TEXAS REGISTER

Volume 50 Number 40 *October 3, 2025* *Pages 6381 – 6568*

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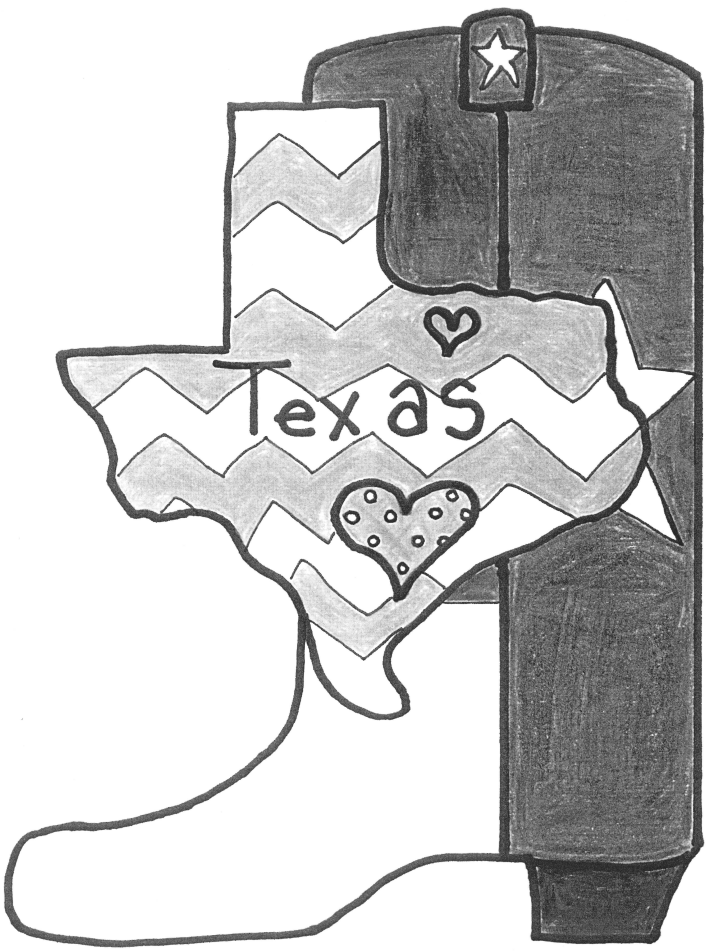

Texas

THE GOVERNOR

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

Appointments

Appointments for September 17, 2025

Appointed to the Texas Real Estate Commission for a term to expire January 31, 2031, Samuel S. "Scott" Olguin of Horseshoe Bay, Texas (replacing Jason E. Hartgraves of Frisco whose term expired).

Appointed as the Commissioner of the Department of Family and Protective Services for a term to expire August 31, 2027, Audrey Allen O'Neill of Austin, Texas (replacing Stephanie B. Muth of Austin whose term expired).

Appointments for September 19, 2025

Appointed to the Child Fatality Review Team Committee for a term to expire at the pleasure of the Governor, Bryan K. Shufelt of Pflugerville, Texas (replacing Madelyn Fletcher of Austin).

Appointed as Presiding Judge of the Fourth Administrative Judicial Region for a term to expire four years from the date of qualification, Sidney L. "Sid" Harle of San Antonio, Texas (Judge Harle is being reappointed).

Appointments for September 22, 2025

Appointed to the Texas State Board of Social Worker Examiners for a term to expire February 1, 2029, Marco A. Trevino of Edinburg, Texas (replacing Ryan C. Dollinger of Plano who resigned).

Appointed as Judge of the 74th Judicial District Court, McLennan County, for a term until December 31, 2026, or until his successor shall be duly elected and qualified, Peter K. Rusek of Waco, Texas (replacing Judge Gary R. Coley, Jr. of McGregor who resigned).

Appointments for September 23, 2025

Appointed to the Coastal Water Authority Board of Directors for a term to expire April 1, 2027, Daniel C. "Danny" Campbell of Mont Belvieu, Texas (replacing Antonio L. Santana of Mont Belvieu who resigned).

Greg Abbott, Governor

TRD-202503414

♦ ♦ ♦

Proclamation 41-4229

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 18 as passed by the EightyNinth Texas Legislature, Second Called Special Session, because of the following objections:

On July 9, 2025, and August 15, 2025, I called special sessions in response to the tragic July 4th flooding. Both times, I designated legislation to "improve early warning systems," "strengthen emergency communications," and similar preparedness and response measures "in flood-prone areas." Senate Bill No. 18 does not concern emergency measures in areas like Kerrville. Instead, it exempts certain entities from the requirement to obtain a TCEQ permit to construct a dam or reservoir, duplicating a bill that failed to pass during the 89th Regular Session.

The Texas Constitution provides that the Governor, when calling a special session, "shall state specifically the purpose for which the Legislature is convened" in a proclamation. TEX. CONST. art. IV, § 8(a). It also provides that "there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session." *Id.* art. III, § 40. These provisions are "clearly mandatory, and are limitations upon the authority of the legislature in special session." *Manor Casino v. State,* 34 S.W. 769, 771 (Tex. Civ. App. 1896).

Because any legislation "not embraced in the proclamation" is "passed in violation of the constitution, and is, therefore, void," *ibid.,* I hereby disapprove of this bill. A special session is not an open invitation to revive draft legislation that died during the regular. *See Ex parte Wolters,* 144 S.W. 531, 535-536 (Tex. Crim. App. 1911) (opinion of Davidson, P.J.); *id.* at 538 (opinion of Harper, J., concurring).

Since the Eighty-Ninth Texas Legislature, Second Called Special Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the secretary of state and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 17th day of September, 2025.

Greg Abbott, Governor

TRD-202503298

♦ ♦ ♦

Proclamation 41-4230

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 4, 2025, as amended and renewed in subsequent proclamations, certifying that the heavy rainfall and flooding event that began on July 2, 2025, that included heavy rainfall and flash flooding, caused widespread and severe property damage, injury, or loss of life in several counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Bandera, Bexar, Burnet, Caldwell, Coke, Comal, Concho, Edwards, Gillespie, Guadalupe, Hamilton, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, Mason, Maverick, McCulloch, Menard, Real, Reeves, San Saba, Schleicher, Sutton, Tom Green, Travis, Uvalde, and Williamson counties;

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. Any statutes that might prevent the transfer of bodies to families as soon as possible are hereby suspended, including Sections 264.514 and 264.515 of the Texas Family Code and Articles 49.04, 49.05, 49.10, and 49.25 of the Texas Code of Criminal Procedure. Further, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 19th day of September, 2025.

Greg Abbott, Governor

TRD-202503409

♦ ♦ ♦

Proclamation 41-4231

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

WHEREAS, I amended the aforementioned proclamation in a number of subsequent proclamations, including to modify the list of affected counties and therefore declare a state of disaster for those counties and for all state agencies affected by this disaster; and

WHEREAS, the certified conditions continue to exist and pose an ongoing and imminent threat of disaster as set forth in the prior proclamations;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation and declare a disaster for Aransas, Atascosa, Bee, Brewster, Brooks, Caldwell, Calhoun, Cameron, Chambers, Coleman, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, El Paso, Frio, Galveston, Goliad, Gonzales, Hidalgo, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Jacinto, San Patricio, Schleicher, Shackelford, Starr, Sutton, Terrell, Throckmorton, Upton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata, and Zavala Counties and for all state agencies affected by this disaster. All orders, directions, suspensions, and authorizations provided in the Proclamation of May 31, 2021, as amended and renewed in subsequent proclamations, are in full force and effect.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 19th day of September, 2025.

Greg Abbott, Governor

TRD-202503411

♦ ♦ ♦

Proclamation 41-4232

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 8, 2022, as amended and renewed in a number of subsequent proclamations, certifying that exceptional drought conditions posed a threat of imminent disaster in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions persist in certain counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Aransas, Atascosa, Bandera, Bee, Bell, Bexar, Blanco, Brewster, Burnet, Cameron, Clay, Collingsworth, Comal, Comanche, Culberson, Donley, El Paso, Foard, Frio, Gillespie, Gonzales, Grayson, Guadalupe, Hall, Hardeman, Hays, Hidalgo, Hudspeth, Jeff Davis, Jim Wells, Karnes, Kendall, Kerr, Kinney, Kleberg, Lavaca, Live Oak, Llano, Lubbock, Matagorda, McMullen, Medina, Midland, Nueces, Pecos, Presidio, Real, San Patricio, Terrell, Travis, Uvalde, Val Verde, Victoria, Wharton, Willacy, Williamson, and Zapata Counties.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 19th day of September, 2025.

Greg Abbott, Governor

TRD-202503412

♦ ♦ ♦

THE ATTORNEY GENERAL

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

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

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

Requests for Opinions

RQ-0613-KP

Requestor:

The Honorable R. David Holmes

Hill County Attorney

Post Office Box 253

Hillsboro, Texas 76645

Re: Whether a Type A general law city may accept a donation of property, including money, for municipal purposes (RQ-0613-KP)

Briefs requested by October 16, 2025

RQ-0614-KP

Requestor:

The Honorable Sean Teare

Harris County District Attorney

1201 Franklin Street, Suite 600

Houston, Texas 77002

Re: Scope of "law enforcement agency" definition under Senate Bill 571 (RQ-0614-KP)

Briefs requested by October 20, 2025

RQ-0615-KP

Requestor:

The Honorable Gary Gates

Chair, House Committee on Land and Resource Management

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Applicability of state vaccination exemption laws to private schools that accept certain state funds (RQ-0615-KP)

Briefs requested by October 20, 2025

RQ-0616-KP

Requestor:

The Honorable Luis V. Saenz

Cameron County District Attorney

964 East Harrison Street

Brownsville, Texas 78520

Re: Appropriate method to amend a declaration of informal marriage (RQ-0616-KP)

Briefs requested by October 22, 2025

RQ-0617-KP

Requestor:

The Honorable Joe Gonzales

Bexar County Criminal District Attorney

101 West Nueva

San Antonio, Texas 78205

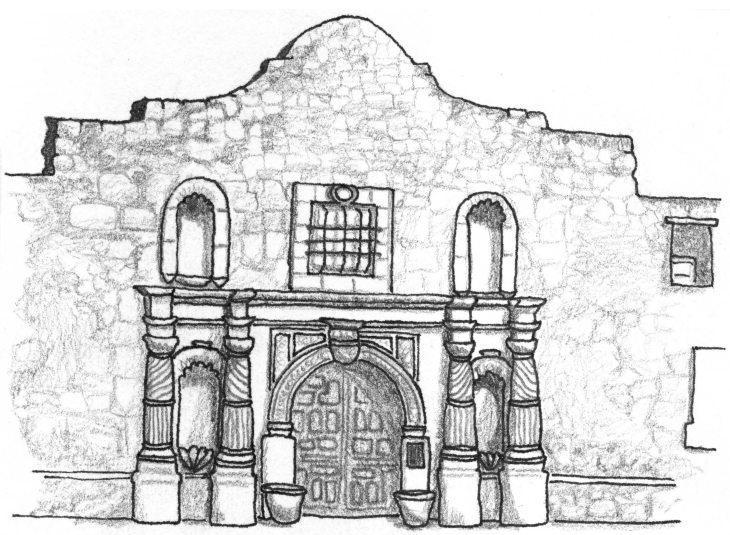
Re: House Bill 4490 and the confidentiality of next of kin information under Article 49.25 of the Texas Code of Criminal Procedure (RQ-0617-KP)

Briefs requested by October 22, 2025

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

TRD-202503425
Justin Gordon
General Counsel
Office of the Attorney General
Filed: September 24, 2025

♦ ♦ ♦



TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Ethics Advisory Opinions

EAO-628: May an incorporated out-of-state political committee that accepts corporate contributions contribute to Texas state and local candidates, including to a specific-purpose committee, provided it does so from a separate account that only accepts contributions from individuals and that would otherwise come from permissible sources under Texas law?

Second, assuming the contributions described under the facts above are permissible, does it matter if the out-of-state political committee is controlled by a non-candidate officeholder?

Third, if control by a candidate leads to the conclusion that the out-of-state committee is prohibited from making the contributions described above, would it be permissible for the out-of-state committee to: (i) contribute to a Direct Campaign Expenditure Only Committee or (ii) make direct expenditures itself? (AOR-727).

SUMMARY

The political committee may not make political contributions to Texas candidates because it accepts corporate contributions and is controlled by a Texas candidate and officeholder.

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on September 17, 2025.

TRD-202503422
Natalie McDermon
Interim General Counsel
Texas Ethics Commission
Filed: September 24, 2025

♦ ♦ ♦

EAO-629: Whether a member of the legislature may use campaign funds to reimburse lodging and meal expenses incurred in connection with officeholder duties during the interim if the member also receives a state per diem for that day of legislative work. (AOR-732).

SUMMARY

As the per diem is a salary, a member of the legislature may use campaign funds to reimburse lodging and meal expenses, provided that the expenses were incurred in conjunction with state business.

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on September 17, 2025.

TRD-202503423
Natalie McDermon
Interim General Counsel
Texas Ethics Commission
Filed: September 24, 2025

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EAO-630: Whether certain Public Service Announcements (PSAs) produced by a nonprofit corporation and featuring Texas state elected officials would trigger any campaign finance reporting requirements or require a political advertising disclosure statement. (AOR-733).

SUMMARY

The PSAs described by the requestor do not appear to be "in connection with an election" and therefore expenses for them would not constitute a campaign expenditure by the nonprofit or a contribution to the officeholders featured in the PSAs.

The PSAs likely would not require a political advertising disclosure statement because, as described by the requestor, the communications would not contain express advocacy. However, whether a communication is political advertising can only be answered when the communication is viewed as a whole and the communications at issue in this request do not yet exist.

Based on the facts presented, and assuming the PSAs would not meet the definition of political advertising, appearing in the PSAs does not provide a pecuniary gain or advantage to the officeholders. Therefore, being allowed to appear in a PSA does not appear to implicate the Chapter 36 gift restrictions.

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on September 17, 2025.

TRD-202503424

Natalie McDermon
Interim General Counsel
Texas Ethics Commission
Filed: September 24, 2025

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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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 80. MANUFACTURED HOUSING SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

10 TAC §80.31, §80.32

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes to amend 10 Texas Administrative Code, Chapter 80, §80.31 and §80.32 relating to the regulation of the manufactured housing program. The rule revisions are for clarification purposes.

10 Texas Administrative Code §80.31(c) is amended to remove an inaccurate reference to having the data plate on the reverse side of the Manufacturer's Certificate of Origin (MCO).

10 Texas Administrative Code §80.32(n) is amended to provide clarification regarding not accepting any document that is executed in blank or allow any alteration to a completed document without the consumer initialing.

Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the proposed rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections. There will be no effect on small or micro-businesses because of the proposed amendments. The amendments will not cause the loss of any business opportunities or have an adverse effect on the businesses. There are no additional anticipated economic costs to persons who are required to comply with the proposed rules.

Mr. Hicks also has determined that for each year of the first five years that the proposed rules are in effect the public benefit for enforcing the amendments will be to maintain the necessary resources required to improve the general welfare and safety of purchasers of manufactured housing in this state as per §1201.002 of the Manufactured Housing Standards Act.

Mr. Hicks has also determined that for each year of the first five years the proposed rules are in effect there should be no adverse effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

Mr. Hicks has also determined that for each of the first five years the proposed rules are in effect would not have a large government growth impact. The proposed rules do not create or eliminate a government program. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed rules do not require the increase or decrease in future legislative appropriations to the agency. The proposed rules do not create a new regulation. The proposed rules do not expand, limit, or repeal an existing regulation. The proposed rules do not increase or decrease the number of individuals subject to the rules applicability. The proposed rules do not positively or adversely affect this states economy. This statement is made pursuant to the Administrative Procedure Act, Texas Government Code, §2001.0221.

If requested, the Department will conduct a public hearing on this rulemaking, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. The request for a public hearing must be received by the Department within 15 days after publication.

Comments may be submitted to Mr. Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, P.O. Box 12489, Austin, Texas 78711-2489 or by e-mail at mhproposedrulecomments@tdhca.texas.gov. The deadline for comments is no later than 30 days from the date that these proposed rules are published in the *Texas Register*.

The amendments are proposed under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by the proposed rules.

§80.31. Manufacturers' Responsibilities and Requirements.

(a) - (b) (No change.)

(c) A manufacturer shall use the Manufacturer's Certificate of Origin (MCO) prescribed by the Department set forth on the Department's website for homes sold to retailers in Texas[~~, on the reverse side of which shall be the data plate~~].

(d) - (e) (No change.)

§80.32. Retailers' Responsibilities and Requirements.

(a) - (m) (No change.)

(n) Notwithstanding the date of sale, transfer, or ownership change; or the date of installation on the application for a Statement of Ownership, a [~~A~~] retailer may not request or accept any document that is executed in blank or allow any alteration to a completed document

without the consumer's initialing and dating such changes to indicate agreement to them. Where information is not available, a statement of that fact (*e.g.,* TBD - to be determined, not available, N/A, not applicable, or the like) may be entered in the blank. A consumer must be provided with copies of all documents they execute.

(o) - (w) (No change.)

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 September 19, 2025.

TRD-202503383
Jim R. Hicks
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 475-2206

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TITLE 13. CULTURAL RESOURCES

PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 11. ADMINISTRATION DEPARTMENT

SUBCHAPTER C. AFFILIATED NONPROFIT ORGANIZATIONS; FRIENDS OF THE TEXAS HISTORICAL COMMISSION

13 TAC §§11.61 - 11.67

The Texas Historical Commission (THC) proposes new Subchapter C of Chapter 11, including §§11.61 - 11.67, related to Affiliated Nonprofit Organizations and the Friends of the THC, as authorized in Texas Government Code §§ 442.005(q), and 442.043, as enacted in H.B. 4187, 89th Legislature, Regular Session.

Subchapter C, Chapter 11, creates a process for designating affiliated nonprofit organizations who will provide services and other benefits, including financial support, to the Commission or one or more state historic sites defined Texas Government Code § 442.071. These proposed new rules also provide operational guidelines, best practices, and standards for compliance for these affiliated nonprofit organizations.

FISCAL NOTE. Joseph Bell, Executive Director, has determined that for each of the first five years the proposed new rules are in effect, there will not be a fiscal impact on state or local government as a result of enforcing or administering the new rule as proposed. The related policy and procedure are in place for this rule and there is no anticipated additional cost as a result of the rulemaking.

PUBLIC BENEFIT/COST NOTE. Mr. Bell has also determined that for the first five-year period the rule is in effect, the anticipated public benefit will be the ability of THC to designate affiliated nonprofit organizations to provide support and benefits, including financial support, to help the THC achieve its goals and objectives.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with these new rules, as proposed. There is no effect on local economy for the first five years that the proposed new rules are in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and § 2001.024(a)(6).

COSTS TO REGULATED PERSONS. The proposed new rules do not impose a cost on regulated persons, including another state agency, a special district, or a local government and, therefore, are not subject to Texas Government Code § 2001.0045.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. The proposed new rules provide an opportunity for the THC to designate affiliated nonprofit organizations to provide services and benefits, including financial support, to help THC achieve its goals and objectives. There is no anticipated economic impact of these new rules. Mr. Bell has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these new rules; therefore, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required. The proposed new rules do not affect small businesses, micro-businesses, or rural communities because the new rules only apply to affiliated nonprofit organizations designated by THC to support the commission and one or more state historic sites.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the new rules would be in effect, the proposed new sections: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the new rules would be in effect, the proposed new rules will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT. Comments on the proposed new rules may be submitted to Joseph Bell, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY AND STATEMENT ON AUTHORITY. These new rules are proposed under the authority of Texas Government Code § 442.005(q), which provides the Commission with the authority to promulgate rules for the effective administration of Chapter 442, Texas Government Code, and Texas Government Code § 442.043, as enacted by the 89th Legislature, R.S., in HB 4187, which provides the Commission with authority to adopt rules establishing guidelines and best practices, as well as accounting standards and safeguards for affiliated nonprofit organizations.

CROSS REFERENCE TO STATUTE. The new rules will implement Texas Government Code § 442.043 enacted by the 89th Legislature, R.S., in H.B.4187.

§11.61. Definitions.

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

(1) Affiliated Nonprofit Organization (ANO)--A nonprofit organization designated in Subchapter A-1, Chapter 442, Texas Government Code, for the purpose of supporting the commission or a specific state historic site or sites by providing services and benefits, including financial support.

(2) Commission--Texas Historical Commission.

(3) Director--Executive director of the commission.

(4) Donor--A person who makes a contribution to the commission for which there is no consideration or expectation of consideration in return.

(5) Friends of the Texas Historical Commission (Friends)--the ANO designated in Subchapter A-1, Chapter 442, Texas Government Code, to provide services and benefits, including financial support, to the commission for the purpose of helping the commission achieve its goals and objectives.

(6) Gift--A donation of money or property other than volunteer time for which there is no consideration or expectation of consideration in return.

(7) Improvement--A permanent addition to real property which is in the nature of a fixture.

(8) In-kind donation--A non-cash donation, such as services, personal property or real property.

(9) Interpretive Master Plan--The collection of interpretive themes and plans approved by the commission for each state historic site under Texas Government Code § 442.114.

(10) IRS 990--United States Internal Revenue Service Form 990, Return of Organization Exempt from Tax.

(11) Local sponsorship--A campaign to raise funds in support of a commission program that is intended to benefit a single state historic site.

(12) Nonprofit entity--An incorporated entity that is exempt from federal taxation under §501(c) of the Internal Revenue Code of 1986 (Title 26, United States Code).

(13) Program--An activity, event or project undertaken by an ANO for the benefit of the commission.

(14) Sponsor--A person, corporation, company, or other organization that provides funds in support of a specific commission project, program or event.

