPE OF FACILITY: a portable air curtain incinerator (ACI); RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(b), 30 TAC §106.496(c)(3)(C) and (d)(2) and §122.143(4), Permit by Rule (PBR) Registration Number 153904L001, and Federal Operating Permit (FOP) Number O4096/General Operating Permit (GOP) Number 518, Qualification Criteria Number (a)(5) and Terms and Conditions Number (b)(8)(B)(vi), by failing to ensure that material is not added to the ACI in such a manner as to be stacked above the air curtain and failed to ensure that the length of the trench does not exceed the length of the air blower manifold; THSC, §382.085(b) and 30 TAC §111.201, by causing, suffering, allowing, or permitting outdoor burning within the State of Texas; THSC, §382.085(b), 30 TAC §106.8(c)(1) and (2)(B), §106.496(h)(4)(C), and §122.143(4), PBR Registration Number 153904L001, FOP Number O4096/GOP Number 518, Qualification Criteria Number (a)(2)(B) and Terms and Conditions Numbers (b)(8)(B)(iii) and (vi), by failing to maintain a copy of each PBR, all PBR conditions, and any operating instructions at the Site, followed by owners or operators, and made available at the request of personnel from the commission; THSC, §382.0518(a) and §382.085(b) and 30 TAC §106.496(h)(2)(A) and §116.110(a), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of municipal solid waste; and THSC, §382.085(a) and (b) and 30 TAC §101.4, by failing to prevent nuisance smoke conditions; PENALTY: \$24,945; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202502672

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: July 29, 2025



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Crystal Clear

Special Utility District SOAH Docket No. 582-25-24321  
TCEQ Docket No. 2023-1498-PWS-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m.- August 28, 2025

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

**Meeting ID:** 161 984 0712

**Password:** TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

**Meeting ID:** 161 984 0712

**Password:** 5247869

The purpose of the hearing will be to consider the Executive Director's First Amended Report and Petition mailed May 1, 2025 concerning assessing administrative penalties against and requiring certain actions of Crystal Clear Special Utility District, for violations in Guadalupe County, Texas, of: Tex. Health & Safety Code §341.0315(c) and 30 Texas Administrative Code §290.44(c), and §290.45(b)(1)(D)(iv).

The hearing will allow Crystal Clear Special Utility District, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Crystal Clear Special Utility District, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing.

Upon failure of **Crystal Clear Special Utility District** to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's First Amended Report and Petition, attached hereto and incorporated herein for all purposes. Crystal Clear Special Utility District, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Health & Safety Code Ch. 341 and 30 Texas Administrative Code Chs. 70 and 290; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and Ch. 80, and 1 Texas Administrative Code Ch. 155.

Further information regarding this hearing may be obtained by contacting Taylor Pack Ellis, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Office of Public Interest

Counsel, Mail Code 103, at the same P. O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at [www.tceq.texas.gov/goto/efilings](http://www.tceq.texas.gov/goto/efilings) or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: July 30, 2025

TRD-202502687

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Owens Excavation LLC SOAH Docket No. 582-25-22145 TCEQ Docket No. 2024-0047-WQ-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference:

10:00 a.m. - August 28, 2025

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

**Meeting ID:** 161 984 0712

**Password:** TCEQDC1

or

To join the Zoom meeting via telephone dial:

+1 (669) 254-5252

**Meeting ID:** 161 984 0712

**Password:** 5247869

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed September 12, 2024 concerning assessing administrative penalties against and requiring certain actions of Owens Excavation LLC, for violations in Smith County, Texas, of: 30 Texas Administrative Code §281.25(a)(4) and §342.25(b), and 40 C.F.R. 122.26(c).

The hearing will allow Owens Excavation LLC, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty

should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Owens Excavation LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of **Owens Excavation LLC** to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. Owens Excavation LLC, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and chs. 7, 26, and 28A, and 30 Texas Administrative Code chs. 70, 281, and 342; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Casey Kurnath, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Sheldon Wayne, Staff Attorney, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at [www.tceq.texas.gov/goto/efilings](http://www.tceq.texas.gov/goto/efilings) or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: July 30, 2025

TRD-202502688

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025



Notice of Public Hearing on Proposed Revisions to 30 TAC Chapter 39 and 55 and Corresponding Revisions to the State Implementation Plan

The Texas Commission on Environmental Quality (TCEQ or commission) will conduct a public hearing to receive testimony regarding proposed revisions to 30 Texas Administrative Code (TAC) Chapter 39, Public Notice; and Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment, under the requirements of Texas Government Code, Chapter 2001, Subchapter B.