(15) Sponsorship--The payment of money, transfer of property, or performance of services by a person, corporation, company, or other organization with respect to which there is no arrangement or expectation of any substantial return benefit other than recognition or a non-substantial benefit.

(16) Statewide sponsorship--A sponsorship or campaign to raise funds in support of a commission program that is intended to benefit more than a single commission facility or is intended to reach the majority of the population of the state.

§11.62. Criteria and General Requirements.

All ANOs must meet the requirements and criteria of this section.

(1) All ANOs must carry out the fiscal, business, legal, and tax responsibilities of a nonprofit entity as required by state and federal law.

(2) ANOs must have obtained from the Internal Revenue Service a valid determination letter that it is an organization described in §501(c) of the Internal Revenue Code of 1986 (Title 26, United States Code), as amended.

(3) An ANO's work with the commission must be consistent with the commission's mission and goals.

(4) Upon dissolution, an ANO may be required to dispose of funds raised for the benefit of the commission in a way that will benefit the commission, in accordance with applicable law.

(5) An ANO must be incorporated in accordance with the Texas Nonprofit Corporation Act (Chapter 22, Texas Business Organizations Code).

(6) Each ANO must enter into an agreement with the commission detailing the responsibilities and duties of the ANO and the commission. Each ANO must maintain such an agreement with the commission for as long as the entity is an ANO. The agreement may also address the obligations of an ANO upon termination of the relationship between the ANO and the commission, including termination resulting from the dissolution of the ANO.

(7) An ANO must promptly notify the commission of any change in its legal or tax-exempt status.

§11.63. Criteria and General Requirements.

(a) ANOs must comply with the general best practices prescribed in this subsection.

(1) ANOs shall not hold or obligate commission funds unless the ANO has entered into written agreement with the commission regarding the use of such funds.

(2) ANOs shall comply with all applicable rules, regulations, and laws, including all applicable laws regarding discrimination based on race, color, national origin, sex, age, and disability.

(3) ANOs shall not use or authorize the use of commission intellectual property, including trademarks, logos, name, or seal, without the express written agreement of the commission.

(4) ANOs may use equipment, facilities, or services of employees of the commission only in accordance with a written agreement that provides for the payment of adequate compensation and/or identifies the benefit to the commission for such use. Notwithstanding this subsection, an ANO may use commission facilities to the same extent and for the same fee as members of the public.

(5) ANOs shall conduct business in a way that will ensure public access and transparency. As used in this subsection, "transparency" shall mean that an ANO's business practices and internal processes are conducted in a way that is open, clear, measurable, and verifiable.

(6) ANOs shall file with the commission and make available to the public an annual report that includes a list of the primary activities undertaken during the previous year, a summary of significant achievements and challenges over the previous year, and other information requested by the commission.

(7) Regardless of whether an ANO is required to file an IRS 990 with the Internal Revenue Service, each ANO must complete and file an IRS 990 with the commission each year, regardless of income.

(8) ANOs shall file with the commission their articles of incorporation, by-laws, most recent financial statements, and any updates to these documents upon request of the commission.

(9) An ANO shall not engage in activities that would require it or a person acting on its behalf to register as a lobbyist under

Chapter 305, Texas Government Code, or other Texas law. However, this subsection is not intended to restrict an ANO from providing information to the legislature or to other elected or appointed officials.

(10) ANOs shall not donate funds to a political campaign or endorse a political candidate.

(11) ANOs shall notify the commission of all meetings and allow a commission representative to attend all meetings, including, but not limited to, meetings of the ANO's general membership, managing board, and committees. Meeting notices must be provided to the commission sufficiently in advance of the meeting so that the commission representative has ample opportunity to attend. Such notice may be provided by letter, email, or telephone.

(12) ANOs must have an annual audit by an independent accounting firm and shall make the results of that audit available to the commission.

(13) ANOs must maintain an adequate directors and officers liability insurance policy.

§11.64. Best Practices (Officers and Directors).

(a) All officers and directors of each ANO must receive a copy of or a link to the commission's current Strategic Plan and the interpretive themes and plan(s) approved by the commission under Texas Government Code § 442.114 for the state historic site or sites supported by the ANO. The officers and directors of the Friends shall receive a copy of the Interpretive Master Plan approved by the commission.

(b) In addition to subsection (a) of this section, ANOs must comply with these best practices regarding officers and directors:

(1) ANOs must adopt and maintain a conflict of interest policy, which includes safeguards to prevent board members or their families from benefiting financially from any business decision of the ANO.

(2) ANOs shall ensure that any compensation paid to executives or managers is reasonable.

(3) ANOs shall not elect, designate, or otherwise select a commission employee as an officer or director, other than as a nonvoting uncompensated representative of the commission.

(4) ANOs shall hold regular meetings of its Board of Directors.

(5) ANOs shall ensure that each board member and/or director is fully informed of the ANO's activities and shall provide the following information to new board members:

(A) articles of incorporation and by-laws;

(B) most recent financial statements;

(C) commission rules on ANOs and sponsorship; and

(D) current agreements with the commission.

§11.65. Best Practices (Fundraising).

(a) All ANOs must comply with the requirements of this subsection regarding fundraising.

(1) ANOs may conduct fundraising to provide additional funds for commission operations, to enhance commission programs, to provide long-term endowments for commission programs, to facilitate special projects, or otherwise support the commission in carrying out its mission, but only as agreed in writing by the commission in advance.

(2) ANOs may undertake programs for the benefit of the commission, so long as such programs are related to and supportive of the commission's mission and are agreed to in writing by the commission in advance. A single agreement may cover multiple programs.

(3) ANOs shall decline donations that require actions, including recognition, by the commission for which the commission has not given prior written consent.

(4) Funds accepted by an ANO for the benefit of the commission are to be managed as a reasonably prudent person would manage funds if acting on his or her own behalf and such funds are to be accounted for according to Generally Accepted Accounting Principles (GAAP).

(5) All projects undertaken for the commission by an ANO must be related to and supportive of the facility, property, or program with which an ANO is associated or must further the ANO's mission related to the facility, property or program.

(6) All donations to an ANO must benefit the commission or the facility, property, or program with which the ANO is associated or must further the ANO's mission related to the facility, property, or program.

(7) For purposes of this subsection, a donation for the purpose of defraying the ANO's operating costs furthers the ANO's mission related to the facility, property, or program.

(8) ANOs shall adopt procedures that address acceptance and granting of funds raised to benefit projects and/or programs of the commission.

(b) Nothing in this subchapter shall limit the ability of an ANO to make an unrestricted cash donation to the commission. Such a donation may also be made for a specific purpose or program in furtherance of the commission's mission.

(c) ANOs may work together towards a common fundraising goal for the benefit of the commission, consistent with the requirements of this subchapter.

§11.66. Best Practices (Sponsorship).

(a) ANOs may solicit and accept sponsorships for commission programs, so long as the ANO complies with the provisions of this subsection and other written guidance that may be provided by the department.

(1) All sponsorships of commission programs and the level of sponsorship recognition provided by the commission must have prior written approval of the commission.

(2) ANOs shall not solicit or accept a sponsorship in support of a commission program from:

(A) a person or entity that has been determined by the commission to conflict with either the commission's mission or legislative mandates; or

(B) a person or entity that is in litigation with the commission at the time of consideration.

(3) Sponsor recognition shall be limited as prescribed in this paragraph.

(A) Sponsor recognition shall be solely in the context of the commission program that the sponsor has supported with a financial or in-kind contribution.

(B) Sponsor recognition shall be permitted only when the financial or in-kind contribution is greater than the costs associated with providing sponsor recognition.

(C) Sponsor recognition shall not include signage of any kind on state-owned motor vehicles or trailers that were purchased or are maintained with department funds.

(D) Sponsor recognition shall not overshadow the project, the purposes of the project, or the mission of the commission or result in the role of the commission being less prominent than that of the sponsor.

(4) In determining the level of sponsorship recognition to provide, the commission will consider:

(A) the level of contribution as a percentage of the total funding required to execute or produce the program, event, or material;

(B) the level of contribution as a percentage of total sponsorship dollars received;

(C) the scope of exposure (e.g. statewide, regional, local, or a single location); and

(D) the duration of exposure (e.g. one day, one month, or one year).

(5) Sponsorship recognition may not promote the sponsor's products, services, or facilities. This subsection does not prohibit the broadcast or display of the sponsor's logo or name and a reference to the sponsor's location.

(6) No officer or employee of the department shall act as the agent for any ANO or donor in negotiating the terms or conditions of any agreement relating to the provision of funds, services, or property to the commission by the ANO or donor.

(b) Nothing in this subchapter shall limit the ability of an ANO to make an unrestricted cash donation to the commission when no sponsorship recognition is provided. Such a donation may also be made for a specific purpose or program in furtherance of the commission's mission.

§11.67. Commission Procedures.

(a) The commission will not obligate ANO funds or property except by written agreement signed by the ANO.

(b) The Friends may reimburse commission employees for legitimate, documented expenses. Additionally, the Friends may award scholarships to commission employees from private, donor-directed sources, so long as there is a benefit to the commission.

(c) The commission may develop model policies and procedures for adoption by ANOs. Where an ANO is required by these rules to adopt a policy or procedure, adoption of the model policy or procedure shall be deemed to comply with that requirement.

(d) All reimbursements made by the Friends under subsection (b) of this section and all donations to the commission of $500 or more must be approved by the commission, voting in public session.

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 September 18, 2025.

TRD-202503307
Joseph Bell
Executive Director
Texas Historical Commission
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 463-6100

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 22. PROCEDURAL RULES

The Public Utility Commission of Texas (commission) proposes 16 amendments in the Chapter 22 procedural rules. The scope of this rulemaking proceeding is limited to consideration of the proposed rule amendments, additional modifications to these rules that are reasonably related to the proposed changes, and other minor and nonsubstantive amendments. Substantive amendments to these rules not related to the proposed changes are not within the scope of this proceeding.

The proposed amendments are listed in order as follows (Subchapters K-O): Subchapter K, §22.201, Place and Nature of Hearings, §22.204, relating to Transcript and Record, §22.205, relating to Briefs, §22.207, relating to Referral to State Office of Administrative Hearings; Subchapter L, §22.221, relating to Rules of Evidence in Contested Cases, §22.225, relating to Written Testimony and Accompanying Exhibits, §22.228, relating to Stipulation of Facts; Subchapter M, §22.241, relating to Investigations, §22.244, relating to Review of Municipal Rate Actions, §22.246, relating to Administrative Penalties; Subchapter N, §22.261, relating to Proposals for Decision, §22.262, relating to Commission Action After a Proposal for Decision, §22.263, relating to Final Orders, §22.264, relating to Rehearing Subchapter O, §22.281, relating to Initiation of Rulemaking, and §22.282, relating to Notice and Public Participation in Rulemaking Procedures.

Rule Review Stakeholder Recommendations

On May 3, 2025, commission staff filed a preliminary notice and request for comments which was published in the *Texas Register* on May 17, 2024, at 49 TexReg 3635. Comments were received from the Alliance for Retail Markets (ARM) and the Texas Energy Association for Marketers (TEAM), collectively (REP Coalition); Entergy Texas, Inc. (Entergy); the Lower Colorado River Authority and LCRA Transmission Services Corporation (LCRA); the Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company, LLC (Oncor); the Steering Committee of Cities Served by Oncor (OCSC); Texas Association of Water Companies, Inc. (TAWC); the Texas Rural Water Association (TRWA); Texas-New Mexico Power Company (TNMP); and Vistra Corporation (Vistra). Based upon filed comments and an internal review by commission staff, the commission proposes the following rule changes.

The proposed changes would amend §22.201, relating to Place and Nature of Hearings, to permit the presiding officer to authorize hearings and prehearing conferences to be conducted virtually and to require hearings held at the State Office of Administrative Hearings to be conducted in accordance with commission rules.

The proposed changes would amend §22.204, relating to Transcript and Record to, following an objection to a change to the record, require any change to the record to only be made as ordered by the presiding officer.

The proposed changes would amend §22.205, relating to Briefs, to require briefs to conform with the formatting requirements of

§22.72, relating to Form Requirements for Documents Filed with the Commission, specify page number limitations with and without attachments, authorize the presiding officer to require parties to address certain issues or address issues in a specific order or format, and provide information regarding legal authorities that are not readily accessible by the commission.

The proposed changes would amend §22.207, relating to Referral to State Office of Administrative Hearings to specify that the utility division of SOAH will conduct prehearing conferences and hearings related to contested cases before the commission, other than a prehearing conference conducted by a commission administrative law judge or a hearing conducted by one or more commissioners.

The proposed changes would amend §22.221, relating to Rules of Evidence in Contested Cases to specify that testimony and responses to requests for information by an opposing party that an intervenor or commission staff plans to introduce as part of its direct case must be filed at the time the intervenor or commission staff files its written direct testimony. The proposed changes eliminate the requirement for the presiding officer to establish a date for filing of deposition testimony and requests for information that an applicant plans to introduce as part of its direct case. The proposed changes remove the requirement for deposition testimony and responses to requests for information that a party plans to introduce in support of its rebuttal case to be filed at the time the party files its written rebuttal testimony. The proposed changes also require utilities that file an application for a CCN or an amendment to a CCN for a new electric transmission facility to file written testimony and exhibits supporting its direct case on the same date that the application is filed with the commission. Additionally, the proposed changes specify that, for any contested case that is not a major rate proceeding nor a CCN or CCN amendment proceeding for an electric transmission facility, the prefiling of written testimony and exhibits at the time the filing is made is not required unless otherwise required by statute or rule. The proposed changes clarify that a witness must submit to cross-examination, clarifying questions, redirect examination, and recross-examination, unless the right to cross-examine the witness is waived by all parties and accepted by the presiding officer. The proposed changes also authorize the presiding officer to allow the substitution of a witness or voir dire examination where appropriate.

The proposed changes would amend §22.225, relating to Written Testimony and Accompanying Exhibits, to clarify that the requirement to file deposition testimony and responses to requests for information by an opposing party that is planned to be introduced as part of a direct case with written direct testimony applies to intervenors or commission staff. The proposed changes also entail clarifications regarding objections to rebuttal testimony, certain requirements for prefiled written testimony and exhibits for direct cases involving certificate of convenience and necessity (CCN) applications or CCN amendments, prefiled testimony requirements for contested cases that are neither major rate proceedings nor CCN or CCN amendment proceedings, and waiver of the right to cross-examine witnesses.

The proposed changes would amend §22.228, relating to Stipulation of Facts, to revise the term "settlement" with the term "stipulation."

The proposed changes would amend §22.241, relating to Investigations to specify that the commission may at any time institute formal investigations on its own motion, or the motion of commission staff, into any matter within the commission's jurisdiction.

The proposed changes would amend §22.244, relating to Review of Municipal Electric Rate Actions, to clarify references to the commission's Office of Policy and Docket Management.

The proposed changes would amend §22.246, relating to Administrative Penalties to authorize a notice of violation or continuing violation to be given by e-mail as an alternative to certified mail and, if such an e-mail does not exist, for the commission executive director or their designee to make reasonable efforts to notify the person who is alleged to have committed the violation. The proposed changes would also revise the calculation of load proportions for the distribution and disgorgement of excess revenue. Additionally, if the commission determines that wholesale electric market participants other than those specified by rule are affected by excess revenues, or a different distribution method of such revenues is appropriate, the revisions authorize the commission to require the independent organization to distribute excess revenues to affected wholesale market participants using a different distribution method in the same or subsequent proceeding.

The proposed changes would amend §22.261, relating to Proposals for Decision to authorize commission counsel, in addition to the presiding officer, to establish a deadline for submitting proposed corrections or clarifications and to direct or authorize parties to draft and submit proposed findings of fact and conclusions of law. The proposed changes would also authorize commission counsel or the presiding officer to specify a time period in which parties may file exceptions to a proposal for decision. The proposed changes would limit replies to be filed in response to filed exceptions. The proposed changes also authorize commission counsel or the presiding officer to require issues be addressed in a specified order or according to a specified format and, for good cause shown, to allow additional time to file exceptions or replies.

The proposed changes would amend §22.262, relating to Commission Action After a Proposal for Decision to extend the deadline to file a request for oral argument with the commission from 3:00 p.m. to 5:00 p.m. seven days before the open meeting at which the commission is scheduled to consider the case.

The proposed changes would amend §22.263, relating to Final Orders, to clarify that final order notification requirements will follow the Texas Administrative Procedure Act and §22.74, relating to Service of Pleadings and Documents, to the extent that §22.74 does not conflict with the APA.

The proposed changes would amend §22.264, relating to Rehearing, to clarify references to the commission's Office of Policy and Docket Management.

The proposed changes would amend §22.281, relating to Initiation of Rulemaking to clarify that suggested new rules or amendments that do not comply with the requirements of §22.281, including any rulemaking suggestion made in a contested case proceeding, would be construed as policy recommendations and would not be processed as a formal rulemaking petition. The proposed changes would require petitions for rulemaking to be submitted to a general project for petitions for rulemaking and provide that commission staff will open such a project each calendar year and post the control number on the commission's website. The proposed changes would further specify that commission staff may file a memo in the project for rulemaking petitions that establishes comment deadlines for responding to a petition for rulemaking and otherwise establishes a 21-day deadline for comments if such a memo is not filed. The proposed changes

would also delete certain requirements related to publication of a rulemaking notice for publication with the *Texas Register* and explicitly authorizes commission staff, in consideration or development of new rules or amendments to existing rules, to host workshops, publish questions for comment, or draft rules language for comment.

The proposed changes would amend §22.282, relating to Notice and Public Participation in Rulemaking Procedures replaces the requirement for the solicitation of comments through the *Texas Register* with a requirement to solicit comments through the commission filing system. The proposed changes would also authorize commission staff to extend comment or public hearing deadlines, request reply comments, and to provide additional comment filing instructions. The proposed changes would authorize commission staff to provide a final recommendation on a proposed rule to be filed in the rulemaking proceeding at least seven days prior to the date on which the commission is scheduled to consider the matter unless another date is specified. Additionally, the revisions would specify that the failure of staff to provide such a final recommendation within seven days prior to the date on which the commission is scheduled to consider the matter does not preclude the commission from considering the recommendation or taking action in the rulemaking project. The proposed changes remove the requirement for commission staff to notify all commenters on a proposed rule of the filing of staff's final recommendation. The proposed changes also authorize commission staff to withdraw a rule on its own motion if necessary to facilitate the expeditious republication of proposed amendments to that rule.

The proposed changes would make minor and conforming changes to the aforementioned rules and to §22.225, relating to Written Testimony and Accompanying Exhibits; §22.244, relating to Review of Municipal Rate Actions; §22.263, relating to Final Orders; and §22.264, relating to Rehearing.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rules will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rules will not create a new regulation;

(6) the proposed rules will expand, limit, or repeal an existing regulation;

(7) the proposed rules will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rules will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Davida Dwyer, Deputy Director, Office of Policy and Docket Management, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Dwyer has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient and clear rules of practice and procedure for matters before the commission. There will be probable economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 14, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by November 17, 2025. Comments must be organized by rule section in sequential order, and each comment must clearly designate which section is being commented on. The commission invites specific comments regarding the effects of the proposed rule, including the costs associated with, and benefits that will be gained by the proposed amendments. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the information submitted by commenters and the costs and benefits of implementation in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 58402.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and

should include a bulleted list covering each substantive recommendation made in the comments.

SUBCHAPTER K. HEARINGS

16 TAC §§22.201, 22.204, 22.205, 22.207

Statutory Authority

The proposed amendments are proposed for publication under PURA § 14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and PURA §14.052 and Texas Water Code § 13.041(b), which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

Amended §§22.201, 22.204, 22.205 and 22.207 are proposed under Texas Government Code Chapter 2001, Subchapter C §§2001.051-2001.062 which establish minimum standards of uniform practice and procedure for contested cases held at agencies of the State of Texas.

Amended §22.207 is also proposed under PURA §15.023 which provides the commission with the authority to assess and impose an administrative penalty against a regulated person that violates PURA, or a rule or order adopted by the commission in accordance with PURA.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.052 and Texas Water Code § 13.041(b); PURA §12.201, §15.051, §17.157; PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; PURA Chapter 33, Subchapter C §§33.051-33.055; Texas Government Code Chapter 2001, §§2001.004-007 and Subchapter B §§2001.021-2001.041, Subchapter C §§2001.051-2001.062, Subchapter D § 2001.081-103, Subchapter F §§2001.141-2001.147; and HB 1600 (83R) and SB 567 (83R) and Texas Water Code Chapter 13.

§22.201. Place and Nature of Hearings.

(a) Commission-held hearings. All commission-held hearings will be held in person and in Austin, unless the commission determines that it is in the public interest to hold a hearing elsewhere or virtually. The presiding officer may, by written order, authorize a prehearing conference to be conducted virtually. [~~All evidentiary hearings shall be held in Austin, unless the commission determines that it is in the public interest to hold a hearing elsewhere. The commission may, when it is in the public interest, hold regional hearings to obtain public comment.~~]

(b) Hearings held at SOAH. A hearing held at SOAH will be conducted in accordance with commission rules.

§22.204. Transcript and Record.

(a) Preparation of Transcript. When requested by any party to a proceeding, a stenographic record of all proceedings before a presiding officer in any prehearing conference or hearing, including all evidence and argument, must [~~shall~~] be made by an official reporter appointed by the commission. It is the responsibility of the party desiring the stenographic record to arrange for the official reporter to be present.

(b) Purchase of Copies. A party may purchase a copy of the transcript from the official reporter [~~at rates set by the commission~~].

(c) Corrections to Transcript. Proposed written corrections of purported errors in a transcript must [~~shall~~] be filed and served on each party of record, the official reporter, and the presiding officer within a reasonable time after the discovery of the error. The presiding officer may establish time limits for proposing corrections. If no party objects to the proposed corrections within 12 days after filing, the presiding officer may direct that the official reporter correct the transcript as appropriate. In the event that the presiding officer or a party disagrees on suggested corrections, the presiding officer may hold a post-hearing [~~posthearing~~] conference and take evidence and argument to determine whether, and in what manner, the record must [~~shall~~] be changed. Following an objection to a change to the record, any change to the record may only be made as ordered by the presiding officer.

(d) Filing of Transcript and Exhibits. The court reporter must [~~shall~~] serve the transcript and exhibits in a proceeding on the presiding officer at the time the transcript is provided to the requesting party. The presiding officer will [~~shall~~] maintain the transcript and exhibits until they are filed with Central Records [~~the commission filing clerk~~]. If no court reporter is requested by a party, the presiding officer will [~~shall~~] maintain the official record and exhibits until they are filed with Central Records [~~the commission filing clerk~~]. The original record and exhibits must [~~shall~~] be filed with Central Records [~~the commission filing clerk~~] promptly after issuance of a proposal for decision.

(e) Contents of Record. The record in a contested case comprises those items specified in the APA.

§22.205. Briefs.

(a) Briefs must conform, where practicable, to the requirements established for formatting pleadings in this chapter, including requirements for citations in §22.72 of this title (relating to Form Requirements for Documents Filed with the commission). [~~Briefs shall conform, where practicable, to the requirements set forth for formatting pleadings in this chapter. Briefs in excess of ten pages shall contain a table of contents with page numbers stated. The presiding officer may require parties to address certain issues, or address issues in a specific order or format. If the legal authority cited in the briefs is not contained in the commission library, a copy of the legal authority shall be provided at the time the brief is filed.~~]

(1) Unless the presiding officer or commission counsel provides otherwise, briefs must not exceed 35 pages including citations without attachments.

(A) Briefs may include up to an additional 40 pages of attachments, but may not exceed a total of 75 pages with citations and attachments.

(B) Briefs in excess of ten pages must contain a table of contents with page numbers stated.

(2) The presiding officer may require parties to address certain issues or address issues in a specific order or format.

(b) If a legal authority cited in the briefs is not readily accessible, a copy of the legal authority must be provided upon request. Such legal authorities may include slip opinions, unpublished opinions, memorandum opinions, or documents from other jurisdictions that are not readily accessible to the commission.

§22.207. Referral to State Office of Administrative Hearings.

(a) The utility division of SOAH will conduct prehearing conferences and hearings related to contested cases before the commission, other than a prehearing conference conducted by a commission admin-

istrative law judge or a hearing conducted by one or more commissioners. [~~The utility division of the State of Office of Administrative Hearings shall conduct hearings related to contested cases before the commission, other than a hearing conducted by one or more commissioners. At the time SOAH receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed. The commission shall send a request for setting or hearing, or request for assignment of administrative law judge to SOAH in sufficient time to allow resolution of the proceeding prior to the expiration of any jurisdictional deadline. In order to give the commission sufficient time to consider a proposal for decision, the commission may specify the length of time prior to the expiration of a jurisdictional deadline by which the administrative law judge shall issue a proposal for decision.~~]

(1) The commission will provide to the SOAH administrative law judge a list of issues or areas that must be addressed.

(2) At any time, the commission may identify and provide to the SOAH administrative law judge additional issues or areas that must be addressed. The commission will send a request for setting or hearing, or request for assignment of SOAH administrative law judge to SOAH in sufficient time to allow resolution of the proceeding prior to the expiration of any jurisdictional deadline.

(b) To give the commission sufficient time to consider a proposal for decision, the commission may specify the length of time prior to the expiration of a jurisdictional deadline by which the SOAH administrative law judge will issue a proposal for decision.

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. EVIDENCE AND EXHIBITS IN CONTESTED CASES

16 TAC §§22.221, 22.225, 22.228

Statutory Authority

The proposed amendments are proposed for publication under PURA § 14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and PURA §14.052 and Texas Water Code § 13.041(b), which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

Amended §§22.221, 22.225 and 22.228 are proposed under Texas Government Code, Subchapter D § 2001.081-103 which govern the usage of and procedures for evidence, witnesses and discovery for contested cases held at agencies of the State of Texas.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.052 and Texas Water Code § 13.041(b); PURA §12.201, §15.051, §17.157; PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; PURA Chapter 33, Subchapter C §§33.051-33.055; Texas Government Code Chapter 2001, §§2001.004-007 and Subchapter B §§2001.021-2001.041, Subchapter C §§2001.051-2001.062, Subchapter D § 2001.081-103, Subchapter F §§2001.141-2001.147; and HB 1600 (83R) and SB 567 (83R) and Texas Water Code Chapter 13.

§22.221. Rules of Evidence in Contested Cases.

(a) Texas rules of evidence apply. [~~Rules of civil evidence apply.~~] The Texas Rules of [~~Civil~~] Evidence as applied in nonjury civil cases in the courts of Texas must [~~shall~~] be followed in contested cases. Irrelevant, immaterial, or unduly repetitious evidence must [~~shall~~] be excluded. When necessary to ascertain facts not reasonably susceptible of proof under the Texas Rules of [~~Civil~~] Evidence, evidence not admissible under those rules may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(b) Rules of privilege and exemption. The rules of privilege and exemption recognized by Texas law [~~shall~~] apply.

(c) Objections. Objections to evidentiary offers may be made, must [~~shall~~] be ruled upon, and must [~~shall~~] be noted in the record. Failure to object to evidence at the time it is offered constitutes a waiver of all objections to the evidence.

(d) Formal exceptions not required. Formal exceptions to rulings made by the presiding officer during a hearing are not required. It is [~~shall be~~] sufficient that the party notified the presiding officer of the grounds for the objection and desired ruling.

(e) Public comment. Public comment is not part of the evidentiary record of a contested case.

§22.225. Written Testimony and Accompanying Exhibits.

(a) Prefiling of testimony, exhibits, and objections.

(1) Unless otherwise ordered by the presiding officer upon a showing of good cause, the written direct and rebuttal testimony and accompanying exhibits of each witness must [~~shall~~] be prefiled. Deposition testimony and responses to requests for information by an opposing party that an intervenor or commission staff [~~a party~~] plans to introduce as part of its direct case must [~~shall~~] be filed at the time the intervenor or commission staff [~~party~~] files its written direct testimony. [~~The presiding officer shall establish a date for filing of deposition testimony and requests for information that an applicant plans to introduce as part of its direct case.~~]

[~~(2) Deposition testimony and responses to requests for information that a party plans to introduce in support of its rebuttal case shall be filed at the time the party files its written rebuttal testimony.~~]

(2) [~~(3)~~] A party is not required to prefile documents it intends to use during cross-examination except that the presiding officer may require parties to identify documents that may be used during cross examination if it is necessary for the orderly conduct of the hearing.

(3) [~~(4)~~] Objections to prefiled direct or rebuttal testimony and exhibits, including deposition testimony and responses to requests

for information, must [~~shall~~] be filed on dates established by the presiding officer and will [~~shall~~] be ruled upon before or at the time the prefiled testimony and accompanying exhibits are offered. [~~Objections to prefiled rebuttal testimony shall be filed according to the schedule ordered by the presiding officer.~~]

(4) [~~(5)~~] Nothing in this section precludes [~~shall preclude~~] a party from using discovery responses in its direct or rebuttal case even if such responses were not received prior to the applicable deadline for prefiling written testimony and exhibits.

(5) [~~(6)~~] The prefiled testimony schedule in a major rate proceeding must [~~shall~~] be established as set out in this subsection.

(A) Any utility filing an application to change its rates in a major rate proceeding must [~~shall~~] file the written testimony and exhibits supporting its direct case on the same date that such statement of intent to change its rates is filed with the commission. As set forth in §22.243(b) of this title (relating to Rate Change Proceedings), the prefiled written testimony and exhibits must [~~shall~~] be included in the rate filing package filed with the application.

(B) Other parties in the proceeding must [~~shall~~] prefile written testimony and exhibits according to the schedule set forth by the presiding officer. Except for good cause shown or upon agreement of the parties, [~~the~~] commission staff representing the public interest may not be required to file earlier than seven days prior to hearing.

(C) The presiding officer will [~~shall~~] establish dates for filing of rebuttal testimony.

(6) Utilities filing an application for a certificate of convenience and necessity (CCN), or an amendment to a CCN, for a new electric transmission facility must file written testimony and exhibits supporting its direct case on the same date that the application is filed with the commission. [~~The prefiled testimony schedule in a major rate proceeding shall be established as set out in this subsection.~~]

[~~(A) Any utility filing an application to change its rates in a major rate proceeding shall file the written testimony and exhibits supporting its direct case on the same date that such statement of intent to change its rates is filed with the commission. As set forth in §22.243(b) of this title (relating to Rate Change Proceedings), the prefiled written testimony and exhibits shall be included in the rate filing package filed with the application.~~]

[~~(B) Other parties in the proceeding shall prefile written testimony and exhibits according to the schedule set forth by the presiding officer. Except for good cause shown or upon agreement of the parties, the commission staff representing the public interest may not be required to file earlier than seven days prior to hearing.~~]

[~~(C) The presiding officer shall establish dates for filing of rebuttal testimony.~~]

(7) For any contested case that is not a major rate proceeding nor a CCN or CCN amendment proceeding for an electric transmission facility, the applicant is not required to prefile written testimony and exhibits at the time the filing is made unless otherwise required by statute or rule. [~~For electric and telecommunication rate proceedings, the presiding officer shall establish a prefiled testimony schedule for PURA chapter 36, subchapter D or chapter 53, subchapter D rate cases and for cases other than major rate proceedings. In proceedings that are not major rate proceedings, notice of intent proceedings, applications for certificates of convenience and necessity for new generating plant, or applications for fuel reconciliations, the applicant is not required to prefile written testimony and exhibits at the time the filing is made unless otherwise required by statute or rule.~~]

(8) The times for prefiling set out in this section may be modified by the presiding officer upon a showing of good cause. [~~For all water and sewer matters filed under TWC chapters 12 or 13, the presiding officer shall establish a prefiled testimony schedule. The applicant is not required to prefile written testimony and exhibits at the time the filing is made unless otherwise required by statute or rule.~~]

(9) Late-filed testimony may be admitted into evidence if the testimony is necessary for a full disclosure of the facts and admission of the testimony into evidence would not be unduly prejudicial to the legal rights of any party. A party that intends to offer late-filed testimony into evidence must, at the earliest opportunity, inform the presiding officer, who will establish reasonable procedures and deadlines regarding such testimony. [~~Utilities filing an application for construction of a transmission facility that has been designated by the Electric Reliability Council of Texas (ERCOT) independent system operator as critical to the reliability of the ERCOT system and to be considered on an expedited basis, shall file written testimony and exhibits supporting its direct case on the same date that the application is filed with the commission. This requirement shall also apply to transmission lines located in other reliability councils or administered by other independent system operators provided such councils have a process for designation of critical transmission lines.~~]

[~~(10) The times for prefiling set out in this section may be modified upon a showing of good cause.~~]

[~~(11) Late-filed testimony may be admitted into evidence if the testimony is necessary for a full disclosure of the facts and admission of the testimony into evidence would not be unduly prejudicial to the legal rights of any party. A party that intends to offer late-filed testimony into evidence shall, at the earliest opportunity, inform the presiding officer, who shall establish reasonable procedures and deadlines regarding such testimony.~~]

(b) Admission of prefiled testimony. Unless otherwise ordered by the presiding officer, direct and rebuttal testimony must [~~shall~~] be received in written form. The written testimony of a witness on direct examination or rebuttal, either in narrative or question and answer form, may be received as an exhibit and incorporated into the record without the written testimony being read into the record. A witness who is offering written testimony must [~~shall~~] be sworn and must [~~shall~~] be asked whether the written testimony is a true and accurate representation of what the testimony would be if the testimony were to be given orally at the time the written testimony is offered into evidence. The witness must [~~shall~~] submit to cross-examination, clarifying questions, redirect examination, and recross-examination, unless the right to cross-examine the witness is waived by all parties and accepted by the presiding officer. The presiding officer may allow substitution of a witness or voir dire examination where appropriate. Written testimony is [~~shall be~~] subject to the same evidentiary objections as oral testimony. Timely prefiling of written testimony and exhibits, if required under this section or by order of the presiding officer, is a prerequisite for admission into evidence.

(c) Supplementation of prefiled testimony and exhibits. Oral or written supplementation of prefiled testimony and exhibits may be allowed prior to or during the hearing provided that the witness is available for cross-examination. The presiding officer may exclude such testimony if there is a showing that the supplemental testimony raises new issues or unreasonably deprives opposing parties of the opportunity to respond to the supplemental testimony. The presiding officer may admit the supplemental testimony and grant the parties time to respond.

(d) Tender and service. On or before the date the prefiled written testimony and exhibits are due, parties must file such testimony and

exhibits in accordance with the requirements of [~~shall file the number of copies required by~~] §22.71 of this title (relating to Commission Filing Requirements and Procedures [~~Filing of Pleadings, Documents and Other Materials~~]), or other commission rule or order, of the testimony and exhibits with Central Records and must [~~the commission filing clerk and shall~~] serve a copy upon each party.

(e) Withdrawal of evidence. Any exhibit offered and admitted in evidence may not be withdrawn except with the agreement of all parties and approval of the presiding officer.

§22.228. Stipulation of Facts.

No stipulation of facts between the parties or their authorized representatives will [~~shall~~] be admitted into evidence unless it has been reduced to writing and signed by the parties or their authorized representatives or, upon leave of the presiding officer, dictated into the record during a prehearing conference or hearing at which all parties to the agreement are present, have waived the right to be present, or have received reasonable notice that the stipulation [~~settlement~~] will be read into the record at that prehearing conference or 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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SUBCHAPTER M. PROCEDURES AND FILING REQUIREMENTS IN PARTICULAR COMMISSION PROCEEDINGS

16 TAC §§22.241, 22.244, 22.246

Statutory Authority

The proposed amendments are proposed for publication under PURA § 14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and PURA §14.052 and Texas Water Code § 13.041(b), which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

Amended §22.241 is proposed under PURA §12.201 which requires the commission to prepare and publicize information of public interest describing the functions of the commission and the commission's procedures by which a complaint is filed with and resolved by the commission. PURA §12.201 also requires the commission to, by rule, establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. Amended §22.241 is also proposed under PURA § 15.051 which authorizes an affected person to complain to the regulatory in writing by a public utility in violation or claimed violation of a law that the regulatory authority has jurisdiction to administer or of an order, ordinance, or rule of the regulatory authority, and requires the commission to, for a reasonable period preserve information about each complaint filed with the commission that the commission has authority to resolve. Amended §22.241 is also proposed under PURA § 17.157 which authorizes the commission to resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility, including the investigation of alleged violations.

Amended §22.244 is proposed under PURA Chapter 33, Subchapter C §§33.051-33.055 which governs the appeal of municipal ratemaking orders to the commission.

Amended §22.246 is proposed under PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419 which collectively establish the commission's enforcement authority to enjoin, investigate, or require compliance from a person or entity in violation or alleged violation of statute or commission rules, including the commission's authority to impose and assess administrative penalties.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.052 and Texas Water Code § 13.041(b); PURA §12.201, §15.051, §17.157; PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; PURA Chapter 33, Subchapter C §§33.051-33.055; Texas Government Code Chapter 2001, §§2001.004-007 and Subchapter B §§2001.021-2001.041, Subchapter C §§2001.051-2001.062, Subchapter D § 2001.081-103, Subchapter F §§2001.141-2001.147; and HB 1600 (83R) and SB 567 (83R) and Texas Water Code Chapter 13.

§22.241. Investigations.

(a) Commission investigations.

(1) The commission may at any time institute formal investigations on its own motion, or the motion of commission staff, into any matter within the commission's jurisdiction [~~the commission's staff~~]. Orders and pleadings initiating investigations will [~~shall~~] specify the matters to be investigated, and will [~~shall~~] be served upon the person being investigated.

(2) Notice of commission-instituted investigations of specific persons subject to commission regulation and investigative proceedings affecting such persons as a class will be served upon all affected persons under investigation. The commission will [~~shall~~] post notice with the *Texas Register* of prehearing conferences and hearings. The presiding officer may require additional notice.

(b) Show cause orders in complaint proceeding. The presiding officer, either upon his or her own motion or upon receipt of written complaint, may at any time after appropriate notice has been given, summon any person within the commission's jurisdiction to appear in a public hearing and show cause why such person should not be compelled to comply with any applicable statute, rule, regulation, or general order with which the person is allegedly not in compliance. All hearings in such show cause proceedings will [~~shall~~] be conducted in accordance with the provisions of this chapter.

(c) No limitations. Nothing in this section limits [~~shall be construed to limit~~] the commission's authority to investigate persons subject to the commission's jurisdiction.

§22.244. Review of Municipal Electric Rate Actions.

(a) Contents of petitions. In addition to any information required by statute, petitions for review of municipal rate actions filed under PURA §33.052 or §§33.101 - 33.104 must [~~shall~~] contain the original petition for review with the required signatures and following additional information.

(1) Each signature page of a petition must [~~shall~~] contain in legible form above the signatures the following:

(A) A statement that the petition is an appeal of a specific rate action of the municipality in question;

(B) The date of and a concise description of that rate action;

(C) A statement designating a specific individual, group of individuals, or organization as the signatories' authorized representative; and

(D) A statement that the designated representative is authorized to represent the signatories in all proceedings before the commission and appropriate courts of law and to do all things necessary to represent the signatories in those proceedings.

(2) The printed or typed name, telephone number, street or rural route address, and facsimile transmission number, if available, of each signatory must [~~shall~~] be provided. Post office box numbers are not sufficient. In appeals relating to PURA §§33.101 - 33.104, the petition must [~~shall~~] list the address of the location where service is received if the address differs from the residential address of the signatory.

(b) Signatures. A signature must [~~shall~~] be counted only once, regardless of the number of bills the signatory receives. The signature must [~~shall~~] be of the person in whose name service is provided or such person's spouse. The signature must [~~shall~~] be accompanied by a statement indicating whether the signatory is appealing the municipal rate action as a qualified voter of that municipality under PURA §33.052, or as a customer of the municipality served outside the municipal limits under PURA §§33.101 - 33.104.

(c) Validity of petition and correction of deficiencies. The petition must [~~shall~~] include all of the information required by this section, legibly written, for each signature in order for the signature to be deemed valid. The presiding officer may allow the petitioner a reasonable time of up to 30 days from the date any deficiencies are identified to cure any defects in the petition.

(d) Verification of petition. Unless otherwise provided by order of the presiding officer, the following procedures must [~~shall~~] be followed to verify petitions appealing municipal rate actions filed under PURA §33.052 and §§33.101 - 33.104.

(1) Within 15 days of the filing of an appeal of a municipal rate action, the Office of Policy and Docket Management must [~~Commission Advising and Docket Management Division shall~~] send a copy of the petition to the respondent municipality with a directive that the municipality verify the signatures on the petition.

(2) Within 30 days after receipt of the petition from the Office of Policy and Docket Management [~~Commission Advising and Docket Management Division~~], the municipality must [~~shall~~] file with the commission a statement of review, together with a supporting written affidavit sworn to by a municipal official.

(3) The period for the municipality's review of the signatures on the petition may be extended by the presiding officer for good cause.

(4) Failure of the municipality to timely submit the statement of review must [~~shall~~] result in all signatures being deemed valid, unless any signature is otherwise shown to be invalid or is invalid on its face.

(5) Objections by the municipality to the authenticity of signatures must [~~shall~~] be set out in its statement of review and will [~~shall~~] be resolved by the presiding officer.

(e) Disputes. Any dispute over the sufficiency or legibility of a petition will [~~shall~~] be resolved by the presiding officer by interim order.

§22.246. Administrative Penalties.

(a) Scope. This section addresses enforcement actions related to administrative penalties or disgorgement of excess revenues only and does not apply to any other enforcement actions that may be undertaken by the commission or [~~the~~] commission staff.

(b) - (e) (No change.)

(f) Report of violation or continuing violation. If, based on the investigation undertaken in accordance with subsection (e) of this section, the executive director determines that a violation or a continuing violation has occurred, the executive director may issue a report to the commission.

(1) Contents of the report. The report must state the facts on which the determination is based and a recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the administrative penalty and, if applicable under §25.503 of this title, a recommendation that excess revenue be disgorged.

(2) Notice of report.

(A) Within 14 days after the report is issued, the executive director will give written notice of the report to the person who is alleged to have committed the violation or continuing violation which is the subject of the report. The notice must [~~may~~] be given by regular, [~~or~~] certified mail, or email to the mailing address or email address maintained in the commission's records. If no such addresses exist, the executive director or executive director's designee will make reasonable efforts to notify the person who is alleged to have committed the violation.

(B) - (D) (No change.)

(g) (No change.)

(h) Settlement conference. A settlement conference may be requested by any party to discuss the occurrence of the violation or continuing violation, the amount of the administrative penalty, disgorged excess revenue if applicable, and the possibility of reaching a settlement prior to hearing. A settlement conference is not subject to the Texas Rules of Evidence or the Texas Rules of Civil Procedure; however, the discussions are subject to Texas Rules of Civil Evidence 408, concerning compromise and offers to compromise.

(1) (No change.)

(2) If a settlement is reached after the matter has been referred to SOAH [~~the State Office of Administrative Hearings~~], the matter will be returned to the commission. If the settlement is approved, the commission will issue an order memorializing commission approval and setting forth commission orders associated with the settlement agreement.

(i) - (j) (No change.)