The proposed rulemaking would implement the required changes to TCEQ public participation rules provided in Senate Bill 1397, the Sunset bill, from the 88th Regular Legislative Session, 2023. The proposed rulemaking also proposes to extend the comment period and opportunity to request a contested case hearing for at least 36 hours for air quality permit applications with consolidated notice, amends notice requirements related to contested case hearings for air quality permit applications, and clarifies the commission's rules to improve the public participation process for permit applications.

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on Monday, September 8, 2025, at 2:00 p.m. in Building F, Room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Thursday, September 4, 2025. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Friday, September 5, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/e8de5895-29fd-4bae-9e74-2e1714305675@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RE-LAY-TX (TDD). Requests should be made as far in advance as possible.

If you need translation services, please contact TCEQ at (800) 687-4040. Si desea información general en español, puede llamar al (800) 687-4040.

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Rule Project Number 2024-003-039-LS. The comment period closes at 11:59 p.m. on September 9, 2025. Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Amy Browning, Environmental Law Division, (512) 239-0891.

TRD-202502657



◆ ◆ ◆  
Notice of Public Meeting Amendment Permit No.  
WQ0010549002

**APPLICATION.** City of Blanco, P.O. Box 750, Blanco, Texas 78606, has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010549002 to authorize decommissioning the existing lagoon treatment facilities, construction of Bullseye tank and new sludge drying beds, and reconfiguration of man-made effluent holding/storage ponds; and to relocate Outfall 001. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 225,000 gallons per day. TCEQ received this application on April 18, 2023.

The facility is located at 289 Waters Edge Road, in the City of Blanco, Blanco County, Texas 78606. The interim discharge route for the treated effluent is to on-site man-made ponds, thence via an overflow pipe to an unnamed ditch, thence to the Upper Blanco River in Segment No. 1813 of the Guadalupe River Basin. Following completion of a pipeline to convey treated effluent, the proposed discharge route is to on-site man-made ponds, thence via pipe to the Upper Blanco River in Segment No. 1813 of the Guadalupe River Basin. The unclassified receiving water use is minimal aquatic life use for the on-site man-made ponds, and the unnamed ditch. The designated uses for Segment No. 1813 are primary contact recreation, public water supply, aquifer protection, and exceptional aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the Upper Blanco River which has been identified as having exceptional aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-98.41,30.103055&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

**PUBLIC COMMENT / PUBLIC MEETING.** A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the

permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Thursday, September 11, 2025, at 7:00 p.m.**

**Gem of the Hills**

**2233 US Highway 281 North**

**Blanco, Texas 78606**

**INFORMATION.** Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at [www.tceq.texas.gov/goto/comment](http://www.tceq.texas.gov/goto/comment). If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our website at <https://www.tceq.texas.gov>.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Blanco City Hall, 300 Pecan Street, Blanco, Texas. Further information may also be obtained from City of Blanco at the address stated above or by calling Mr. Warren Escovy at (830) 833-4525, Extension 105.

Persons with disabilities who need special accommodation at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800)-RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: July 25, 2025

TRD-202502683

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 30, 2025

◆ ◆ ◆  
Notice of Public Meeting Cancellation - WQ0016503001

The Texas Commission on Environmental Quality (TCEQ) submitted a Notice of Public Meeting for South Central Water Company: Proposed Permit No. WQ0016503001, for publication in the June 20, 2025, issue of the *Texas Register*, TexReg Docket Number 202501979. The public meeting scheduled for August 11, 2025, is cancelled. The public meeting will be scheduled for a later date. Members of the public with questions regarding this application or public meeting may seek further information by calling the TCEQ Public Education Program toll free at (800) 687-4040.

TRD-202502682

Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: July 30, 2025

◆ ◆ ◆  
**Notice of Water Quality Application - Minor Amendment  
WQ0011041002**

The following notice was issued on July 23, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS PUBLISHED IN THE *TEXAS REGISTER*.

**INFORMATION SECTION**

City of Kyle has applied for a minor amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0011041002 to add an Interim II phase with an annual average flow of 6,000,000 gallons per day (gpd). The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 12,000,000 gpd. The facility is located at 941 New Bridge Drive, in the City of Kyle, Hays County, Texas 78640.

TRD-202502678

Laurie Gharis  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: July 30, 2025

◆ ◆ ◆  
**Update to the Water Quality Management Plan (WQMP)**

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft July 2025 Update to the WQMP for the State of Texas.

Download the draft July 2025 WQMP Update at [https://www.tceq.texas.gov/permitting/wqmp/WQmanagement\\_updates.html](https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_updates.html) or view a printed copy at the TCEQ Library, Building A, 12100 Park 35 Circle, Austin, Texas.

The WQMP is developed and promulgated in accordance with the requirements of the federal Clean Water Act, Section 208. The draft update includes projected effluent limits of specific domestic dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

**Deadline**

All comments must be received at the TCEQ no later than **5:00 p.m. on September 9, 2025.**

**How to Submit Comments**

Comments must be submitted in writing to:

Gregg Easley

Texas Commission on Environmental Quality

Water Quality Division, MC 148

P.O. Box 13087

Austin, Texas 78711-3087

Comments may also be faxed to (512) 239-4420 *or* emailed to Gregg Easley at [Gregg.Easley@tceq.texas.gov](mailto:Gregg.Easley@tceq.texas.gov) but must be followed up with written comments by mail within five working days of the fax or email date or by the comment deadline, whichever is sooner.

For further information, or questions, please contact Mr. Easley at (512) 239-4539 or by email at [Gregg.Easley@tceq.texas.gov](mailto:Gregg.Easley@tceq.texas.gov).

TRD-202502670

Charmaine Backens

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: July 29, 2025

◆ ◆ ◆  
**General Land Office**

**Notice and Opportunity to Comment on Requests for  
Consistency Agreement/Concurrence Under the Texas Coastal  
Management Program**

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of July 14, 2025 to July 25, 2025. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, August 1, 2025. The public comment period for this project will close at 5:00 p.m. on Sunday, August 31, 2025.

Federal Agency Activities:

**Applicant:** U.S. Army Corps of Engineers, Galveston District

**Location:** The General Permit (GP) will be valid within navigable waters of the U.S. within the SWG boundaries, excluding waters located in Louisiana and the Gulf of America.

**Project Description:** This GP authorizes structures and work in navigable waters of the U.S. for the construction, repair, rehabilitation, maintenance, modification, and replacement of a single, pile-supported pier at single-family properties, multi-family properties, or at lodging facilities. The general permit is conditioned to result in no more the minimal impacts. The GP does not authorize permanent loss of special aquatic sites and does not require compensatory mitigation.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-2002-02904. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 25-1260-F2

**Applicant:** U.S. Army Corps of Engineers, Galveston District

**Location:** The General Permit (GP) will be valid within navigable waters of the U.S. within the SWG boundaries, excluding waters located in Louisiana and the Gulf of America.

**Project Description:** This GP authorizes Horizontal Directional Drill and/or Directional Drilling activities under navigable waters of the U.S. for the installation and/or relocation of utility lines. The GP is conditioned to result in no more than minimal impacts. The GP does not authorize temporary impacts or permanent loss of special aquatic sites and does not require compensatory mitigation.

**Type of Application:** U.S. Army Corps of Engineers permit application # SWG-1998-02413. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 25-1261-F2

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at [pialegal@glo.texas.gov](mailto:pialegal@glo.texas.gov). Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov).

TRD-202502692

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: July 30, 2025



## Notice and Opportunity to Comment on the Coastal Management Program Section 309 Assessment and Strategies Draft Report

The Texas Coastal Management Program (CMP) is seeking public comments on its 2026-2030 Section 309 Program Assessment and Multi Year (Funding) Strategy.

Section 309 of the Coastal Zone Management Act establishes a voluntary grants program to encourage states with federally approved coastal management programs, to conduct a self-assessment to identify, develop and implement strategies to strengthen and enhance their programs in nine areas. These enhancement areas include: 1) wetlands, 2) coastal hazards, 3) public access, 4) marine debris, 5) cumulative and secondary impacts, 6) special area management plans, 7) ocean resources, 8) energy and government facility siting, and 9) aquaculture.