(k) Distribution of Disgorged Excess Revenues. Disgorged excess revenues must be remitted to an independent organization, as de-

fined in PURA §39.151. The independent organization must distribute the excess revenue to affected wholesale electric market participants in proportion to their load during the intervals when the violation occurred to be used to reduce costs or fees incurred by retail electric customers. [~~The load of any market participants that are no longer active at the time of the distribution will be removed prior to calculating the load proportions of the affected wholesale electric market participants that are still active.~~] However, if the commission determines other wholesale electric market participants are affected or a different distribution method is appropriate, the commission may direct require the independent organization to distribute the excess revenue to affected wholesale market participants using a different distribution method in the same or [~~commission staff to open~~] a subsequent proceeding [~~to address those issues~~].

(1) - (3) (No change.)

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. DECISION AND ORDERS

16 TAC §§22.261 - 22.264

Statutory Authority

The proposed amendments and repeal are proposed for publication under PURA § 14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and PURA §14.052 and Texas Water Code § 13.041(b), which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

Amended §§22.261 - 22.264 are proposed under Texas Government Code Chapter 2001, Subchapter F §§2001.141-2001.147 which establish the requirements and procedures, including notice obligations, associated with the issuance of final decisions and orders by a state agency in a contested case, including the procedures for prerequisites to appeal and requirements for motions for rehearing.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.052 and Texas Water Code § 13.041(b); PURA §12.201, §15.051, §17.157; PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; PURA Chapter 33, Subchapter C §§33.051-33.055; Texas Government Code Chapter 2001, §§2001.004-007 and Subchapter B §§2001.021-2001.041, Subchapter C §§2001.051-2001.062, Subchapter D §§2001.081-103, Subchapter F §§2001.141-2001.147; and HB 1600 (83R) and SB 567 (83R) and Texas Water Code Chapter 13.

§22.261. Proposals for Decision.

(a) Requirement and Contents of Proposal for Decision. In a contested case, if a majority of the commissioners has not heard the case or read the record, the commission may not issue a final order, if adverse to a party other than the Commission, until a proposal for decision is served on all parties. The proposal for decision will [~~shall~~] be prepared by the presiding officer [~~officer(s)~~] who conducted the hearing or who have read the record. The proposal for decision will [~~shall~~] include a proposed final order, a statement of the reasons for the proposed decision, and proposed findings of fact and conclusions of law in support of the proposed final order. Any party may file exceptions to the proposed decision in accordance with subsection (d) of this section. The presiding officer may supplement or amend a proposal for decision in response to the exceptions or replies submitted by the parties or upon the presiding officer's own motion. Making corrections or minor revisions of a proposal for decision is not considered issuance of an amended or supplemental proposal for decision.

(b) Procedures Regarding Proposed Orders. If the presiding officer's recommendation is not adverse to any party, the recommendation may be made through a proposed order containing findings of fact and conclusions of law. The proposed order must [~~shall~~] be served on all parties, and the commission counsel or presiding officer will [~~shall~~] establish a deadline for submitting proposed corrections or clarifications.

(c) Findings and Conclusions. The commission counsel or presiding officer may direct or authorize the parties to draft and submit proposed findings of fact and conclusions of law. The commission is not required to rule on findings of fact and conclusions of law that are not required or authorized.

(d) Exceptions and Replies.

(1) Who may file. Any party may file exceptions to the Proposal for Decision within the time period specified by commission counsel or the presiding officer [~~the presiding officer~~]. If any party files exceptions, the opportunity will [~~shall~~] be afforded to all parties to respond within a time period set by the commission counsel or presiding officer. Replies may only be filed in response to filed exceptions.

(2) Presentation. The presiding officer or commission counsel may require that issues be addressed in a specified order or according to a specified format. Proposed findings and conclusions may be submitted in conjunction with exceptions and replies. The evidence and law relied upon will [~~shall~~] be stated with particularity, and any evidence or arguments relied upon will [~~shall~~] be grouped under the exceptions or replies to which they relate.

(3) Request for Extension. A request for extension of time within which to file exceptions or replies must [~~shall~~] be filed with Central Records [~~the commission filing clerk~~] and served on all parties. The presiding officer or commission counsel may allow additional time for good cause shown. If additional time is allowed for exceptions, reasonable additional time will [~~shall~~] be allowed for replies.

§22.262. Commission Action After a Proposal for Decision.

(a) - (c) (No change.)

(d) Oral Argument Before the Commission.

(1) Any party may request oral argument before the commission before the final disposition of any proceeding.

(2) Oral argument may be allowed at the commission's discretion. The commission may limit the scope and duration of oral ar-

gument. The party bearing the burden of proof has the right to open and close oral argument.

(3) A request for oral argument must be filed as a separate written pleading. The request must be filed no later than 5:00 [~~3:00~~] p.m. seven days before the open meeting at which the commission is scheduled to consider the case.

(4) Upon the filing of a motion for oral argument, the Office of Policy and Docket Management must send a separate ballot to each commissioner to determine whether the commission will hear oral argument at an open meeting. An affirmative vote by one commissioner is required to grant oral argument. Two days before the commission is scheduled to consider the case, the Office of Policy and Docket Management will file a notice to the parties regarding whether a request for oral argument has been granted.

(5) The absence or denial of a request for oral argument does not preclude the commissioners from asking questions of any party present at the open meeting.

(e) (No change.)

§22.263. Final Orders.

(a) Form and Content.

(1) A final order of the commission will [~~shall~~] be in writing and signed by a majority of the commissioners.

(2) A final order will [~~shall~~] include findings of fact and conclusions of law separately stated and may incorporate findings of fact and conclusions of law proposed within a proposal for decision.

(3) Findings of fact, if set forth in statutory language, will [~~shall~~] be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(4) The final order will [~~shall~~] comply with the requirements of §22.262[~~(b)~~] of this title (relating to Commission Action After a Proposal for Decision).

(b) Notice. Parties will [~~shall~~] be notified of the commission's final order as required by the APA and §22.74 of this title (relating to Service of Pleadings and Documents) to the extent that provision does not conflict with the APA.

(c) Effective Date of Order. Unless otherwise stated, the date a final order is signed is the effective date of that order, and such date will [~~shall~~] be stated therein.

(d) Date That an Order is Signed. An order is signed on the date shown on the order. If a sworn motion filed under APA §2001.142(c) is granted, with or without commission action, then, regardless of the date shown on the order, the date that the commission's order is considered to be signed is [~~shall be~~] the date specified in that sworn motion as the date that the movant received the order or obtained actual knowledge of the order. If more than one sworn motion is granted, then the date that the commission's order is considered to be signed is the latest date specified in any such granted motions.

(e) Reciprocity of Final Orders Between States. After reviewing the facts and the issues presented, a final order may be adopted by the commission even though it is inconsistent with the commission's procedural or substantive rules provided that the final order, or the portion thereof that is inconsistent with commission rules, is a final order, or a part thereof, rendered by a regulatory agency of some state other than the State of Texas and provided further that the number of customers in Texas affected by the final order is no more than the lesser of either 1,000 customers or 10% of the total number of customers of the affected utility.

§22.264. Rehearing.

(a) Motions for rehearing, replies thereto, and commission action on motions for rehearing are [~~shall be~~] governed by the APA. Only a party to a proceeding before the commission may file a motion for rehearing.

(b) All motions for rehearing must [~~shall~~] state the claimed error with specificity. If an ultimate finding of fact stated in statutory language is claimed to be in error, the motion for rehearing must [~~shall~~] state all underlying or basic findings of fact claimed to be in error and must [~~shall~~] cite specific evidence which is relied upon as support for the claim of error.

(c) A motion for rehearing or a reply to a motion for rehearing is untimely if it is not filed by the deadlines specified in APA §2001.146 or, if the commission extends the time to file such motion or reply or approves a time agreed to by the parties, the date specified in the order of the commission extending time or approving the time.

(d) A motion by a party to extend time related to a motion for rehearing must be filed no less than ten days before the end of the time period that the party seeks to extend or it is untimely. Such motion must state with specificity the reasons the extension is justified.

(e) Upon the filing of a timely motion for rehearing or a timely motion to extend time, the Office of Policy and Docket Management must [~~Commission Advising and Docket Management Division shall~~] send separate ballots to each commissioner to determine whether they will consider the motion at an open meeting. Untimely motions will [~~shall~~] not be balloted. An affirmative vote by one commissioner is required for consideration of a motion for rehearing or a motion to extend time at an open meeting. If no commissioner votes to add a timely motion to extend time to an open meeting for consideration, the motion is overruled ten days after the motion is filed.

(f) If the commission extends time to act on a motion for rehearing, the Office of Policy and Docket Management [~~Commission Advising and Docket Management Division shall~~] send separate ballots to each commissioner to determine whether they will consider the motion for rehearing at a subsequent open meeting. An affirmative vote by one commissioner is required to place the motion for rehearing on an open meeting agenda.

(g) A party that files a motion for rehearing or a reply to a motion for rehearing must [~~shall~~] deliver a copy of the motion or reply to every other party in the case.

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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Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 936-7244

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SUBCHAPTER O. RULEMAKING

16 TAC §22.281, §22.282

Statutory Authority

The proposed amendments are proposed for publication under PURA § 14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and PURA §14.052 and Texas Water Code § 13.041(b), which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

Amended §22.281 and §22.282 are proposed under Texas Government Code §§2001.004-007 and Subchapter B §§2001.021-2001.041 which establish general rulemaking requirements and procedures, including notice obligations, for agencies of the State of Texas

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.052 and Texas Water Code § 13.041(b); PURA §12.201, §15.051, §17.157; PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; PURA Chapter 33, Subchapter C §§33.051-33.055; Texas Government Code Chapter 2001, §§2001.004-007 and Subchapter B §§2001.021-2001.041, Subchapter C §§2001.051-2001.062, Subchapter D § 2001.081-103, Subchapter F §§2001.141-2001.147; and HB 1600 (83R) and SB 567 (83R) and Texas Water Code Chapter 13.

§22.281. Initiation of Rulemaking.

(a) Petition for Rulemaking. Any interested person, as defined by the APA, may petition the commission requesting the adoption of a new rule or the amendment of an existing rule.

(1) The petition must [~~shall~~] be in writing and must [~~shall~~] be submitted to the project opened under paragraph (2) of this subsection. The petition must include a brief explanation of the rule, each reason [~~the reason(s)~~] the new or amended rule should be adopted, the statutory authority for such a rule or amendment, and complete proposed text for the rule. The proposed text for the rule must [~~shall~~] indicate by striking through the words, if any, to be deleted from the current rule and by underlining the words, if any, to be added to the current rule. A suggested new rule or rule amendment that does not comply with each of the requirements of this section, including any rulemaking suggestion made in a contested case proceeding, will be construed as a policy recommendation and will not be processed as a formal rulemaking petition.

(2) Each calendar year, commission staff will open a general project for petitions for rulemaking and post the control number on the commission's website. [~~Upon receipt of a petition for rulemaking, the commission shall submit a notice for publication in the "In Addition" section of the *Texas Register*. The notice shall include a summary of the petition, the name of the individual, organization or entity that submitted the petition, and notification that a copy of the petition will be available for review and copying in the commission's central records. Comments on the petition shall be due 21 days from the date of publication of the notice. Failure to publish a notice of a petition for rulemaking in the *Texas Register* shall not invalidate any commission action on the petition for rulemaking.~~]

(3) Commission staff may file a memo in the general project opened under paragraph (2) of this subsection establishing a deadline for interested persons to file comments in response to the petition for rulemaking or designating a new control number for the submission of comments. Commission staff may relocate any relevant filings from the general control number to the new project. If commission staff does not file a memo under this paragraph, comments on a petition for rulemaking may be filed in the general project and the deadline for submitting comments on the petition is 21 days after the date the petition is filed. [~~Within 60 days after submission of a petition, the commission either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rulemaking proceedings.~~]

(4) Within 60 days after submission of a petition that fully complies with the requirements of paragraph (1) of this subsection, the commission will either deny the petition in writing, stating its reasons for the denial, or initiate a rulemaking proceeding.

(b) Commission Initiated Rulemaking. The commission may initiate rulemaking proceedings on its own motion. Nothing in this section precludes [~~shall preclude the commission general counsel or~~] commission staff from consideration or development of new rules or amendments to existing rules, including hosting workshops or publishing questions or draft rules language for comment, without express direction from the commission.

§22.282. Notice and Public Participation in Rulemaking Procedures.

(a) Initial Comments. Prior to the publication of [~~publishing~~] a proposed rule or initiation of [~~initiating~~] an amendment to an existing rule, the commission or commission staff may solicit comments on the need for a rule and potential scope of the rule by filing a request for comments on the commission filing system [~~publication of a notice of rulemaking project in the "In Addition" section of the Texas Register. A notice filed pursuant to this section shall contain a brief description and statement of the intended objective of the proposed rule and indicate if a draft of the proposed rule is available for review by interested persons~~]. Unless otherwise prescribed by the commission or commission staff, any comments concerning the rulemaking project must [~~shall~~] be submitted within 30 days from the date the request for comments is filed. The commission or commission staff may hold workshops or public hearings on the rulemaking project.

(b) Notice. The commission may initiate a rulemaking project by publishing notice of the proposed rule in accordance with Tex. Gov't Code §§ 2001.021 - 2001.037.

(c) Public Comments. Prior to the adoption of any rule, the commission will [~~shall~~] afford all interested persons a reasonable opportunity to submit data, views, or arguments in writing. Written comments must be filed within 30 days of the date the proposed rule is published in the Texas Register unless the commission establishes a different date for submission of comments. The commission may also establish a schedule for reply comments if it determines that additional comments would be appropriate or helpful in reaching a decision on the proposed rule. Commission staff may provide an extension to the comment deadline, request reply comments, or provide additional comment filing instructions in a rulemaking project.

(d) Public Hearing. The commission or commission staff may schedule workshops or public hearings on the proposed rule. Commission staff will hold a public hearing [~~An opportunity for public hearing shall be granted~~] if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members. The request for public hearing must be made no later than 30 days after the date the proposed rule is published in the Texas Register, unless the commission establishes a different date for requesting a public hearing. Commission staff may provide an extension to the public hearing request deadline.

(e) Staff Recommendation. Staff's final recommendation will, if practicable, [~~shall~~] be filed in the rulemaking proceeding [~~submitted to the commission and filed in central records~~] at least seven days prior

to the date on which the commission is scheduled to consider the matter, unless some other date is specified by the commission. If commission staff does not file its final recommendation at least seven days prior to the date on which the commission is scheduled to consider the matter, the commission may still consider the recommendation or take action in the rulemaking project. [~~Staff will notify all persons who have filed comments concerning the proposed rule of the filing of staff's final recommendation.~~]

(f) Final Adoption. Following consideration of comments, the commission will issue an order adopting, adopting as amended, or withdrawing the rule within six months after the date of publication of the proposed rule or the rule is automatically withdrawn. Commission staff may withdraw a rule on its own motion if necessary to facilitate the expeditious republication of proposed amendments to that rule.

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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Andrea Gonzalez
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Public Utility Commission of Texas
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For further information, please call: (512) 936-7244

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SUBCHAPTER M. PROCEDURES AND FILING REQUIREMENTS IN PARTICULAR COMMISSION PROCEEDINGS

16 TAC §22.248

The Public Utility Commission of Texas (commission) proposes one repeal in the Chapter 22 procedural rules. The proposed repeal is in Subchapter M, §22.248, relating to Retail Public Utilities.

Rule Review Stakeholder Recommendations

On May 3, 2025, commission staff filed a preliminary notice and request for comments which was published in the *Texas Register* on May 17, 2024, at 49 TexReg 3635. Comments were received from the Alliance for Retail Markets (ARM) and the Texas Energy Association for Marketers (TEAM), collectively (REP Coalition); Entergy Texas, Inc. (Entergy); the Lower Colorado River Authority and LCRA Transmission Services Corporation (LCRA); the Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company, LLC (Oncor); the Steering Committee of Cities Served by Oncor (OCSC); Texas Association of Water Companies, Inc. (TAWC); the Texas Rural Water Association (TRWA); Texas-New Mexico Power Company (TNMP); and Vistra Corporation (Vistra). Based upon filed comments and an internal review by commission staff, the commission proposes the following rule changes.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rules will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rules will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rules will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rules will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rules will not create a new regulation;

(6) the proposed rules will expand, limit, or repeal an existing regulation;

(7) the proposed rules will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rules will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Davida Dwyer, Deputy Director, Office of Policy and Docket Management, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Dwyer has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient and clear rules of practice and procedure for matters before the commission. There will be probable economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 14, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by November 17, 2025. Comments must be organized by rule section in sequential order, and each comment must clearly designate which section is being commented on. The commission invites specific comments regarding the effects of the proposed rule, including the costs associated with, and benefits that will be gained by the proposed amendments and repeal. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the information submitted by commenters and the costs and benefits of implementation in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 58402.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The proposed repeal is proposed for publication under PURA § 14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; PURA §14.002 and PURA §14.052 and Texas Water Code § 13.041(b), which provide the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings.

§22.248, relating to Retail Public Utilities is repealed in accordance with HB 1600 (83R), SB 567 (83R) and Texas Water Code Chapter 13 which transferred regulatory jurisdiction of the rates, operations, and services of retail public utilities from the Texas Commission on Environmental Quality to the commission.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 14.052 and Texas Water Code § 13.041(b); PURA §12.201, §15.051, §17.157; PURA Chapter 15, Subchapter B §15.021-15.033 and Texas Water Code Chapter 13, Subchapter K §§13.411-13.419; PURA Chapter 33, Subchapter C §§33.051-33.055; Texas Government Code Chapter 2001, §§2001.004-007 and Subchapter B §§2001.021-2001.041, Subchapter C §§2001.051-2001.062, Subchapter D § 2001.081-103, Subchapter F §§2001.141-2001.147; and HB 1600 (83R) and SB 567 (83R) and Texas Water Code Chapter 13.

§22.248. Retail Public Utilities.

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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Andrea Gonzalez
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For further information, please call: (512) 936-7244

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CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER I. TRANSMISSION AND DISTRIBUTION

DIVISION 1. OPEN-ACCESS COMPARABLE TRANSMISSION SERVICE FOR ELECTRIC UTILITIES IN THE ELECTRIC RELIABILITY COUNCIL OF TEXAS

16 TAC §25.205

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.205 relating to Net Metering Arrangements Involving a Large Load Customer Co-Located with an Existing Generation Resource. This proposed rule will implement Public Utility Regulatory Act (PURA) §39.169 as enacted by Senate Bill (SB) 6 during the Texas 89th Regular Legislative Session. The new rule will apply to a proposed net metering arrangement involving a large load and an existing generation resource and will establish the criteria for ERCOT's study of a proposed net metering arrangement. The rule will also set forth the procedural steps for ERCOT to complete its study of a proposed net metering arrangement within 120 days and the procedural steps for the commission to approve, with or without conditions, or deny a proposed net metering arrangement within 60 days after ERCOT files its study results and recommendations with the commission.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will create a new regulation;

(6) the proposed rule will not expand, limit, or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Jessie Horn, Sr. Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be increased transparency about the process for reviewing a proposed net metering arrangement and increased reliability to the ERCOT power grid. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

Commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by October 17, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Initial comments must be filed by October 17, 2025. Reply comments must be filed by October 31, 2025. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rule on adoption. All comments should refer to Project Number 58479.

In addition to general comments on the text of the proposed rule, the commission invites interested persons to address the following specific questions:

Does the commission have authority to approve a net metering arrangement if retail electric service to the large load customer would not be provided by the municipally owned utility or electric cooperative that is certificated to provide retail electric service to the area in which the large load customer is located?

PURA §39.169(c) authorizes the electric cooperative, transmission and distribution utility, or municipally owned utility that provides electric service at the location of the new net metering arrangement to object to the arrangement for reasonable cause, including a violation of other law.

How should the commission interpret "electric service" in PURA §39.169(c)?

What process should be used for addressing an objection to a net metering arrangement based on a violation of other law?

PURA §39.169(g) limits the parties to a proceeding under PURA §39.169 to the commission, ERCOT, the interconnecting electric cooperative, transmission and distribution utility, or municipally owned utility, and a party in the net metering arrangement. How should the commission interpret "interconnecting" in PURA §39.169(g)?

Is there a scenario where the electric cooperative, transmission and distribution utility, or municipally owned utility that objects to a net metering arrangement under PURA §39.169(c) is not a party to the proceeding under PURA §39.169(g)? If so, how can these two statutory provisions be reconciled?

PURA §39.169(d) states that if the commission imposes conditions on a proposed net metering arrangement, the conditions must require a generation resource that makes dispatchable capacity available to the ERCOT region before the implementation of a net metering arrangement under this section to make at least that amount of dispatchable capacity available to the ERCOT power region after the implementation of the arrangement at the direction of the independent organization in advance of an anticipated emergency condition.

How should the commission interpret "dispatchable capacity"?

How should the commission interpret "make available"?

How far in advance of an anticipated emergency condition should ERCOT be able to direct a generation resource to make dispatchable capacity available to the ERCOT region? Should "advance" be measured based on time, megawatt, or some other metric?

How should the commission interpret an "anticipated emergency condition"?

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The new rule is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §39.151, which grants the commission authority to oversee ERCOT; and PURA §39.169, which requires the commission to approve, deny, or impose reasonable conditions on a proposed net metering arrangement involving a large load customer and an existing generation resource.

Cross Reference to Statute: Public Utility Regulatory Act §14.001; §14.002; §39.151; and §39.169.

§25.205. Net Metering Arrangements Involving a Large Load Customer Co-Located with an Existing Generation Resource.

(a) Applicability. This section applies to a net metering arrangement involving a large load customer and an existing generation resource. This section does not apply to a generation resource or energy storage resource:

(1) the registration for which included a co-located large load customer at the time of the generation resource or energy storage resource's energization, regardless of whether the large load customer was energized at a later date; or

(2) a majority interest of which is owned indirectly or directly as of January 1, 2025, by a parent company of a customer that participates in the new net metering arrangement.