As a condition of receiving 309 CMP grant funding, the CMP must submit a Section 309 Assessment and Strategies Report to the National Oceanic and Atmospheric Administration Office for Coastal Management (NOAA-OCM) every five years. Development of the report follows the process outlined in NOAA's guidance document, *Coastal Zone Management Act, Section 309 Program Guidance, 2026 to 2030 Enhancement Cycle*. The report provides an assessment of the CMP in the nine enhancement areas, identifies program priorities, and proposes strategies that lead to tangible program enhancements for the identified high priority areas over the subsequent five years.

The 309 Assessment and Strategies process provides an opportunity for the CMP, with input from key stakeholders and the public, to determine where strategic opportunities exist for enhancing the CMP in identified high priority enhancement areas. CMP staff will work with partners to fully develop and implement the strategies over the next five years. NOAA-OCM funding is made available to the CMP each year to implement these strategies. Final strategy tasks are subject to change and depend upon the availability of funding.

To review and comment on the draft Section 309 Assessment and Strategies Report, please go to <https://s3.glo.texas.gov/glo/the-glo/public-information/notices/notices/notice-and-opportunity-to->

[comment-on-the-coastal-management-program-section-309-assessment-and-strategies-draft-report.html](#). You may also obtain a copy of the document by contacting Caroline Jurca, Texas General Land Office, P.O. Box 12873, Austin, Texas 78711-2873, (512) 463-5577, or via email at [caroline.jurca@glo.texas.gov](mailto:caroline.jurca@glo.texas.gov).

All comments must be received by September 5, 2025 and should be sent to Caroline Jurca at the mailing address or email address listed above or by filling out the form on the GLO's website, which can be found at the link listed above. The final 309 Assessment and Strategies Report will be submitted to NOAA-OCM for approval upon the close of the 30-day comment period.

TRD-202502581

Jennifer Jones

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: July 24, 2025



## Department of State Health Services

### Correction of Error

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposed amendments to 25 TAC §13.81(a) in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4204). Due to an error by the Texas Register, the original publication of the amendment was formatted incorrectly or was omitted from the original publication.

The amendment to §13.81(a) should read as follows.

§13.81. Purpose.

[(a)] The purpose of this subchapter is to implement Texas Health and Safety Code[.] §105.011. The Workplace Violence Against Nurses Prevention Grant Program authorizes the Department of State Health Services to award grant payments to fund innovative approaches to reduce [aimed at ~~reducing~~] verbal and physical violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies.

TRD-202502640



## Texas Department of Insurance

### Company Licensing

Application for Doctors Direct Insurance, Inc., a foreign fire and/or casualty company, to change its name to PracticeProtection Casualty Company. The home office is in Jacksonville, Florida.

Application to do business in the state of Texas for Tempo Health Holding, Inc., a foreign health maintenance organization (HMO). The home office is in Wilmington, Delaware.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Andrew Guerrero, 1601 Congress Ave., Suite 6.900, Austin, Texas 78701.

TRD-202502690

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: July 30, 2025



## State Securities Board

### Notice of Public Hearing

The Securities Commissioner of the Texas State Securities Board (Board) will hold a public hearing pursuant to Section 4005.103 of the Texas Securities Act on the matter of the application by the Texas Stock Exchange LLC, to determine whether such exchange qualifies and shall be approved whereby the benefits of the exemption provided by Section 4005.054 of the Texas Securities Act shall be afforded to securities issues fully listed thereon. The hearing will begin at 11:00 a.m., central time, Thursday, August 28, 2025, in Room 320 of the Thomas Jefferson Rusk State Office Building, 208 E. 10th Street, Austin Texas 78701.

All interested persons are invited to attend. Persons who plan to attend are encouraged to inform the General Counsel, Ms. Cheryn Howard, at GC@ssb.texas.gov or by telephone at (512) 305-8303.

Members of the Board may be present. This hearing is being posted as a meeting of the Board as required by the Texas Open Meetings Law, in case a quorum of members is present.

Persons with disabilities who plan to attend this hearing and require auxiliary aids or services should contact Sonia Ferguson at (512) 305-8306 at least five business days prior to the date of the hearing so that appropriate arrangements can be made.

TRD-202502691

Travis J. Iles

Securities Commissioner

State Securities Board

Filed: July 30, 2025



## Texas State Soil and Water Conservation Board

Request for Proposals for the Fiscal Year 2026 Clean Water Act §319(H) Nonpoint Source Grant Program

**PROPOSALS DUE: September 19, 2025**

### INTRODUCTION

This request for proposals (RFP) provides instructions and guidance for applicants seeking funding from the Texas State Soil and Water Conservation Board (TSSWCB) under the Clean Water Act (CWA) §319(h) Nonpoint Source (NPS) Grant Program. The U.S. Environmental Protection Agency (EPA) distributes funds appropriated by Congress annually to the TSSWCB under the authorization of CWA §319(h). TSSWCB then administers/awards these federal funds as grants to cooperating entities for activities that address the goals, objectives, and priorities stated in the *Texas NPS Management Program*. The *Texas NPS Management Program* is the State's comprehensive strategy to protect and restore water quality in waterbodies impacted by NPS water pollution. This document can be accessed online at <https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program>.

The types of agricultural and silvicultural NPS pollution prevention and abatement activities that can be funded with §319(h) grants include the following: (1) implementation of nine-element watershed protection plans (WPPs) and the agricultural and silvicultural NPS portion of Total Maximum Daily Load (TMDL) Implementation Plans (I-Plans); (2) surface water quality monitoring, data analysis and modeling, demonstration of innovative best management practices (BMPs); (3) technical assistance to landowners for conservation planning; (4) public outreach/education, development of nine-element WPPs including the formation and facilitation of stakeholder groups; and (5) monitoring ac-

tivities to determine the effectiveness of specific pollution prevention methods. Strictly research activities are not eligible for §319(h) grant funding.

### Proposals Requested

The TSSWCB is requesting proposals for watershed assessment, planning, implementation, demonstration, and education projects within the boundaries of impaired or threatened watersheds. The *Texas Integrated Report of Surface Water Quality* (<https://www.tceq.texas.gov/waterquality/assessment>) describes the water quality conditions for waterbodies in the state. All proposals must focus on the restoration and protection of water quality consistent with the goals, objectives, and priority watersheds and aquifers identified in Appendix C and D of the *Texas NPS Management Program*. Up to \$1 million of the TSSWCB's FY2026 CWA §319(h) grant will be eligible for award under this RFP. No more than 10% of these funds may be utilized for groundwater projects. A competitive proposal process will be used so that the most appropriate and effective projects are selected for available funding.

Applicants that submit project proposals should, where applicable, focus on interagency coordination, demonstrate new or innovative technologies, use comprehensive strategies that have statewide applicability, and highlight public participation. Examples of project proposals previously funded by TSSWCB are available at:

<https://www.tsswcb.texas.gov/index.php/programs/texas-nonpoint-source-management-program/active-nonpoint-source-grant-projects>.

Additionally, applicants are encouraged to review EPA's Grant Guidelines for the NPS Program available at <https://www.epa.gov/nps/319-grant-program-states-and-territories>.

### Individual Award Amounts

This RFP does not set a maximum or minimum award amount for individual projects; however, project funding generally ranges between \$100,000 and \$400,000 for a two to three-year project.

### Reimbursement and Matching Requirements

The TSSWCB CWA §319(h) NPS Grant Program has a 60/40% match requirement, however proposals that do not meet the minimum matching requirement will still be considered. The cooperating entity will be reimbursed up to 60% from federal funds and must contribute a minimum of 40% of the total costs to conduct the project. The match must be from non-federal sources (may be cash or in-kind services) and must be described in the budget justification. Reimbursable indirect costs are limited to no more than 15% of total federal direct costs.

### Required Reporting and QAPP

Quarterly progress and final reports are the minimum project reporting requirements. All projects that include an environmental data collection, generation or compilation component (e.g., water quality monitoring, modeling, bacterial source tracking) must have a Quality Assurance Project Plan (QAPP), to be reviewed and approved by TSSWCB and the EPA. Project budgets and timelines should account for the development and review of QAPPs, final reports, and watershed protection plans. More information on QAPPs and the *TSSWCB Environmental Data Quality Management Plan* is available at <https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program/environmental-data-quality-management>.

### TSSWCB PRIORITIES

For this FY2026 RFP, the following project priorities have been identified. Proposals that do not focus on these priorities are still welcomed but may score lower than those that focus on the priorities.