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

(1) Applicants--the parties to a net metering arrangement for which approval is sought under this section.

(2) Energy storage resource--an energy storage system registered with ERCOT as an energy storage resource for the purpose of providing energy or ancillary services to the ERCOT grid and associated facilities that are behind the system's point of interconnection, necessary for the operation of the system, and not part of a manufacturing process that is separate from the generation of electricity.

(3) Existing generation resource--a generation resource registered with ERCOT as a stand-alone generation resource as of September 1, 2025 or an energy storage resource registered with ERCOT as a stand-alone energy storage resource as of September 1, 2025.

(4) Generation resource--a generator registered with ERCOT as a generation resource and capable of providing energy or ancillary services to the ERCOT grid, as well as associated facilities that are behind the generator's point of interconnection, necessary for the operation of the generator, and not part of a manufacturing process that is separate from the generation of electricity.

(5) Large load customer--a customer that requests a new or expanded interconnection where the total load at a single site is equal to or greater than 75 megawatts (MW), and as of September 1, 2025, was not modeled in ERCOT's Network Operations Model as part of a generation resource private use network (PUN) or an energy storage resource PUN.

(6) Large load interconnection study--has the same meaning as defined in ERCOT protocols.

(7) Net metering arrangement--a contractual arrangement in which an existing generation resource and a large load customer agree to net the generation resource's output with the customer's load for settlement purposes based on a metering scheme approved by ERCOT.

(8) Stand-alone energy storage resource--an energy storage resource that, as of September 1, 2025, was included in ERCOT's Network Operations Model and such model of the resource site did not include a PUN load.

(9) Stand-alone generation resource--a generation resource that, as of September 1, 2025, was included in ERCOT's Network Operations Model and such model of the resource site did not include a PUN load.

(10) Stranded transmission asset--a transmission asset that, as a result of a net metering arrangement, is no longer providing service to the public or may otherwise be retired from service without impairing the ability of the transmission system to provide adequate transmission service to customers.

(11) System--the bulk power system in the ERCOT region.

(12) Underutilized transmission asset--a transmission asset that, as a result of a net metering arrangement, is expected to transmit on an average, annual basis at least 25% less power and is not providing significant reliability benefits to the system commensurate with its maximum capacity to transmit power.

(c) Commission approval required. A power generation company, municipally owned utility, or electric cooperative must not implement a net metering arrangement involving a large load customer and an existing generation resource unless the net metering arrangement is approved by the commission.

(d) Initiating the process for approval of a net metering arrangement. Prior to ERCOT commencing its study under subsection (g) of this section, the applicants seeking approval of a net metering arrangement must:

(1) apply to the commission, using a new docket number, for approval of the net metering arrangement by filing an application that meets the requirements of §22.73 of this title (relating to General Requirements for Applications) and includes a copy of the notice submitted to ERCOT; and

(2) upon filing its application with the commission, serve copies of the application, consistent with the requirements in §22.74 of this title (relating to Service of Pleadings and Documents), on:

(A) ERCOT;

(B) the interconnecting electric cooperative, transmission and distribution utility, or municipally owned utility; and

(C) the electric cooperative, transmission and distribution utility, or municipally owned utility that provides electric service at the location of the new net metering arrangement.

(e) Parties to a proceeding under this section.

(1) The parties to a proceeding under this section are limited to:

(A) the applicants;

(B) commission staff;

(C) ERCOT; and

(D) the interconnecting electric cooperative, transmission and distribution utility, or municipally owned utility.

(2) The parties to a proceeding under this section need not file a motion to intervene.

(f) Discovery.

(1) Discovery may commence on or after the date an application under this section is filed with the commission.

(2) ERCOT is not required to follow the discovery process to obtain the necessary information to conduct its study under subsection (g) of this section.

(3) The presiding officer may establish reasonable deadlines relating to discovery to facilitate the processing of the application within the statutory deadlines.

(g) Commencement of ERCOT study.

(1) The parties to a net metering arrangement must provide ERCOT all information that ERCOT deems necessary regarding the net metering arrangement.

(2) The interconnecting electric cooperative, transmission and distribution utility, or municipally owned utility must submit the following to ERCOT:

(A) a large load interconnection study;

(B) the results of power flow modeling or any other information relevant to a determination of whether stranded or underutilized transmission assets may result from the arrangement; and

(C) any other information that ERCOT deems necessary.

(3) Upon receipt of all necessary information, ERCOT must conduct a study of the system impacts of the net metering arrangement, including transmission security and resource adequacy impacts, and stranded or underutilized transmission assets associated with the net metering arrangement. Not later than seven days after commencing its study, ERCOT must file notice in the docket indicating the date that ERCOT commenced its study and the date ERCOT must file its study results and recommendations.

(4) ERCOT must provide to commission staff any access, information, support, or cooperation that commission staff determines is necessary to provide its recommendations under this section.

(h) General requirements of ERCOT study. ERCOT's study of a net metering arrangement must include:

(1) a resource adequacy analysis that is comprised of an evaluation of:

(A) the large load customer's curtailment capability;

(B) on-site back up generation capability to offset the large load customer;

(C) expected net generation available to the ERCOT grid after implementation of the net metering arrangement;

(D) the existing generation resource's availability to ERCOT for dispatch after implementation of the net metering arrangement; and

(E) the impacts of reduced net capability or lower availability on reserve margins or other reliability criteria;

(2) a transmission security analysis that is comprised of a steady state and stability load serving study with and without the generation, under peak scenarios and off-peak scenarios;

(3) an analysis identifying transmission assets that may become stranded or underutilized as a result of the net metering arrangement, including the identity of the transmission service provider (TSP) associated with each such asset and the degree to which any transmission assets are expected to be underutilized from both a delivery and a reliability perspective; and

(4) any other analysis or study that ERCOT determines is necessary.

(i) ERCOT study results. Not later than ten days before ERCOT files its study results and recommendations, ERCOT must file notice in the docket indicating the date that ERCOT expects to file its study results and recommendations. Not later than 120 days after ERCOT's filing indicating ERCOT received all information it deems necessary to conduct its study regarding the net metering arrangement, ERCOT must file its study results and associated recommendations. ERCOT's filing must include:

(1) direct testimony supporting the filing;

(2) an executive summary of the study, including any ERCOT recommendations, that identifies:

(A) the large load customer;

(B) whether the large load customer seeks a new or expanded interconnection;

(C) whether the large load customer or any other customer is already located at the requested interconnection site and if so, that customer's peak demand at the requested interconnection site;

(D) whether ERCOT identified any negative impacts to system reliability, including transmission security and resource adequacy impacts;

(E) ERCOT's recommendation to approve, with or without conditions, or deny the net metering arrangement; and

(F) whether ERCOT recommends conditions to mitigate an impact to transmission security, resource adequacy, or both;

(3) the complete study, detailing:

(A) ERCOT's analysis;

(B) the underlying assumptions used in the study;

(C) the sources of data used in the study;

(D) the capacity made available to the ERCOT region by the existing generation resource at the time of annual peak demand each of the last 10 years and how that existing generation resource can comply with a requirement to make at least that same amount of dispatchable capacity available after implementation of the net metering arrangement, as applicable; and

(E) whether ERCOT identified any negative impacts to resource adequacy that cannot be mitigated with curtailment of the large load customer; and

(F) whether any transmission assets are stranded or underutilized, including the degree to which any underutilized transmission assets are underutilized from a delivery or a reliability perspective, and the identity of the associated TSPs;

(4) a detailed explanation of the basis for any conditions that ERCOT recommends and the extent to which those conditions are expected to mitigate a reliability risk to the system; and

(5) any other information that ERCOT relied on or considered.

(j) Procedural schedule. After ERCOT files its study results and recommendations, the presiding officer must set a procedural schedule that will enable the commission to issue an order in the proceeding within 60 days of ERCOT's filing.

(1) The procedural schedule must be substantially similar to the following:

(A) the deadline for the applicants to file a statement of position or direct testimony is five days after ERCOT files its study results and recommendations;

(B) the deadline for ERCOT and the interconnecting electric cooperative, transmission and distribution utility, or municipally owned utility to file a statement of position, direct testimony, or an objection to the net metering arrangement is ten days after ERCOT files its study results and recommendations;

(C) the deadline to request a hearing on the merits is ten days after ERCOT files its study results and recommendations;

(D) the deadline for ERCOT to file a response to other parties' filings is 15 days after ERCOT files its study results and recommendations;

(E) the deadline for commission staff to file a statement of position or direct testimony, including its recommendations, is 17 days after ERCOT files its study results and recommendations;

(F) if no hearing on the merits is requested, the deadline to file a stipulation or agreement, a joint motion to admit evidence, and a joint proposed order is 24 days after ERCOT files its study results and recommendations;

(G) if a hearing on the merits is requested, the hearing on the merits will commence up to 28 days after ERCOT files its study results and recommendations; and

(H) if a hearing on the merits is requested:

(i) the deadline for initial briefs is 34 days after ERCOT files its study results and recommendations; and

(ii) the deadline for reply briefs and proposed orders is 40 days after ERCOT files its study results and recommendations.

(2) Notwithstanding any provision of this section, the presiding officer may set a different procedural schedule than the one set forth in this subsection or adjust any procedural deadlines to facilitate the commission issuing an order in the proceeding within 60 days after ERCOT files its study results and recommendations.

(k) Commission decision. Not later than 60 days after ERCOT files its study results and recommendations, the commission will approve, with or without conditions, or deny an application for a net metering arrangement as necessary to maintain system reliability, including transmission security and resource adequacy impacts.

(1) If the commission approves a net metering arrangement with conditions, then the conditions imposed on the net metering arrangement must include requiring the existing generation resource to make dispatchable capacity available to the ERCOT region as directed by ERCOT in advance of an anticipated emergency condition. The dispatchable capacity made available to the ERCOT region in such an event must be at least equal to the amount of dispatchable capacity that was made available to the ERCOT region before implementation of the net metering arrangement.

(2) The conditions imposed on a net metering arrangement may include requiring:

(A) the retail customer(s) served behind-the-meter to reduce load during certain events;

(B) the existing generation resource to make capacity available to the ERCOT region during certain events;

(C) initiation of a separate hold harmless proceeding for each net metering arrangement that results in stranded or underutilized transmission assets in order to ensure TSPs and their customers are held harmless;

(D) maximum ramp rates for load curtailment; and

(E) any other requirement that is necessary to maintain system reliability.

(3) If the commission imposes a condition that requires a large load customer served behind the meter to reduce load, ERCOT must include any such load reduction when calculating any price adjustments for reliability deployments.

(4) If the commission imposes a condition requiring a hold harmless proceeding and the TSP associated with the stranded or underutilized transmission assets was not a party to the proceeding in which the commission considered approving, with or without conditions, or denying the proposed net metering arrangement, then commission staff must provide notice to the TSP of the requirement to initiate a hold harmless proceeding under subsection (l) of this section not later than seven days after the commission order imposing the condition. Notice may be served by delivering a copy of the commission order by physical or electronic mail to the TSP's authorized representative or attorney of record in the TSP's last comprehensive base rate case.

(l) Hold harmless proceeding. Within 60 days of a commission order requiring a hold harmless proceeding, each TSP associated with stranded or underutilized transmission assets that result from a net metering arrangement must file an application to quantify the costs associated with such assets and to reflect removal of those costs from the TSP's rates. Such costs must not be included in the TSP's rates in future proceedings absent an explicit commission determination in a comprehensive base rate proceeding that the associated transmission assets are no longer stranded or underutilized, and that the TSP has not otherwise been compensated for those costs. Upon removal from rates, these costs must be collected by the TSP from the existing generation resource owner and the interconnecting large load customer in a proportion determined by the commission or by agreement between the existing generation resource owner and the interconnecting large load customer.

(1) The application must include information sufficient to identify the costs associated with the stranded or underutilized transmission assets.

(2) The parties to a hold harmless proceeding under this subsection are not limited to the parties identified in subsection (e) of this section.

(3) Removal from rates of the costs associated with stranded or underutilized transmission assets, along with all associated depreciation, tax, return, and other cost of service components including an appropriate amount of operations and maintenance expenses, may be implemented in a manner otherwise consistent with the ratemaking treatments associated with an interim update of transmission rates under §25.192 of this title (related to Transmission Service Rates), provided that:

(A) increases in costs must not be included in a hold harmless proceeding;

(B) updated billing units are applied when establishing rates reflecting the removal of the appropriate costs associated with the stranded or underutilized transmission assets;

(C) the timeline for approval included in §25.192 does not apply to a hold harmless proceeding under this subsection; and

(D) a hold harmless proceeding under this subsection is not an interim update to a TSP's rates for purposes of determining the frequency of interim updates authorized under §25.192.

(m) Periodic evaluation of conditions imposed. If the conditions imposed on a net metering arrangement under this section are not limited to a specific period, a party to the net metering arrangement must apply for a commission determination of whether the conditions should be extended, with or without modification, or rescinded at least 36 months and not more than 60 months after the order approving the net metering arrangement with conditions.

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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Andrea Gonzalez
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Public Utility Commission of Texas
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SUBCHAPTER O. UNBUNDLING AND MARKET POWER
DIVISION 2. INDEPENDENT ORGANIZATIONS

16 TAC §25.370

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.370 relating to ERCOT Large Load Forecasting Criteria. This proposed rule will implement Public Utility Regulatory Act (PURA) §37.0561(m) as enacted by Senate Bill (SB) 6 during the Texas 89th Regular Legislative Session. The new rule will identify the criteria that a large load customer must meet for inclusion in the load data that a transmission and/or distribution service provider (TDSP) submits to ERCOT for purposes of developing the load forecasts that ERCOT uses for its transmission planning and resource adequacy models and reports.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will create a new regulation, but this regulation harmonizes a new statutory provision with the language in an existing rule that serves a similar regulatory function;

(6) the proposed rule will not expand, limit, or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Jessie Horn, Sr. Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be more accurate load forecast data to inform transmission planning and resource adequacy in ERCOT. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

Commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by October 17, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Initial comments must be filed by October 17, 2025. Reply comments must be filed by October 31, 2025. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rule on adoption. All comments should refer to Project Number 58480.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

The amount of the study fee in proposed subsection (c)(3) and the amount of security or contribution in aid of construction that a large load customer is required to pay to demonstrate financial commitment under proposed subsection (c)(4) will be addressed in Project No. 58481, Rulemaking to Implement Large Load Interconnection Standards Under PURA §37.0561. Questions for comment related to these topics were filed in Project No. 58481 on September 12, 2025. Therefore, the commission invites specific comments on these topics in Project No. 58481.

Statutory Authority

The new rule is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §37.056, which requires the commission to consider historical load, forecasted load growth, and additional load currently seeking interconnection, including load for which the electric utility has yet to sign an interconnection agreement, as determined by the electric utility with the responsibility for serving the load, when considering need for additional service; §37.0561, which requires the commission by rule to establish criteria by which ERCOT includes forecasted large load of any peak demand in the organization's transmission planning and resource adequacy models and reports; §39.151, which grants the commission authority to oversee ERCOT; and §39.166, which requires ERCOT to use forecasted electrical load, as reasonably determined by the certificated transmission service provider, to identify each region in which transmission capacity is insufficient to meet the region's existing and forecasted electrical load.

Cross Reference to Statute: Public Utility Regulatory Act §14.001; §14.002; §37.0561; §37.0561; §39.151; and §39.166.

§25.370. ERCOT Large Load Forecasting Criteria.

(a) Purpose. The purpose of this section is to establish criteria for a large load customer to be included in ERCOT's load forecasts for transmission planning and resource adequacy models and reports.

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

(1) Large load customer--An entity seeking interconnection of one or more facilities at a single site with an aggregate new load or load addition greater than or equal to 25 megawatts (MW) behind one or more common points of interconnection (POI) or service delivery points.

(2) Load--non-coincident peak demand in MW.

(3) Transmission and/or distribution service provider--the electric utility, municipally owned utility, or electric cooperative that is certificated to provide retail electric service at the site that a large load customer seeks to interconnect or the transmission service provider delegated authority by the electric utility, municipally owned utility, or electric cooperative to act on its behalf for purposes of providing information to ERCOT under this section.

(c) Criteria for inclusion in ERCOT load forecast. A large load customer's forecasted demand must not be included in an ERCOT load forecast used for transmission planning or resource adequacy unless the large load customer executed and securitized an interconnection agreement or meets the following criteria:

(1) disclosed to the TDSP whether it is pursuing a separate request for electric service, the approval of which would result in the customer materially changing, delaying, or withdrawing the interconnection request, and if so, the location, size, and anticipated timing of energization associated with such request;

(2) demonstrated to the TDSP site control for the proposed load location through an ownership interest, lease, or other means accepted in the applicable commission rule for large load interconnection standards;

(3) paid a study fee to the TDSP that is the greater of $100,000 or an amount that is set by the applicable commission rule for large load interconnection standards;

(4) demonstrated financial commitment to the TDSP by means of:

(A) payment of security on a dollar per megawatt basis as set by the applicable commission rule for large load interconnection standards;

(B) payment of contribution in aid of construction; or

(C) payment of security provided under an agreement that requires the large load customer to pay for significant equipment or services in advance of signing an agreement to establish electric delivery service;

(5) provided a load ramping schedule to the TDSP, if applicable;

(6) submitted an attestation to the TDSP that attests significant, verifiable progress toward completion of site-related studies and engineering services required for project development before energization (e.g., water, wastewater, or gas); and

(7) submitted an attestation to the TDSP that attests significant, verifiable progress toward obtaining state and local regulatory approvals required for project development before energization (e.g., water, air, or backup generation permits, or city or county building permits).

(d) Submission of forecasted load data to ERCOT. At the time that a TDSP submits its load data to ERCOT through a mechanism designated by ERCOT, the TDSP must also submit to ERCOT a notarized

attestation sworn to by the TDSP's highest-ranking representative, official, or officer with binding authority over the TDSP, attesting that each large load customer included in the TDSP's load data meets the criteria set forth in subsection (c) of this section for inclusion in ERCOT's load forecast. Not later than ten working days after a TDSP reasonably determines there is a change in its load data submitted to ERCOT, a TDSP must report the change to ERCOT by updating its load data.

(e) ERCOT forecast. Using the load data provided by TDSPs under subsection (d) of this section, ERCOT must develop load forecasts for the ERCOT region.

(1) Validation of load data. ERCOT and commission staff may access information collected by a TDSP to ensure compliance with this section and validate load data submitted by a TDSP. If load data submitted by a TDSP cannot be validated, the data must be excluded from the load forecast developed by ERCOT.

(2) Adjustments to load data. ERCOT, in consultation with commission staff, may make adjustments to the load data provided by a TDSP under this section based on actual historical realization rates or other objective, credible, independent information. ERCOT must provide the TDSP with the data and calculations used to adjust the forecasted load.

(3) Use of load forecasts. ERCOT's load forecasts must use the load data provided by TDSPs under this section in its transmission planning and resource adequacy models and reports. Applicable adjustments to the load forecast may be made to accommodate differences in study scope, time horizons, and modeling details.

(f) Confidential information. Customer-specific or competitively sensitive information obtained under this section is confidential and not subject to disclosure under Chapter 552 of the Texas Government Code.

(g) ERCOT compliance. ERCOT must develop the necessary protocols to ensure its 2026 Regional Transmission Plan complies with this section. If ERCOT cannot timely implement the protocols to ensure the 2026 Regional Transmission Plan complies with this section, then ERCOT, in consultation with commission staff, must submit a compliance plan to the commission, detailing how it will ensure the 2026 Regional Transmission Plan complies with this section.

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

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TITLE 22. EXAMINING BOARDS

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 291. PHARMACIES

SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

22 TAC §291.133

The Texas State Board of Pharmacy proposes amendments to §291.133, concerning Pharmacies Compounding Sterile Preparations. The amendments, if adopted, update the personnel, environment, compounding process, cleaning and disinfecting, beyond-use dating, cleansing and garbing, environmental testing, sterility testing, recall procedure, and recordkeeping requirements for pharmacies compounding sterile preparations.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to ensure the safety and efficacy of compounded sterile preparations for patients, improve the health, safety, and welfare of patients by ensuring that Class A, Class B, Class C, and Class E pharmacies engaged in sterile compounding operate in a safe and sanitary environment, and provide clearer regulatory language that is appropriately informed by the recently updated guidance in the United States Pharmacopeia-National Formulary. For each year of the first five-year period the rule will be in effect, the probable economic cost to persons required to comply with the amendments is estimated to be $0-$1,973.50 per employee, $0-$7,300 in fixed costs, and $0-$1,110.04 per batch in variable costs based on number of batches and formulations, in addition to providing the drug products, placebos, vials, and active pharmaceutical ingredients necessary for testing. Additionally, dependent on a pharmacy's current operations and equipment, a pharmacy would potentially incur one-time expenses of $0-$5,000 for cleanroom modifications, $0-$6,000 for an autoclave, $0-$4,000 for a pharmaceutical oven, $0-$500 for temperature logs and monitors, and $0-6,330 per formulation for preliminary testing.

Economic Impact Statement

The Texas State Board of Pharmacy (Board) anticipates a possible adverse economic impact on some small or micro-businesses (pharmacies) or rural communities as a result of the proposed amendments to §291.133. The Board is unable to estimate the number of small or micro-businesses subject to the proposed amendments. As of July 15, 2025, there are 891 Class A, Class B, Class C, and Class E pharmacies that perform sterile compounding, as indicated by the pharmacies on Board licensing forms. The Board estimates that 78 rural communities in Texas have a Class A, Class B, Class C, or Class E pharmacy that performs sterile compounding.