## Priority Project Activities

- Implement WPPs and TMDL I-Plans (see priority areas listed below).
- WPP development initiatives (see Appendix C in *Texas NPS Management Program*), which include activities such as the formation of watershed groups or water quality data collection and analysis.
- Implement components of the *Texas Coastal NPS Pollution Control Program* in the Coastal Management Zone (<https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program/coastal-nonpoint-source-pollution-control-program>).
- Support use of federal Farm Bill Programs and Initiatives (National Water Quality Initiative (NWQI)).
- Demonstration projects and/or development/delivery of education programs.

## Priority Areas for WPP Implementation Projects

- WPPs
  - Lake Lavon
  - Double Bayou
  - Mid and Lower Cibolo
  - Lavaca River
  - Tres Palacios
  - Carancahua Bay

## ELIGIBLE ORGANIZATIONS

Grants will be available to public and private entities such as local municipal and county governments and other political subdivisions of the State (e.g., soil and water conservation districts), educational institutions, non-profit organizations, and state and federal agencies. Private organizations (for profit), may participate in projects as partners or contractors but may not apply directly for funding.

## SELECTION PROCESS AND AWARD

### Review Process

TSSWCB will review each proposal that is submitted by the deadline by an eligible organization.

- At any time during the review process, a TSSWCB staff member may contact the applicant for additional information.
- All areas of the budget are subject to review and approval by TSSWCB.

### Scoring

Reviewed proposals will be scored and ranked based on the evaluation and ranking criteria included in this RFP on pp. 19-20. A minimum scoring requirement (70%) is necessary for proposals to be eligible for consideration.

All applicants, unsuccessful and successful, will be notified. Those applicants whose proposals are recommended for funding will be contacted, and then TSSWCB will work with the applicant to revise and finalize the proposal prior to submittal to EPA. EPA must review and approve all proposals prior to TSSWCB awarding grant funds. All grant awards will be contingent on the selected applicant's return of a grant contract provided by TSSWCB which will incorporate all applicable state and federal contracting requirements.

### Grant Award Decisions

During the grant review and award process, the TSSWCB may take into consideration other factors including whether the applicant has demon-

strated acceptable past performance as a grantee in areas related to programmatic and financial stewardship of grant funds.

TSSWCB may choose to award a grant contract from a different TSSWCB funding source than that for which the applicant applied.

TSSWCB is not obligated to award a grant at the total amount requested and/or within the budget categories requested. TSSWCB reserves the right to make awards at amounts above and/or below the stated funding levels. All grant decisions including, but not limited to, eligibility, evaluation and review, and funding rest completely within the discretionary authority of the TSSWCB. The decisions made by the TSSWCB are final and are not subject to appeal.

### Funding Priority

TSSWCB reserves the right to consider all other appropriations or funding an applicant currently receives when making funding decisions.

### Grant Award Notification

All applicants, unsuccessful and successful, will be notified. Those applicants whose proposals are recommended for funding will be contacted, and then TSSWCB will work with the applicant to revise and finalize the proposal prior to submittal to EPA. EPA must review and approve all proposals prior to TSSWCB awarding grant funds. TSSWCB may utilize a grant contract document and/or a notice of grant document once a decision is made to award a grant. The applicant will be given a deadline to accept the grant award and to return the appropriate document to the TSSWCB within the time prescribed by the TSSWCB. An applicant's failure to return the signed document to the TSSWCB within the prescribed time period will be construed as a rejection of the grant award, and the TSSWCB may de-obligate funds.

### Special Conditions

The TSSWCB may assign special conditions at the time of the award. Until satisfied, these special conditions may affect the applicant's ability to receive funds. If special conditions are not resolved, the TSSWCB may de-obligate funds up to the entire amount of the grant award.

## ELIGIBLE BUDGET CATEGORIES

- Personnel
- Fringe Benefits
- Travel
- Equipment
- Supplies
- Contractual
- Construction
- Other
- Indirect

## INELIGIBLE COSTS

Ineligible costs include, but are not limited to:

- Contracting for grant activities that would otherwise be provided by employees of the grantee's organization
- Payment for lobbying
- Purchasing food and beverages except as allowed under Texas State Travel Guidelines
- Purchasing or leasing vehicles
- Purchasing promotional items or recreational activities

- Paying for travel that is unrelated to the direct delivery of services that supports the project funded under this RFP
- Paying consultants or vendors who participate directly in writing a grant application
- Paying any portion of the salary or any other compensation for an elected government official
- Payment of bad debt, fines or penalties
- Purchasing any other products or services the TSSWCB identifies as inappropriate or unallowable.
- Any unallowable costs set forth in state or federal cost principles
- Any unallowable costs set forth in the NPS Grant Program.