The economic impact of the proposed amendments on a particular pharmacy would be dependent on that pharmacy's current environment and the policies and procedures the pharmacy previously had in place for compounding sterile preparations. The additional costs of training personnel who do not compound nor supervise compounding personnel on a pharmacy's SOPs are estimated to be $0 to $1,200 per employee. The additional costs of the updated media-fill testing procedures depend on the compounding risk-level in which a pharmacy is currently engaged. For a pharmacy that is currently engaged in only low-risk and medium-risk compounding, the additional costs are estimated to be $9.95 to $300 annually per employee who engages in sterile compounding. For a pharmacy that is currently engaged

in high-risk compounding, no additional costs are anticipated. The additional costs of the updated gloved fingertip sampling depend on the compounding risk-level in which a pharmacy is currently engaged. For a pharmacy that is currently engaged in only low-risk and medium-risk compounding, the additional costs are estimated to be $1.40 to $3.50 per contact plate and $90 to $250 per test annually for each employee who engages in sterile compounding. For a pharmacy that is currently engaged in high-risk compounding, no additional costs are anticipated. The additional costs of the updated garbing competency testing depend on the compounding risk-level in which a pharmacy is currently engaged. For a pharmacy that is currently engaged in only low-risk and medium-risk compounding, the additional costs are estimated to be $0 to $220 annually per employee who engages in sterile compounding. For a pharmacy that is currently engaged in high-risk compounding, no additional costs are anticipated. For a pharmacy that chooses to engage in Category 3 compounding under the proposed amendments, additional costs are estimated to be $0 to $7,000 annually for additional viable air sampling. For a pharmacy that engages in Category 1 or Category 2 compounding under the proposed amendments, no additional viable air sampling costs are anticipated. The additional costs of the updated surface sampling requirements are estimated to be $85 to $300 per sample taken. The additional costs of the updated sterilization and depyrogenation requirements, for a pharmacy that does not already possess a pharmaceutical oven or autoclave, are one-time costs of $1,000 to $6,000 for an autoclave, $1,000 to $4,000 for a pharmaceutical oven, and $500 for temperature logs and monitors, annual costs of $300 for calibration and $210 for endotoxin testing, and $40 to $50 per usage for washing and wrapping supplies. Preliminary testing is estimated to cost $510 to $1,800 per formulation for method suitability testing, $150 to $345 per formulation for sterility testing, $500 per formulation for endotoxin validation method, $110 to $210 per formulation for endotoxin testing, $250 to $1,200 per formulation for container closure integrity testing, $1,025-$1,275 per formulation for antimicrobial effectiveness testing, and $1,000 per formulation for a method suitability test for antimicrobial effectiveness testing. The additional costs of the updated air exchange requirements are estimated to be a one-time cost of $0 to $5,000 based on the extent of the modifications, if any, needed for a pharmacy's cleanroom. The additional costs of expanded disinfecting with sterile 70% isopropyl alcohol in place of non-sterile 70% isopropyl alcohol are estimated to be a net increase of $5.04 per 32-ounce bottle. The additional costs of sterile low-lint garments and coverings are estimated to $0 to $45 per set. The additional costs of expanded sterility and bacterial endotoxin testing are estimated to be $300 to $500 per batch. The estimated cost of the new beyond-use date requirements is dependent on the pharmacy's current practices. A shortened beyond-use date may require the compound to be made more frequently or discarded more often. Additional testing costs may be incurred to prove that a specific compounded preparation can exceed a new beyond-use date standard.

The Board established a Compounding Rules Advisory Group, comprised of a Sterile Subcommittee and a Non-Sterile Subcommittee, to review the recently issued revisions to United States Pharmacopeia General Chapter <795> Pharmaceutical Compounding- Nonsterile Preparations and United States Pharmacopeia General Chapter <797> Pharmaceutical Compounding- Sterile Preparations, and the proposed amendments are based on the recommendations of the Sterile Subcommittee. The Subcommittee's recommendations were initially presented at the May 7, 2024, Board meeting and four Subcommittee members made oral public comments concerning the recommendations. The Board reviewed the recommendations and provided direction to Board staff on items for which the Subcommittee could not come to consensus. At the August 6, 2024, Board meeting, the Board voted to published the proposed amendments for public comment. The amendments were published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7588). The Board received eight written public comments concerning the amendments. At the November 5, 2024, Board meeting, the Board received six oral public comments. After reviewing and considering the written and oral comments, the Board made additional changes and voted to propose the updated amendments to §291.133. The amendments were published in the December 27, 2024, edition of the *Texas Register* (49 TexReg 10463). The Board received five written public comments concerning the amendments. At the June 17, 2025, Board meeting, the Board received six oral public comments. After reviewing and considering the written and oral comments, the Board made additional changes and voted to propose the updated amendments to §291.133. Alternative methods of achieving the purpose of the proposed amendments were considered by the Sterile Subcommittee and the Board and the proposed amendments reflect recommendations for the least restrictive methods of ensuring the safety and efficacy of compounded sterile preparations.

Regulatory Flexibility Analysis

The Texas State Board of Pharmacy (Board) anticipates a possible adverse economic impact on some small or micro-businesses (pharmacies) or rural communities as a result of the proposed amendments to §291.133. The Board established a Compounding Rules Advisory Group, comprised of a Sterile Subcommittee and a Non-Sterile Subcommittee, to review the recently issued revisions to United States Pharmacopeia General Chapter <795> Pharmaceutical Compounding- Nonsterile Preparations and United States Pharmacopeia General Chapter <797> Pharmaceutical Compounding- Sterile Preparations, and the proposed amendments are based on the recommendations of the Sterile Subcommittee. The Sterile Subcommittee reviewed the new provisions of USP <797>, discussed whether any of the provisions should be added to §291.133 to ensure patient safety in Texas, and considered various methods of achieving this purpose.

The Sterile Subcommittee discussed the changes to USP <797> during its meetings held on August 2, 2023, August 23, 2023, October 3, 2023, October 30, 2023, and January 23, 2024 meetings. The Sterile Committee considered different options and levels of personnel training, beyond-use dating, environmental requirements, compounding processes, environmental testing requirements, recall procedures, and recordkeeping requirements in determining recommendations for the least restrictive methods of ensuring the safety and efficacy of compounded sterile preparations. In reviewing the new provisions of USP <797>, the Sterile Subcommittee recommended limiting or not adopting several of the new provisions, including preparation per approved labeling, initial gowning competency, use of isolators, precision and accuracy of pressure differentials, compounding notification on label, packaging of compounded sterile preparations, and compounding allergenic extracts.

The Sterile Subcommittee's recommendations were initially presented at the May 7, 2024, Board meeting and four Subcommittee members made oral public comments concerning the recommendations. The Board reviewed the recommendations

and provided direction to Board staff on items for which the Subcommittee could not come to consensus. At the August 6, 2024, Board meeting, the Board voted to published the proposed amendments for public comment. The amendments were published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7588). The Board received eight written public comments concerning the amendments. At the November 5, 2024, Board meeting, the Board received six oral public comments. After reviewing and considering the written and oral comments, the Board made additional changes and voted to propose the updated amendments to §291.133. The amendments were published in the December 27, 2024, edition of the *Texas Register* (49 TexReg 10463). The Board received five written public comments concerning the amendments. At the June 17, 2025, Board meeting, the Board received six oral public comments. After reviewing and considering the written and oral comments, the Board made additional changes and voted to propose the updated amendments to §291.133. The Board finds that alternative regulatory methods would not be consistent with the health, safety, and environmental and economic welfare of the state.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments both limit and expand an existing regulation by adding and amending operational standards for Class A, Class B, Class C, and Class E, pharmacies engaged in sterile compounding;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments would have a de minimis impact on this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.133. Pharmacies Compounding Sterile Preparations.

(a) Purpose. Pharmacies compounding sterile preparations, prepackaging pharmaceutical products, and distributing those products shall comply with all requirements for their specific license classification and this section. The purpose of this section is to provide standards for the:

(1) compounding of sterile preparations pursuant to a prescription or medication order for a patient from a practitioner in Class A-S, Class B, Class C-S, and Class E-S pharmacies;

(2) compounding, dispensing, and delivery of a reasonable quantity of a compounded sterile preparation in Class A-S, Class B, Class C-S, and Class E-S pharmacies to a practitioner's office for office use by the practitioner;

(3) compounding and distribution of compounded sterile preparations by a Class A-S pharmacy for a Class C-S pharmacy; and

(4) compounding of sterile preparations by a Class C-S pharmacy and the distribution of the compounded preparations to other Class C or Class C-S pharmacies under common ownership.

(b) Definitions. In addition to the definitions for specific license classifications, the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Airborne particulate cleanliness class--The level of cleanliness specified by the maximum allowable number of particles per cubic meter of air as specified in the International Organization of Standardization (ISO) Classification Air Cleanliness (ISO 14644-1). For example:

(A) ISO Class 5 (formerly Class 100) is an atmospheric environment that contains less than 3,520 particles 0.5 microns and larger in diameter per cubic meter of air (formerly stated as 100 particles 0.5 microns in diameter per cubic foot of air);

(B) ISO Class 7 (formerly Class 10,000) is an atmospheric environment that contains less than 352,000 particles 0.5 microns and larger in diameter per cubic meter of air (formerly stated as 10,000 particles 0.5 microns in diameter per cubic foot of air); and

(C) ISO Class 8 (formerly Class 100,000) is an atmospheric environment that contains less than 3,520,000 particles 0.5 microns and larger in diameter per cubic meter of air (formerly stated as 100,000 particles 0.5 microns in diameter per cubic foot of air).

(3) Ancillary supplies--Supplies necessary for the preparation and administration of compounded sterile preparations.

(4) Anteroom [~~Ante-area~~]--An ISO Class 8 or cleaner room with fixed walls and doors where personnel hand hygiene, garbing procedures, and other activities that generate high particulate levels may be performed. The anteroom is the transition room between the unclassified area of the pharmacy and the buffer room. [~~An ISO Class 8 or better area where personnel may perform hand hygiene and garbing procedures, staging of components, order entry, labeling, and other high-particulate generating activities. It is also a transition area that:~~]

[~~(A) provides assurance that pressure relationships are constantly maintained so that air flows from clean to dirty areas; and~~]

[~~(B) reduces the need for the heating, ventilating and air conditioning (HVAC) control system to respond to large disturbances.~~]

(5) Aseptic processing [~~Processing~~]--A mode of processing pharmaceutical and medical preparations that involves the separate sterilization of the preparation and of the package (containers-clo-

sures or packaging material for medical devices) and the transfer of the preparation into the container and its closure under at least ISO Class 5 conditions.

(6) Automated compounding device--An automated device that compounds, measures, and/or packages a specified quantity of individual components in a predetermined sequence for a designated sterile preparation.

(7) Batch--A specific quantity of a drug or other material that is intended to have uniform character and quality, within specified limits, and is produced during a single preparation cycle.

(8) Batch preparation compounding--Compounding of multiple sterile preparation units, in a single discrete process, by the same individual(s), carried out during one limited time period. Batch preparation/compounding does not include the preparation of multiple sterile preparation units pursuant to patient specific medication orders.

(9) Beyond-use date--The date, or hour and the date, after which a compounded sterile preparation shall not be used, stored, or transported. The date is determined from the date and time the preparation is compounded. [~~The date or time after which the compounded sterile preparation shall not be stored or transported or begin to be administered to a patient. The beyond-use date is determined from the date or time the preparation is compounded.~~]

(10) Biological safety cabinet [~~Safety Cabinet~~], Class II--A ventilated cabinet for personnel, product or preparation, and environmental protection having an open front with inward airflow for personnel protection, downward HEPA filtered laminar airflow for product protection, and HEPA filtered exhausted air for environmental protection.

(11) Buffer room [~~Area~~]--An ISO Class 7 or cleaner or, if a Class B pharmacy, an ISO Class 8 or cleaner, room with fixed walls and doors where primary engineering controls that generate and maintain an ISO Class 5 environment are physically located. The buffer room may only be accessed through the anteroom or another buffer room. [~~An ISO Class 7 or, if a Class B pharmacy, ISO Class 8 or better, area where the primary engineering control area is physically located. Activities that occur in this area include the preparation and staging of components and supplies used when compounding sterile preparations.~~]

(12) Clean room--A room in which the concentration of airborne particles is controlled to meet a specified airborne particulate cleanliness class. Microorganisms in the environment are monitored so that a microbial level for air, surface, and personnel gear are not exceeded for a specified cleanliness class.

(13) Cleaning agent--An agent, usually containing a surfactant, used for the removal of substances (e.g., dirt, debris, microbes, residual drugs or chemicals) from surfaces.

(14) Cleanroom suite--A classified area that consists of both an anteroom and buffer room.

(15) [~~(13)~~] Component--Any ingredient used in the compounding of a preparation, including any active ingredient, added substance, or conventionally manufactured product [~~intended for use in the compounding of a drug preparation, including those that may not appear in such preparation~~].

(16) [~~(14)~~] Compounding--The preparation, mixing, assembling, packaging, or labeling of a drug or device:

(A) as the result of a practitioner's prescription drug or medication order based on the practitioner-patient-pharmacist relationship in the course of professional practice;

(B) for administration to a patient by a practitioner as the result of a practitioner's initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice;

(C) in anticipation of prescription drug or medication orders based on routine, regularly observed prescribing patterns; or

(D) for or as an incident to research, teaching, or chemical analysis and not for sale or dispensing, except as allowed under §562.154 or Chapter 563 of the Occupations Code.

(17) [~~(15)~~] Compounding aseptic isolator [~~Aseptic Isolator~~]--A form of barrier isolator specifically designed for compounding pharmaceutical ingredients or preparations. It is designed to maintain an aseptic compounding environment within the isolator throughout the compounding and material transfer processes. Air exchange into the isolator from the surrounding environment shall not occur unless it has first passed through a microbial retentive filter (HEPA minimum).

(18) [~~(16)~~] Compounding aseptic containment isolator [~~Aseptic Containment Isolator~~]--A compounding aseptic isolator designed to provide worker protection from exposure to undesirable levels of airborne drug throughout the compounding and material transfer processes and to provide an aseptic environment for compounding sterile preparations. Air exchange with the surrounding environment should not occur unless the air is first passed through a microbial retentive filter (HEPA minimum) system capable of containing airborne concentrations of the physical size and state of the drug being compounded. Where volatile hazardous drugs are prepared, the exhaust air from the isolator should be appropriately removed by properly designed building ventilation.

(19) [~~(17)~~] Compounding personnel [~~Personnel~~]--A pharmacist, pharmacy technician, or pharmacy technician trainee who performs the actual compounding; a pharmacist who supervises pharmacy technicians or pharmacy technician trainees compounding sterile preparations, and a pharmacist who performs an intermediate or final verification of a compounded sterile preparation.

(20) [~~(18)~~] Critical area [~~Area~~]--An ISO Class 5 environment.

(21) [~~(19)~~] Critical sites [~~Sites~~]--A location that includes any component or fluid pathway surfaces (e.g., vial septa, injection ports, beakers) or openings (e.g., opened ampules, needle hubs) exposed and at risk of direct contact with air (e.g., ambient room or HEPA filtered), moisture (e.g., oral and mucosal secretions), or touch contamination. Risk of microbial particulate contamination of the critical site increases with the size of the openings and exposure time.

(22) [~~(20)~~] Device--An instrument, apparatus, implement, machine, contrivance, implant, in-vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

(23) [~~(21)~~] Direct compounding area [~~Compounding Area~~]--A critical area within the ISO Class 5 primary engineering control where critical sites are exposed to unidirectional HEPA-filtered air, also known as first air.

(24) [~~(22)~~] Disinfectant--An agent that frees from infection, usually a chemical agent but sometimes a physical one, and that destroys disease-causing pathogens or other harmful microorganisms but may not kill bacterial and fungal spores. It refers to substances applied to inanimate objects.

(25) [~~(23)~~] First air [~~Air~~]--The air exiting the HEPA filter in a unidirectional air stream that is essentially particle free.

(26) [~~(24)~~] Hazardous drugs [~~Drugs~~]--Drugs that, studies in animals or humans indicate exposure to the drugs, have a potential for causing cancer, development or reproductive toxicity, or harm to organs. For the purposes of this chapter, radiopharmaceuticals are not considered hazardous drugs.

(27) [~~(25)~~] Hot water--The temperature of water from the pharmacy's sink maintained at a minimum of 105 degrees F (41 degrees C).

(28) [~~(26)~~] HVAC--Heating, ventilation, and air conditioning.

(29) [~~(27)~~] Immediate use--A sterile preparation that is not prepared according to USP 797 standards (i.e., outside the pharmacy and most likely not by pharmacy personnel) which shall be stored for no longer than four hours following the start of preparing [~~one hour after completion of~~] the preparation.

(30) [~~(28)~~] IPA--Isopropyl alcohol (2-propanol).

(31) [~~(29)~~] Labeling--All labels and other written, printed, or graphic matter on an immediate container of an article or preparation or on, or in, any package or wrapper in which it is enclosed, except any outer shipping container. The term "label" designates that part of the labeling on the immediate container.

(32) Master formulation record--A detailed record of procedures that describes how the compounded sterile preparation is to be prepared.

(33) [~~(30)~~] Media-fill test [~~Media-Fill Test~~]--A test used to qualify aseptic technique of compounding personnel or processes and to ensure that the processes used are able to produce sterile preparation without microbial contamination. During this test, a microbiological growth medium such as Soybean-Casein Digest Medium is substituted for the actual drug preparation to simulate admixture compounding. The issues to consider in the development of a media-fill test are the following: media-fill procedures, media selection, fill volume, incubation, time and temperature, inspection of filled units, documentation, interpretation of results, and possible corrective actions required.

(34) [~~(31)~~] Multiple-dose container [~~Multiple-Dose Container~~]--A multiple-unit container for articles or preparations intended for parenteral [~~potential~~] administration only and usually contains antimicrobial preservatives. The beyond-use date for an opened or entered (e.g., needle-punctured) multiple-dose container with antimicrobial preservatives is 28 days, unless otherwise specified by the manufacturer.

(35) [~~(32)~~] Negative pressure room [~~Pressure Room~~]--A room that is at a lower pressure compared to adjacent spaces and, therefore, the net flow of air is into the room.

(36) [~~(33)~~] Office use--The administration of a compounded drug to a patient by a practitioner in the practitioner's office or by the practitioner in a health care facility or treatment setting, including a hospital, ambulatory surgical center, or pharmacy in accordance with Chapter 562 of the Act, or for administration or provision by a veterinarian in accordance with §563.054 of the Act.

(37) [~~(34)~~] Pharmacy bulk package [~~Bulk Package~~]--A container of a sterile preparation for potential use that contains many single doses. The contents are intended for use in a pharmacy admixture program and are restricted to the preparation of admixtures for infusion or, through a sterile transfer device, for the filling of empty sterile syringes. The closure shall be penetrated only one time after constitution with a suitable sterile transfer device or dispensing set, which allows measured dispensing of the contents. The pharmacy bulk package is to be used only in a suitable work area such as a laminar flow hood (or an equivalent clean air compounding area).

(38) [~~(35)~~] Prepackaging--The act of repackaging and relabeling quantities of drug products from a manufacturer's original container into unit dose packaging or a multiple-dose [~~multiple dose~~] container for distribution within a pharmacy [~~facility~~] licensed as a Class C pharmacy or to other pharmacies under common ownership for distribution within those pharmacies [~~facilities~~]. The term as defined does not prohibit the prepackaging of drug products for use within other pharmacy classes.

(39) [~~(36)~~] Preparation or compounded sterile preparation [~~Compounded Sterile Preparation~~]--A sterile admixture compounded in a licensed pharmacy or other healthcare-related facility pursuant to the order of a licensed prescriber. The components of the preparation may or may not be sterile products.

(40) [~~(37)~~] Primary engineering control [~~Engineering Control~~]--A device or room that provides an ISO Class 5 environment for the exposure of critical sites when compounding sterile preparations. Such devices include, but may not be limited to, laminar airflow workbenches, biological safety cabinets, compounding aseptic isolators, and compounding aseptic containment isolators.

(41) [~~(38)~~] Product--A commercially manufactured sterile drug or nutrient that has been evaluated for safety and efficacy by the U.S. Food and Drug Administration (FDA). Products are accompanied by full prescribing information, which is commonly known as the FDA-approved manufacturer's labeling or product package insert.

(42) [~~(39)~~] Positive control [~~Control~~]--A quality assurance sample prepared to test positive for microbial growth.

(43) [~~(40)~~] Quality assurance--The set of activities used to ensure that the process used in the preparation of sterile drug preparations lead to preparations that meet predetermined standards of quality.

(44) [~~(41)~~] Quality control--The set of testing activities used to determine that the ingredients, components (e.g., containers), and final compounded sterile preparations prepared meet predetermined requirements with respect to identity, purity, non-pyrogenicity, and sterility.

(45) [~~(42)~~] Reasonable quantity--An amount of a compounded drug that:

(A) does not exceed the amount a practitioner anticipates may be used in the practitioner's office or facility before the beyond-use [~~beyond use~~] date of the drug;

(B) is reasonable considering the intended use of the compounded drug and the nature of the practitioner's practice; and

(C) for any practitioner and all practitioners as a whole, is not greater than an amount the pharmacy is capable of compounding in compliance with pharmaceutical standards for identity, strength, quality, and purity of the compounded drug that are consistent with United States Pharmacopeia [~~Pharmacopoeia~~] guidelines and accreditation practices.

(46) Restricted-access barrier system--An enclosure that provides HEPA-filtered ISO Class 5 unidirectional air that allows for the ingress and/or egress of materials through defined openings that have been designed and validated to preclude the transfer of contamination, and that generally are not to be opened during operations.

(47) [~~(43)~~] Segregated compounding area [~~Compounding Area~~]--A designated space, area, or room that is not required to be classified and is defined with a visible perimeter. The segregated compounding area shall contain a PEC and is suitable for preparation of

Category 1 compounded sterile preparations only. [~~A designated space, either a demarcated area or room, that is restricted to preparing low-risk level compounded sterile preparations with 12-hour or less beyond-use date. Such area shall contain a device that provides unidirectional airflow of ISO Class 5 air quality for preparation of compounded sterile preparations and shall be void of activities and materials that are extraneous to sterile compounding.~~]

(48) [~~(44)~~] Single-dose container--A single-unit container for articles or preparations intended for parenteral administration only. It is intended for a single use. A single-dose container is labeled as such. Examples of single-dose containers include pre-filled syringes, cartridges, fusion-sealed containers, and closure-sealed containers when so labeled.

(49) [~~(45)~~] SOPs--Standard operating procedures.

(50) [~~(46)~~] Sterilizing grade membranes [~~Grade Membranes~~]--Membranes that are documented to retain 100% of a culture of 10^7 [~~107~~] microorganisms of a strain of Brevundimonas (Pseudomonas) diminuta per square centimeter of membrane surface under a pressure of not less than 30 psi (2.0 bar). Such filter membranes are nominally at 0.22-micron or 0.2 micron [~~0.22-micrometer or 0.2-micrometer~~] nominal pore size, depending on the manufacturer's practice.

(51) [~~(47)~~] Sterilization by filtration [~~Filtration~~]--Passage of a fluid or solution through a sterilizing grade membrane to produce a sterile filtrate [~~effluent~~].

(52) [~~(48)~~] Terminal sterilization [~~Sterilization~~]--The application of a lethal process, e.g., steam under pressure or autoclaving, to sealed final preparation containers for the purpose of achieving a predetermined sterility assurance level of usually less than 10^-6 [~~10-6~~] or a probability of less than one in one million of a non-sterile unit.

(53) [~~(49)~~] Unidirectional airflow [~~Flow~~]--An airflow moving in a single direction in a robust and uniform manner and at sufficient speed to reproducibly sweep particles away from the critical processing or testing area.

(54) [~~(50)~~] USP/NF--The current edition of the United States Pharmacopeia/National Formulary.

(c) Personnel.

(1) Pharmacist-in-charge.

(A) General. The pharmacy shall have a pharmacist-in-charge in compliance with the specific license classification of the pharmacy.

(B) Responsibilities. In addition to the responsibilities for the specific class of pharmacy, the pharmacist-in-charge shall have the responsibility for, at a minimum, the following concerning the compounding of sterile preparations:

(i) developing a system to ensure that all pharmacy personnel responsible for compounding and/or supervising the compounding of sterile preparations within the pharmacy receive appropriate education and training and competency evaluation;

(ii) determining that all personnel involved in compounding sterile preparations obtain continuing education appropriate for the type of compounding done by the personnel;

(iii) supervising a system to ensure appropriate procurement of drugs and devices and storage of all pharmaceutical materials including pharmaceuticals, components used in the compounding of sterile preparations, and drug delivery devices;

(iv) ensuring that the equipment used in compounding is properly maintained;

(v) developing a system for the disposal and distribution of drugs from the pharmacy;

(vi) developing a system for bulk compounding or batch preparation of drugs;

(vii) developing a system for the compounding, sterility assurance, quality assurance, and quality control of sterile preparations; and

(viii) if applicable, ensuring that the pharmacy has a system to dispose of hazardous waste in a manner so as not to endanger the public health.

(2) Pharmacists.

(A) General.

(i) A pharmacist is responsible for ensuring that compounded sterile preparations are accurately identified, measured, diluted, and mixed and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed.

(ii) A pharmacist shall inspect and approve all components, drug preparation containers, closures, labeling, and any other materials involved in the compounding process.

(iii) A pharmacist shall review all compounding records for accuracy and conduct periodic in-process checks as defined in the pharmacy's policy and procedures.

(iv) A pharmacist shall review all compounding records for accuracy and conduct a final check.

(v) A pharmacist is responsible for ensuring the proper maintenance, cleanliness, and use of all equipment used in the compounding process.

(vi) A pharmacist shall be accessible at all times, 24 hours a day, to respond to patients' and other health professionals' questions and needs.

(B) Initial training and continuing education.

(i) All pharmacists who compound sterile preparations or supervise pharmacy technicians and pharmacy technician trainees compounding sterile preparations shall comply with the following:

(I) complete through a single course, a minimum of 20 hours of instruction and experience in the areas listed in paragraph (4)(D) of this subsection. Such training shall be obtained through completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE accredited provider;

(II) complete a structured on-the-job didactic and experiential training program at this pharmacy which provides sufficient hours of instruction and experience in the pharmacy's [~~facility's~~] sterile compounding processes and procedures. Such training may not be transferred to another pharmacy unless the pharmacies are under common ownership and control and use a common training program; and

(III) possess knowledge about:

(-a-) aseptic processing;

(-b-) quality control and quality assurance as related to environmental, component, and finished preparation release checks and tests;

(-c-) chemical, pharmaceutical, and clinical properties of drugs;

(-d-) container, equipment, and closure system selection; and

(-e-) sterilization techniques.

(ii) The required experiential portion of the training programs specified in this subparagraph shall [~~must~~] be supervised by an individual who is actively engaged in performing sterile compounding and is qualified and has completed training as specified in this paragraph or paragraph (3) of this subsection.

(iii) In order to renew a license to practice pharmacy, during the previous licensure period, a pharmacist engaged in sterile compounding shall complete a minimum of:

(I) two hours of ACPE-accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if the pharmacist is engaged in compounding Category 1 or Category 2 compounded [~~low and medium risk~~] sterile preparations; or

(II) four hours of ACPE-accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if the pharmacist is engaged in compounding Category 2 prepared from any non-sterile starting component or Category 3 compounded [~~high risk~~] sterile preparations.

(3) Pharmacy technicians and pharmacy technician trainees.

(A) General. All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) Initial training and continuing education.

(i) Pharmacy technicians and pharmacy technician trainees may compound sterile preparations provided the pharmacy technicians and/or pharmacy technician trainees are supervised by a pharmacist as specified in paragraph (2) of this subsection.

(ii) All pharmacy technicians and pharmacy technician trainees who compound sterile preparations for administration to patients shall:

(I) have initial training obtained either through completion of:

(-a-) a single course, a minimum of 40 hours of instruction and experience in the areas listed in paragraph (4)(D) of this subsection. Such training shall be obtained through completion of a course sponsored by an ACPE accredited provider which provides 40 hours of instruction and experience; or

(-b-) a training program which is accredited by the American Society of Health-System Pharmacists.

(II) and

(-a-) complete a structured on-the-job didactic and experiential training program at this pharmacy which provides sufficient hours of instruction and experience in the pharmacy's [~~facility's~~] sterile compounding processes and procedures. Such training may not be transferred to another pharmacy unless the pharmacies are under common ownership and control and use a common training program; and

(-b-) possess knowledge about:

(-1-) aseptic processing;

(-2-) quality control and quality assurance as related to environmental, component, and finished preparation release checks and tests;

(-3-) chemical, pharmaceutical, and clinical properties of drugs;

(-4-) container, equipment, and closure system selection; and

(-5-) sterilization techniques.

(iii) Individuals enrolled in training programs accredited by the American Society of Health-System Pharmacists may compound sterile preparations in a licensed pharmacy provided the:

(I) compounding occurs only during times the individual is assigned to a pharmacy as a part of the experiential component of the American Society of Health-System Pharmacists training program;

(II) individual is under the direct supervision of and responsible to a pharmacist who has completed training as specified in paragraph (2) of this subsection;

(III) supervising pharmacist conducts periodic in-process checks as defined in the pharmacy's policy and procedures; and

(IV) supervising pharmacist conducts a final check.

(iv) The required experiential portion of the training programs specified in this subparagraph shall [~~must~~] be supervised by an individual who is actively engaged in performing sterile compounding, is qualified and has completed training as specified in paragraph (2) of this subsection or this paragraph.

(v) In order to renew a registration as a pharmacy technician, during the previous registration period, a pharmacy technician engaged in sterile compounding shall complete a minimum of:

(I) two hours of ACPE accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if the pharmacy technician is engaged in compounding Category 1 or Category 2 compounded [~~low and medium risk~~] sterile preparations; or

(II) four hours of ACPE accredited continuing education relating to one or more of the areas listed in paragraph (4)(D) of this subsection if the pharmacy technician is engaged in compounding Category 2 prepared from any non-sterile starting component or Category 3 compounded [~~high risk~~] sterile preparations.

(4) Evaluation and testing requirements.

(A) All persons who perform or oversee compounding or support activities shall be trained in the pharmacy's SOPs. All pharmacy personnel preparing sterile preparations shall be trained conscientiously and skillfully by expert personnel through multimedia instructional sources and professional publications in the theoretical principles and practical skills of aseptic manipulations, garbing procedures, aseptic work practices, achieving and maintaining ISO Class 5 environmental conditions, and cleaning and disinfection procedures before beginning to prepare compounded sterile preparations.

(B) All pharmacy personnel preparing sterile preparations shall perform didactic review and pass written [~~and media-fill~~] testing of aseptic manipulative skills initially and every 12 months. [~~followed by:~~]

~~*[(i)* every 12 months for low- and medium-risk level compounding; and]~~

~~*[(ii)* every six months for high-risk level compounding.]~~

(C) Pharmacy personnel who fail written tests or whose media-fill tests result in gross microbial colonization shall:

(i) be immediately re-instructed and re-evaluated by expert compounding personnel to ensure correction of all aseptic practice deficiencies; and

(ii) not be allowed to compound sterile preparations for patient use until passing results are achieved.

(D) The didactic and experiential training shall include instruction, experience, and demonstrated proficiency in the following areas:

(i) aseptic technique;

(ii) critical area contamination factors;

(iii) environmental monitoring;

(iv) structure and engineering controls related to facilities;

(v) equipment and supplies;

(vi) sterile preparation calculations and terminology;

(vii) sterile preparation compounding documentation;

(viii) quality assurance procedures;

(ix) aseptic preparation procedures including proper gowning and gloving technique;

(x) handling of hazardous drugs, if applicable;

(xi) cleaning procedures; and

(xii) general conduct in the clean room.

(E) The aseptic technique of all compounding personnel and personnel who have direct oversight of compounding personnel but do not compound [~~each person compounding or responsible for the direct supervision of personnel compounding sterile preparations~~] shall be observed and evaluated by expert personnel as satisfactory through written and practical tests, and media-fill [~~challenge~~] testing, and such evaluation documented. Compounding personnel shall not evaluate their own aseptic technique or results of their own media-fill [~~challenge~~] testing. The pharmacy's SOPs shall define the aseptic technique evaluation for personnel who do not compound nor have direct oversight of compounding personnel such as personnel who restock or clean and disinfect the sterile compounding area, personnel who perform in-process checks or final verification of compounded sterile preparations, and others (e.g., maintenance personnel, certifiers, contractors, inspectors, surveyors).

(F) Media-fill tests shall [~~must~~] be conducted at each pharmacy where an individual compounds [~~low or medium risk~~] sterile preparations under the most challenging or stressful conditions. If pharmacies are under common ownership and control, the media-fill testing may be conducted at only one of the pharmacies provided each of the pharmacies are operated under equivalent policies and procedures and the testing is conducted under the most challenging or stressful conditions. In addition, each pharmacy shall [~~must~~] maintain documentation of the media-fill test. No preparation intended for patient use shall be compounded by an individual until the on-site media-fill tests indicate that the individual can competently perform aseptic procedures, except that a pharmacist may temporarily compound sterile preparations and supervise pharmacy technicians compounding sterile preparations without media-fill tests provided the pharmacist completes the on-site media-fill tests within seven days of commencing work at the pharmacy.

(G) For media-fill testing of compounds using only sterile starting components, the components shall be manipulated in a manner that simulates sterile-to-sterile compounding activities. The sterile soybean-casein digest media shall be transferred into the same types of container closure systems commonly used at the pharmacy.

[~~(G) Media-fill tests must be conducted at each pharmacy where an individual compounds high risk sterile preparations. No preparation intended for patient use shall be compounded by an individual until the on-site media-fill tests indicate that the individual can competently perform aseptic procedures, except that a pharmacist may temporarily compound sterile preparations and supervise pharmacy technicians compounding sterile preparations without media-fill tests provided the pharmacist completes the on-site media-fill tests within seven days of commencing work at the pharmacy.~~]

(H) For media-fill testing of compounds using any non-sterile starting components, a commercially available non-sterile soybean-casein digest powder shall be dissolved in non-bacteriostatic water to make a 3.0% non-sterile solution. The components shall be manipulated in a manner that simulates non-sterile-to-sterile compounding activities. At least one container shall be prepared as the positive control to demonstrate growth promotion, as indicated by visible turbidity upon incubation.

[~~(H) Media-fill testing procedures for assessing the preparation of specific types of sterile preparations shall be representative of the most challenging or stressful conditions encountered by the pharmacy personnel being evaluated and, if applicable, for sterilizing high-risk level compounded sterile preparations.~~]

(I) Final containers shall be incubated in an incubator at 20 to 25 degrees Celsius and 30 to 35 degrees Celsius for a minimum of 7 days at each temperature band to detect a broad spectrum of microorganisms. The order of the incubation temperatures shall be described in the pharmacy's SOPs. Failure is indicated by visible turbidity or other visual manifestations of growth in the media in one or more container closure unit(s) on or before the end of the incubation period.

[~~(I) Media-fill challenge tests simulating high-risk level compounding shall be used to verify the capability of the compounding environment and process to produce a sterile preparation.~~]

[~~(J) Commercially available sterile fluid culture media for low and medium risk level compounding or non-sterile fluid culture media for high risk level compounding shall be able to promote exponential colonization of bacteria that are most likely to be transmitted to compounding sterile preparations from the compounding personnel and environment. Media-filled vials are generally incubated at 20 to 25 degrees Celsius or at 30 to 35 degrees Celsius for a minimum of 14 days. If two temperatures are used for incubation of media-filled samples, then these filled containers should be incubated for at least 7 days at each temperature. Failure is indicated by visible turbidity in the medium on or before 14 days.~~]

(J) [~~(K)~~] The pharmacist-in-charge shall ensure continuing competency of pharmacy personnel through in-service education, training, and media-fill tests to supplement initial training. Personnel competency shall be evaluated:

(i) during orientation and training prior to the regular performance of those tasks;

(ii) whenever the quality assurance program yields an unacceptable result;

(iii) whenever unacceptable techniques are observed; and

(iv) at least every 12 months, with the exception of media-fill testing which shall be completed every six months for compounding personnel [~~on an annual basis for low- and medium-risk level compounding, and every six months for high-risk level compounding~~].

(K) [~~(L)~~] The pharmacist-in-charge shall ensure that proper hand hygiene and garbing practices of all compounding personnel and personnel who have direct oversight of compounding personnel but do not compound are evaluated prior to compounding, supervising, or verifying sterile preparations intended for patient use and whenever an aseptic media-fill [~~media fill~~] is performed.

(i) Gloved fingertip sampling shall be performed for all [~~Sampling of~~] compounding personnel and personnel who have direct oversight of compounding personnel but do not compound [~~glove fingertips shall be performed for all risk level compounding~~]. If pharmacies are under common ownership and control, the gloved fingertip and thumb sampling may be conducted at only one of the pharmacies provided each of the pharmacies are operated under equivalent policies and procedures and the testing is conducted under the most challenging or stressful conditions. In addition, each pharmacy shall [~~must~~] maintain documentation of the gloved fingertip and thumb sampling [~~of all compounding personnel~~].

(ii) All compounding personnel and personnel who have direct oversight of compounding personnel but do not compound shall demonstrate competency in proper hand hygiene and garbing procedures and in aseptic work practices (e.g., disinfection of component surfaces, routine disinfection of gloved hands).

(iii) Sterile sampling media devices [~~contact agar plates~~] shall be used to sample the gloved fingertips of compounding personnel and personnel who have direct oversight of compounding personnel but do not compound after garbing in order to assess garbing competency and after completing the media-fill preparation (without applying sterile 70% IPA).

(iv) The visual observation shall be documented and maintained to provide a permanent record and long-term assessment of personnel competency.

(v) All compounding personnel and personnel who have direct oversight of compounding personnel but do not compound shall successfully complete an initial competency evaluation and gloved fingertip and thumb [~~fingertip/thumb~~] sampling procedure no less than three times before initially being allowed to compound sterile preparations for patient use. Immediately after the [~~compounding~~] personnel completes the hand hygiene and garbing procedure (i.e., after donning of sterile gloves and before any disinfecting with sterile 70% IPA), the evaluator will collect a gloved fingertip and thumb sample from both hands of the compounding personnel onto contact plates or swabs by having the individual lightly touching each fingertip onto the testing medium. Samples shall be incubated in an incubator. The media device shall be incubated at 30 to 35 degrees Celsius for no less than 48 hours and then at 20 to 25 degrees Celsius for no less than five additional days. Alternatively, to shorten the overall incubation period, two sampling media devices may be incubated concurrently in separate incubators with one media device incubated at 30 to 35 degrees Celsius for no less than 48 hours and the other media device incubated at 20 to 25 degrees Celsius for no less than five days. Media devices shall be handled and stored so as to avoid contamination and prevent condensate from dropping onto the agar during incubation and affecting the accuracy of the cfu reading (e.g., invert containers). [~~The contact plates or swabs will be incubated for the appropriate incubation period and at the appropriate temperature.~~] Action levels for gloved fingertip and thumb sampling are based on the total cfu count from both hands. Results of the initial gloved fingertip and thumb sampling evaluations after garbing shall indicate not greater than zero colony-forming units (0 cfu) [~~(0 CFU)~~] growth on the contact plates or swabs, or the test shall be considered a failure. Results of the initial gloved fingertip evaluations after media-fill testing shall indicate not greater than three colony-forming units (3 cfus) growth on the contact plates or swabs, or the test shall be considered a failure. In the event of a failed gloved fingertip and thumb test, the evaluation shall be repeated until the individual can successfully don sterile gloves and pass the gloved fingertip and thumb sampling evaluation, defined as zero cfus [~~CFUs~~] growth. Surface sampling of the direct compounding area shall be performed. No preparation intended for patient use shall be compounded by an individual until the results of the initial gloved fingertip and thumb and surface sampling evaluations [~~evaluation~~] indicate that the individual can competently perform aseptic procedures except that a pharmacist may temporarily physically supervise pharmacy technicians compounding sterile preparations before the results of the evaluation have been received for no more than three days from the date of the test.

(vi) Re-evaluation of all compounding personnel shall occur at least every six months [~~annually for compounding personnel who compound low and medium risk level preparations and every six months for compounding personnel who compound high risk level preparations~~]. Re-evaluation of personnel who have direct oversight of compounding personnel but do not compound shall occur at least every 12 months. Results of gloved fingertip and thumb tests conducted immediately after compounding personnel complete a compounding procedure shall indicate no more than 3 cfus [~~CFUs~~] growth, or the test shall be considered a failure, in which case, the evaluation shall be repeated until an acceptable test can be achieved (i.e., the results indicated no more than 3 cfus [~~CFUs~~] growth).

(vii) Personnel who have direct oversight of compounding personnel but do not compound shall complete a garbing competency evaluation every 12 months. The pharmacy's SOPs shall define the garbing competency evaluation for personnel who do not compound nor have direct oversight of compounding personnel such as personnel who restock or clean and disinfect the sterile compounding area, personnel who perform in-process checks or final verification of compounded sterile preparations, and others (e.g., maintenance personnel, certifiers, contractors, inspectors, surveyors).

(L) [~~(M)~~] The pharmacist-in-charge shall ensure surface sampling shall be conducted in all ISO classified areas on a periodic basis. Sampling shall be accomplished using contact plates or swabs at the conclusion of compounding. The sample area shall be gently touched with the agar surface by rolling the plate across the surface to be sampled.

(i) Each classified area, including each room and the interior of each ISO Class 5 primary engineering control (PEC) and pass-through chambers connecting to classified areas (e.g., equipment contained within the PEC, staging or work area(s) near the PEC, frequently touched areas), shall be sampled for microbial contamination using a risk-based approach.

(ii) For pharmacies compounding Category 1 or Category 2 compounded sterile preparations, surface sampling of all classified areas and pass-through chambers connecting to classified areas shall be conducted at least monthly. For pharmacies compounding any Category 3 compounded sterile preparations, surface sampling of all classified areas and pass-through chambers connecting to classified areas shall be completed prior to assigning a beyond-use-date longer than the limits established for Category 2 compounded sterile preparations and at least weekly on a regularly scheduled basis regardless

of the frequency of compounding Category 3 compounded sterile preparations.

(iii) The following action levels for surface sampling apply:

(I) for ISO Class 5, greater than 3 cfus per media device;

(II) for ISO Class 7, greater than 5 cfus per media device; and

(III) for ISO Class 8, greater than 50 cfus per media device.

(iv) If levels measured during surface sampling exceed the levels in clause (iii) of this subparagraph for the ISO classification levels of the area sampled, the cause shall be investigated and corrective action shall be taken. Data collected in response to corrective actions shall be reviewed to confirm that the actions taken have been effective. The corrective action plan shall be dependent on the cfu count and the microorganism recovered. The corrective action plan shall be documented. If levels measured during surface sampling exceed the levels in clause (iii) of this subparagraph, an attempt shall be made to identify any microorganism recovered to the genus level with the assistance of a competent microbiologist.

(M) Personnel who only perform restocking or cleaning and disinfecting duties outside of the primary engineering control shall complete ongoing training as required by the pharmacy's SOPs.