#### **STATE AND FEDERAL REQUIREMENTS**

All applicants should review and be familiar with the TSSWCB administrative rules governing Nonpoint Source Grant Program. These rules are published in Texas Administrative Code, Title 31, Part 17, Chapter 523, §523.1(b)(2):

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=31&pt=17&ch=523&rl=1](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=31&pt=17&ch=523&rl=1)

In addition to the TSSWCB's administrative rules, applicants should be familiar with the Uniform Grant Management Standards (UGMS) and relevant Code of Federal Regulations (CFR) that relate to state, and if applicable, federal grant funding. UGMS can be found at: <https://comptroller.texas.gov/purchasing/grant-management/>. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200 can be found at: <http://www.ecfr.gov>.

#### **SUBMISSION PROCESS**

To obtain a complete copy of TSSWCB's RFP and proposal submission packet, please visit <https://www.tsswcb.texas.gov/programs/texas-nonpoint-source-management-program> or contact Jana Lloyd at (254) 773-2250 ext. 224. All proposals must be submitted

electronically (MS® Word) using the workplan template provided in this RFP; otherwise, proposals will be considered administratively incomplete and not considered for funding. All letters of support for the proposal, including letters from Project Partners confirming their role, must be received by the proposal due date to be considered. Submit proposals to [jlloyd@tsswcb.texas.gov](mailto:jlloyd@tsswcb.texas.gov). Proposals must be received electronically by 5:00 p.m. CDT, September 19, 2025 to be considered.

#### **FY2026 GRANT TIMELINE**

Issuance of RFP - August 8, 2025

Deadline for Submission of Proposals - September 19, 2025

Proposal Evaluation by TSSWCB - October-November 2025

Notification of Selected Proposals/Unsuccessful applicants - December 2025

Work with applicants to Finalize Selected Proposals - November-December 2025

Review of Selected Proposals by EPA - January 2026

Submit Grant Application to EPA - May 2026

Contract Award - August 2026

Anticipated Project Start Date - September 1, 2026

TRD-202502580

Heather Bounds

Government Affairs Specialist

Texas State Soil and Water Conservation Board

Filed: July 23, 2025



#### **Supreme Court of Texas**

Final Approval of Amendments to Texas Rule of Judicial Administration 7

# Supreme Court of Texas

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Misc. Docket No. 25-9047

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## Final Approval of Amendments to Texas Rule of Judicial Administration 7

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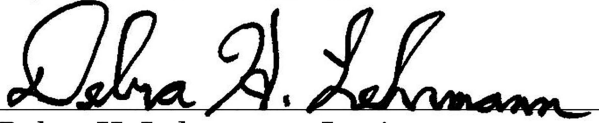
### ORDERED that:

1. On January 31, 2025, in Misc. Dkt. No. 25-9006, the Court preliminarily approved amendments to Texas Rule of Judicial Administration 7 and invited public comment.
2. No comments were received, and no additional changes have been made to the amendments. This Order gives final approval to the amendments set forth in Misc. Dkt. No. 25-9006 and reproduced below, effective August 1, 2025.
3. The Clerk is directed to:
  - a. file a copy of this Order with the Secretary of State;
  - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this Order to Governor, the Lieutenant Governor, and each elected member of the Legislature; and
  - d. submit a copy of this Order for publication in the *Texas Register*.

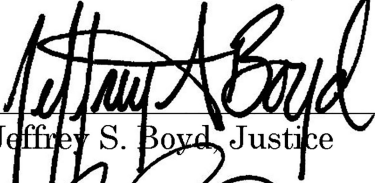
Date: July 25, 2025.



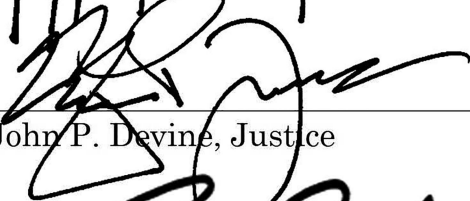
James D. Blacklock, Chief Justice



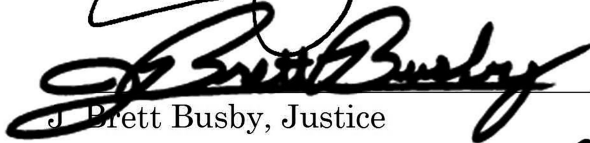
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



J. Brett Busby, Justice



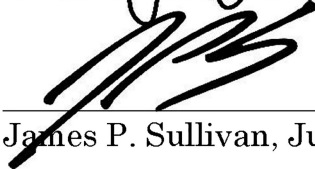
Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice



James P. Sullivan, Justice



## TEXAS RULES OF JUDICIAL ADMINISTRATION

### Rule 7. Administrative Responsibilities.

#### Rule 7.1. All Courts.

(a) *Court Confidentiality Policy Required.* A court, including an appellate, district, statutory county, business, statutory probate, constitutional county, justice, and municipal court, must adopt a policy governing court confidentiality.

(b) *Policy Contents.* The policy must:

- (1) define who the policy applies to;
- (2) define confidential information;
- (3) impose a duty of confidentiality on all court staff that continues after employment at the court ends;
- (4) address when, if ever, the disclosure of confidential information is authorized;
- (5) provide the language of relevant laws, including section 21.013 of the Texas Government Code and section 39.06 of the Texas Penal Code;
- (6) address negligent or accidental disclosure of confidential information;
- (7) warn of potential penalties for the unauthorized disclosure of confidential information, including:
  - (A) referral to relevant law enforcement agencies for investigation and prosecution;
  - (B) termination of employment;
  - (C) for attorneys, referral to the State Bar of Texas for discipline;
  - (D) for law students, referral to the Texas Board of Law Examiners for consideration in determining eligibility to practice law in Texas; and

(8) require all court staff to acknowledge receipt of the policy in writing.

(c) *Distribution and Training Required.* The court must:

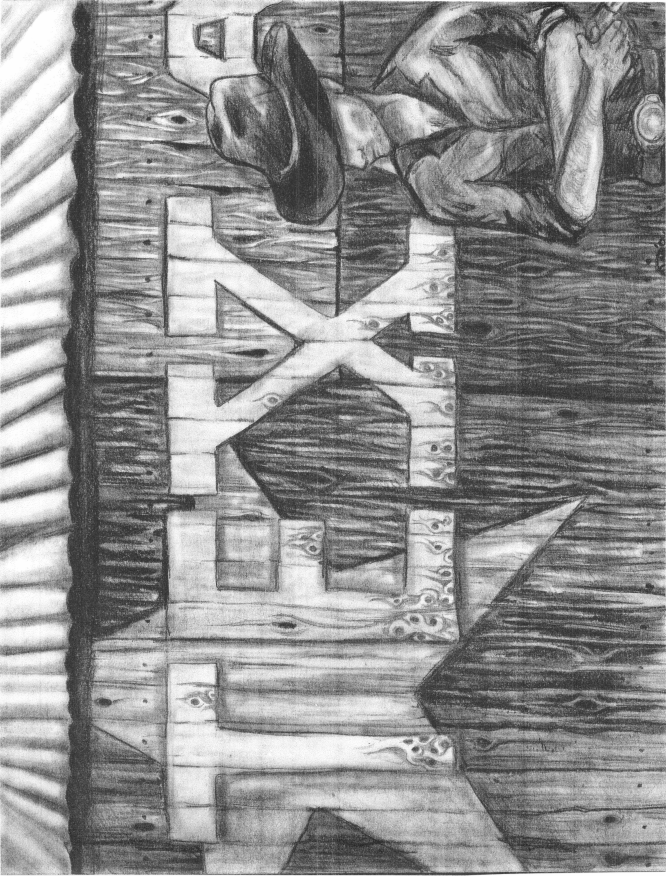
(1) for all new court staff members, provide the policy and train on it before the new staff member begins any substantive work for the court;

(2) provide the policy to all existing court staff at least ~~biannually~~once every other year.

\*\*\*

TRD-202502637  
Jaclyn Daumerie  
Rules Attorney  
Supreme Court of Texas  
Filed: July 25, 2025

◆ ◆ ◆



## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 50 (2025) is cited as follows: 50 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “50 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 50 TexReg 3.”

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <https://www.sos.texas.gov>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC.

The TAC volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the TAC, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s TAC number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION

#### Part 4. Office of the Secretary of State

#### Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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