(5) Documentation of training [~~Training~~]. The pharmacy shall maintain a record of the training and continuing education on each person who compounds sterile preparations. The record shall contain, at a minimum, a written record of initial and in-service training, education, and the results of written and practical testing and media-fill testing of pharmacy personnel. The record shall be maintained and available for inspection by the board and contain the following information:

(A) name of the person receiving the training or completing the testing or media-fill tests;

(B) date(s) of the training, testing, or media-fill [~~challenge~~] testing;

(C) general description of the topics covered in the training or testing or of the process validated;

(D) name of the person supervising the training, testing, or media-fill [~~challenge~~] testing; and

(E) signature or initials of the person receiving the training or completing the testing or media-fill [~~challenge~~] testing and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training, testing, or media-fill [~~challenge~~] testing of personnel.

(d) Operational standards [~~Standards~~].

(1) General requirements [~~Requirements~~].

(A) Sterile preparations may be compounded:

(i) upon presentation of a practitioner's prescription drug or medication order based on a valid pharmacist/patient/prescriber relationship;

(ii) in anticipation of future prescription drug or medication orders based on routine, regularly observed prescribing patterns; or

(iii) in reasonable quantities for office use by a practitioner and for use by a veterinarian.

(B) Sterile compounding in anticipation of future prescription drug or medication orders shall [~~must~~] be based upon a history of receiving valid prescriptions issued within an established pharmacist/patient/prescriber relationship, provided that in the pharmacist's professional judgment the quantity prepared is stable for the anticipated shelf time. The maximum batch size for all preparations requiring sterility testing shall be limited to 250 final yield units, except the maximum batch size shall be limited to 1,000 final yield units for preparations fully packaged using an automated compounding device.

(i) The pharmacist's professional judgment shall be based on the criteria used to determine a beyond-use date outlined in paragraph (8)(J) [~~(6)(G)~~] of this subsection.

(ii) Documentation of the criteria used to determine the stability for the anticipated shelf time shall [~~must~~] be maintained and be available for inspection.

(iii) Any preparation compounded in anticipation of future prescription drug or medication orders shall be labeled. Such label shall contain:

(I) name and strength of the compounded preparation or list of the active ingredients and strengths;

(II) facility's lot number;

(III) beyond-use date as determined by the pharmacist using appropriate documented criteria as outlined in paragraph (8)(J) [~~(6)(G)~~] of this subsection;

(IV) quantity or amount in the container;

(V) appropriate ancillary instructions, such as storage instructions or cautionary statements, including hazardous drug warning labels where appropriate; and

(VI) device-specific instructions, where appropriate.

(C) Commercially available products may be compounded for dispensing to individual patients or for office use provided the following conditions are met:

(i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet individual patient's needs;

(ii) the pharmacy maintains documentation that the product is not reasonably available due to a drug shortage or unavailability from the manufacturer; and

(iii) the prescribing practitioner has requested that the drug be compounded as described in subparagraph (D) of this paragraph.

(D) A pharmacy may not compound preparations that are essentially copies of commercially available products (e.g., the preparation is dispensed in a strength that is only slightly different from a commercially available product) unless the prescribing practitioner specifically orders the strength or dosage form and specifies why the individual patient needs the particular strength or dosage form of the preparation or why the preparation for office use is needed in the particular strength or dosage form of the preparation. The prescribing practitioner shall provide documentation of a patient specific medical need and the preparation produces a clinically significant therapeutic response (e.g., the physician requests an alternate preparation due to hypersensitivity to excipients or preservative in the FDA-approved product, or the physician requests an effective alternate dosage form)

or if the drug product is not commercially available. The unavailability of such drug product shall [must] be documented prior to compounding. The methodology for documenting unavailability includes maintaining a copy of the wholesaler's notification showing back-ordered, discontinued, or out-of-stock items. This documentation shall [must] be available in hard-copy or electronic format for inspection by the board.

(E) A pharmacy may enter into an agreement to compound and dispense prescription drug or medication orders for another pharmacy provided the pharmacy complies with the provisions of §291.125 of this title (relating to Centralized Prescription Dispensing).

(F) Compounding pharmacies/pharmacists may advertise and promote the fact that they provide sterile prescription compounding services, which may include specific drug preparations and classes of drugs.

(G) A pharmacy may not compound veterinary preparations for use in food producing animals except in accordance with federal guidelines.

(H) Compounded sterile preparations, including hazardous drugs and radiopharmaceuticals, shall be prepared only under conditions that protect the pharmacy personnel in the preparation and storage areas.

(2) Compounded sterile preparation categories. Category 1, Category 2, and Category 3 are primarily based on the state of environmental control under which they are compounded, the probability for microbial growth during the time they will be stored, and the time period within which they must be used.

(A) A Category 1 compounded sterile preparation is a compounded sterile preparation that is assigned a beyond-use date in accordance with paragraph (8)(J)(ii)(I) of this subsection and all applicable requirements of this section for Category 1 compounded sterile preparations.

(B) A Category 2 compounded sterile preparation is a compounded sterile preparation that is assigned a beyond-use date in accordance with paragraph (8)(J)(ii)(II) of this subsection and all applicable requirements of this section for Category 2 compounded sterile preparations.

(C) A Category 3 compounded sterile preparation is a compounded sterile preparation that is assigned a beyond-use date in accordance with paragraph (8)(J)(ii)(III) of this subsection and all applicable requirements of this section for Category 3 compounded sterile preparations.

[(2) Microbial Contamination Risk Levels. Risk Levels for sterile compounded preparations shall be as outlined in Chapter 797, Pharmacy Compounding--Sterile Preparations of the USP/NF and as listed in this paragraph.]

[(A) Low-risk level compounded sterile preparations.]

[(i) Low-Risk conditions. Low-risk level compounded sterile preparations are those compounded under all of the following conditions:]

[(I) The compounded sterile preparations are compounded with aseptic manipulations entirely within ISO Class 5 or better air quality using only sterile ingredients, products, components, and devices;]

[(II) The compounding involves only transfer, measuring, and mixing manipulations using not more than three commercially manufactured packages of sterile products and not more than two entries into any one sterile container or package (e.g., bag, vial) of sterile product or administration container/device to prepare the compounded sterile preparation;]

[(III) Manipulations are limited to aseptically opening ampules, penetrating disinfected stoppers on vials with sterile needles and syringes, and transferring sterile liquids in sterile syringes to sterile administration devices, package containers of other sterile products, and containers for storage and dispensing;]

[(IV) For a low-risk level preparation, in the absence of passing a sterility test the storage periods cannot exceed the following time periods: before administration, the compounded sterile preparation is stored properly and are exposed for not more than 48 hours at controlled room temperature, for not more than 14 days if stored at a cold temperature, and for 45 days if stored in a frozen state between minus 25 degrees Celsius and minus 10 degrees Celsius. For delayed activation device systems, the storage period begins when the device is activated.]

[(ii) Examples of Low-Risk Level Compounding. Examples of low-risk level compounding include the following:]

[(I) Single volume transfers of sterile dosage forms from ampules, bottles, bags, and vials using sterile syringes with sterile needles, other administration devices, and other sterile containers. The solution content of ampules shall be passed through a sterile filter to remove any particles;]

[(II) Simple aseptic measuring and transferring with not more than three packages of manufactured sterile products, including an infusion or diluent solution to compound drug admixtures and nutritional solutions.]

[(B) Low-Risk Level compounded sterile preparations with 12-hour or less beyond-use date. Low-risk level compounded sterile preparations are those compounded pursuant to a physician's order for a specific patient under all of the following conditions:]

[(i) The compounded sterile preparations are compounded in compounding aseptic isolator or compounding aseptic containment isolator that does not meet the requirements described in paragraph (7)(C) or (D) of this subsection (relating to Primary Engineering Control Device) or the compounded sterile preparations are compounded in laminar airflow workbench or a biological safety cabinet that cannot be located within the buffer area;]

[(ii) The primary engineering control device shall be certified and maintain ISO Class 5 for exposure of critical sites and shall be located in a segregated compounding area restricted to sterile compounding activities that minimizes the risk of contamination of the compounded sterile preparation;]

[(iii) The segregated compounding area shall not be in a location that has unsealed windows or doors that connect to the outdoors or high traffic flow, or that is adjacent to construction sites, warehouses, or food preparation.]

[(iv) For a low-risk level preparation compounded as described in clauses (i) - (iii) of this subparagraph, administration of such compounded sterile preparations must commence within 12 hours of preparation or as recommended in the manufacturers' package insert, whichever is less. However, the administration of sterile radiopharmaceuticals, with documented testing of chemical stability, may be administered beyond 12 hours of preparation.]

[(C) Medium-risk level compounded sterile preparations.]

[(i) Medium-Risk Conditions. Medium-risk level compounded sterile preparations, are those compounded aseptically

under low-risk conditions and one or more of the following conditions exists:]

[(I) Multiple individual or small doses of sterile products are combined or pooled to prepare a compounded sterile preparation that will be administered either to multiple patients or to one patient on multiple occasions;]

[(II) The compounding process includes complex aseptic manipulations other than the single-volume transfer;]

[(III) The compounding process requires unusually long duration, such as that required to complete the dissolution or homogenous mixing (e.g., reconstitution of intravenous immunoglobulin or other intravenous protein products);]

[(IV) The compounded sterile preparations do not contain broad spectrum bacteriostatic substances and they are administered over several days (e.g., an externally worn infusion device); or]

[(V) For a medium-risk level preparation, in the absence of passing a sterility test the storage periods cannot exceed the following time periods: before administration, the compounded sterile preparations are properly stored and are exposed for not more than 30 hours at controlled room temperature, for not more than 9 days at a cold temperature, and for 45 days in solid frozen state between minus 25 degrees Celsius and minus 10 degrees Celsius.]

[(ii) Examples of medium-risk compounding. Examples of medium-risk compounding include the following:]

[(I) Compounding of total parenteral nutrition fluids using a manual or automated device during which there are multiple injections, detachments, and attachments of nutrient source products to the device or machine to deliver all nutritional components to a final sterile container;]

[(II) Filling of reservoirs of injection and infusion devices with more than three sterile drug products and evacuations of air from those reservoirs before the filled device is dispensed;]

[(III) Filling of reservoirs of injection and infusion devices with volumes of sterile drug solutions that will be administered over several days at ambient temperatures between 25 and 40 degrees Celsius (77 and 104 degrees Fahrenheit); and]

[(IV) Transfer of volumes from multiple ampules or vials into a single, final sterile container or product.]

[(D) High-risk level compounded sterile preparations.]

[(i) High-risk Conditions. High-risk level compounded sterile preparations are those compounded under any of the following conditions:]

[(I) Non-sterile ingredients, including manufactured products not intended for sterile routes of administration (e.g., oral) are incorporated or a non-sterile device is employed before terminal sterilization.]

[(II) Any of the following are exposed to air quality worse than ISO Class 5 for more than 1 hour:]

[(-a-) sterile contents of commercially manufactured products;]

[(-b-) CSPs that lack effective antimicrobial preservatives; and]

[(-c-) sterile surfaces of devices and containers for the preparation, transfer, sterilization, and packaging of CSPs;]

[(III) Compounding personnel are improperly garbed and gloved;]

[(IV) Non-sterile water-containing preparations are exposed no more than 6 hours before being sterilized;]

[(V) [It is assumed, and not verified by examination of labeling and documentation from suppliers or by direct determination, that the chemical purity and content strength of ingredients meet their original or compendial specifications in unopened or in opened packages of bulk ingredients;]

[(VI) For a sterilized high-risk level preparation, in the absence of passing a sterility test, the storage periods cannot exceed the following time periods: before administration, the compounded sterile preparations are properly stored and are exposed for not more than 24 hours at controlled room temperature, for not more than 3 days at a cold temperature, and for 45 days in solid frozen state between minus 25 degrees Celsius and minus 10 degrees Celsius; or]

[(VII) All non-sterile measuring, mixing, and purifying devices are rinsed thoroughly with pyrogen-free or depyrogenated sterile water, and then thoroughly drained or dried immediately before use for high-risk compounding. All high-risk compounded sterile solutions subjected to terminal sterilization are prefiltered by passing through a filter with a nominal pore size not larger than 1.2 micron preceding or during filling into their final containers to remove particulate matter. Sterilization of high-risk level compounded sterile preparations by filtration shall be performed with a sterile 0.2 micrometer or 0.22 micrometer nominal pore size filter entirely within an ISO Class 5 or superior air quality environment.]

[(ii) Examples of high-risk compounding. Examples of high-risk compounding include the following.]

[(I) Dissolving non-sterile bulk drug powders to make solutions, which will be terminally sterilized;]

[(II) Exposing the sterile ingredients and components used to prepare and package compounded sterile preparations to room air quality worse than ISO Class 5 for more than one hour;]

[(III) Measuring and mixing sterile ingredients in non-sterile devices before sterilization is performed; and]

[(IV) Assuming, without appropriate evidence or direct determination, that packages of bulk ingredients contain at least 95% by weight of their active chemical moiety and have not been contaminated or adulterated between uses.]

(3) Depyrogenation. Dry heat depyrogenation shall be used to render glassware, metal, and other thermostable containers and components pyrogen free. The duration of the exposure period shall include sufficient time for the items to reach the depyrogenation temperature. The items shall remain at the depyrogenation temperature for the duration of the depyrogenation period. The effectiveness of the dry heat depyrogenation cycle shall be established initially and verified annually using endotoxin challenge vials to demonstrate that the cycle is capable of achieving a greater than or equal to 3-log reduction in endotoxins. The effectiveness of the depyrogenation cycle shall be re-established if there are changes to the depyrogenation cycle described in the pharmacy's SOPs (e.g., changes in load conditions, duration, or temperature). This verification shall be documented.

(4) [(3)] Immediate use compounded sterile preparations [Use Compounded Sterile Preparations]. When all of the following conditions are met, compounding of compounded sterile preparations for direct and immediate administration is not subject to the requirements for Category 1, Category 2, or Category 3 compounded sterile preparations: [For the purpose of emergency or immediate patient care, such situations may include cardiopulmonary resuscitation, emergency room treatment, preparation of diagnostic agents, or critical ther-

apy where the preparation of the compounded sterile preparation under low-risk level conditions would subject the patient to additional risk due to delays in therapy. Compounded sterile preparations are exempted from the requirements described in this paragraph for low-risk level compounded sterile preparations when all of the following criteria are met:]

(A) Only simple aseptic measuring and transfer manipulations are performed with not more than three different sterile [nonhazardous commercial drug and diagnostic radiopharmaceutical] drug products, including an infusion or diluent solution, from the manufacturers' original containers and not more than two entries into any one container or package of sterile infusion solution or administration container/device;

(B) Unless required for the preparation, the compounding procedure occurs continuously without delays or interruptions and does not exceed 1 hour;

(C) During preparation, aseptic technique is followed and, if not immediately administered, the finished compounded sterile preparation is under continuous supervision to minimize the potential for contact with nonsterile surfaces, introduction of particulate matter of biological fluids, mix-ups with other compounded sterile preparations, and direct contact with outside surfaces;

(D) Administration begins not later than four hours [one hour] following the start [completion] of preparing the compounded sterile preparation;

(E) When the compounded sterile preparation [preparations] is not administered by the person who prepared it, or its administration is not witnessed by the person who prepared it, the compounded sterile preparation shall bear a label listing patient identification information such as name and identification number(s), the names and amounts of all ingredients, the name or initials of the person who prepared the compounded sterile preparation, and the exact 4-hour [1-hour] beyond-use time and date;

(F) If administration has not begun within four hours [one hour] following the completion of preparing the compounded sterile preparation, the compounded sterile preparation is promptly and safely discarded. Immediate use compounded sterile preparations shall not be stored for later use; [and]

(G) Hazardous drugs shall not be prepared as immediate use compounded sterile preparations; and[.]

(H) Personnel are trained and demonstrate competency in aseptic processes as they relate to assigned tasks and the pharmacy's SOPs.

(5) [(4)] Single-dose and multiple-dose [multiple dose] containers.

(A) Opened or needle punctured single-dose containers, such as bags bottles, syringes, and vials of sterile products shall be used within one hour if opened in worse than ISO Class 5 air quality. Any remaining contents shall [must] be discarded.

(B) If a single-dose vial is entered or punctured only in ISO Class 5 or cleaner air, it may be used up to 12 hours after initial entry or puncture as long as the labeled storage requirements during that 12 hour period are maintained [Single-dose containers, including single-dose large volume parenteral solutions and single-dose vials, exposed to ISO Class 5 or cleaner air may be used up to six hours after initial needle puncture].

(C) Open single-dose ampules shall not be stored for any time period [Opened single-dose fusion sealed containers shall not be stored for any time period].

(D) Once initially entering or puncturing a multiple-dose container, the multiple-dose container shall not be used for more than 28 days unless otherwise specified by the manufacturer on the labeling [Multiple-dose containers may be used up to 28 days after initial needle puncture unless otherwise specified by the manufacturer].

(E) Conventionally manufactured pharmacy bulk packages shall be restricted to the sterile preparation of admixtures for infusion or, through a sterile transfer device, for the filling of empty sterile containers. The pharmacy bulk package shall be used according to the manufacturer's labeling and entered or punctured only in an ISO Class 5 primary engineering control.

(F) Multiple-dose compounded sterile preparations shall meet the criteria for antimicrobial effectiveness testing and the requirements of subparagraph (G) of this paragraph. Multiple-dose compounded sterile preparations shall be stored under conditions upon which the beyond-use date is based (e.g., refrigerator or controlled room temperature). After a multiple-dose compounded sterile preparation is initially entered or punctured, the multiple-dose compounded sterile preparation shall not be used for longer than the assigned beyond-use date or 28 days, whichever is shorter.

(G) A multiple-dose compounded sterile preparation shall be prepared as a Category 2 or Category 3 compounded sterile preparation. An aqueous multiple-dose compounded sterile preparation shall additionally pass antimicrobial effectiveness testing. In the absence of supporting documentation or data in a USP/NF monograph, manufacturer's data, or previously conducted or contracted for testing, compounding personnel may rely on antimicrobial effectiveness testing conducted or contracted for in the particular container closure system in which it will be packaged.

(H) In the absence of container closure data, the container closure system used to package the multiple-dose compounded sterile preparation shall be evaluated for and conform to container closure integrity. The container closure integrity test shall be conducted only once in the particular container closure system in which the multiple-dose compounded sterile preparation shall be packaged.

(I) Multiple-dose, nonpreserved, aqueous topical, and topical ophthalmic compounded sterile preparations. Antimicrobial effectiveness testing under subparagraph (G) of this paragraph is not required if the preparation is prepared as a Category 2 or Category 3 compounded sterile preparation, for use by a single patient, and labeled to indicate that once opened, it shall be discarded after 24 hours when stored at controlled room temperature, 72 hours when stored under refrigeration, or 90 days when frozen if based on documented published stability and effectiveness data.

(J) When a single-dose compounded sterile preparation or compounded sterile preparation stock solution is used as a component to compound additional compounded sterile preparations, the original single-dose compounded sterile preparation or compounded sterile preparation stock solution shall be entered or punctured in ISO Class 5 or cleaner air and stored under the conditions upon which its beyond-use date is based (e.g., refrigerator or controlled room temperature). The component compounded sterile preparation may be used for sterile compounding for up to 12 hours once accessed or its assigned beyond-use date, whichever is shorter, and any remainder shall be discarded.

(6) Proprietary bag and vial systems. Docking and activation of proprietary bag and vial systems in accordance with the manu-

facturer's labeling for immediate administration to an individual patient is not considered compounding and may be performed outside of an ISO Class 5 environment. Docking of the proprietary bag and vial system for future activation and administration is considered compounding and shall be performed in an ISO Class 5 environment. Beyond-use dates for proprietary bag and vial systems shall not be longer than those specified in the manufacturer's labeling.

(7) [~~(5)~~] Library. In addition to the library requirements of the pharmacy's specific license classification, a pharmacy shall maintain current or updated copies in hard-copy or electronic format of each of the following:

(A) a reference text on injectable drug preparations, such as Handbook on Injectable Drug Products;

(B) a specialty reference text appropriate for the scope of pharmacy services provided by the pharmacy, e.g., if the pharmacy prepares hazardous drugs, a reference text on the preparation of hazardous drugs;

(C) the United States Pharmacopeia/National Formulary containing USP Chapter 71, Sterility Tests, USP Chapter 85, Bacterial Endotoxins Test, Pharmaceutical Compounding--Nonsterile Preparations, USP Chapter 795, USP Chapter 797, Pharmaceutical Compounding--Sterile Preparations, and USP Chapter 1163, Quality Assurance in Pharmaceutical Compounding; and

(D) any additional USP/NF chapters applicable to the practice of the pharmacy (e.g., USP Chapter 800, Hazardous Drugs--Handling in Healthcare Settings, USP Chapter 823, Positron Emission Tomography Drugs for Compounding, Investigational, and Research Uses).

(8) [~~(6)~~] Environment. Compounding facilities shall be physically designed and environmentally controlled to minimize airborne contamination from contacting critical sites.

(A) Air exchange requirements. For cleanroom suites, adequate HEPA-filtered airflow to the buffer room(s) and anteroom(s) is required to maintain appropriate ISO classification during compounding activities. Airflow is measured in terms of the number of air changes per hour (ACPH).

(i) Unclassified sterile compounding area. No requirement for ACPH.

(ii) ISO Class 7 room(s). A minimum of 30 total HEPA-filtered ACPH shall be supplied to ISO Class 7 rooms. At least 15 ACPH of the total air change rate in a room shall come from the HVAC through HEPA filters located in the ceiling. The ACPH from HVAC, ACPH contributed from the PEC, and the total ACPH shall be documented on the certification report.

(iii) ISO Class 8 room(s). A minimum of 20 total HEPA-filtered ACPH shall be supplied to ISO Class 8 rooms. At least 15 ACPH of the total air change rate in a room shall come from the HVAC through HEPA filters located in the ceiling. The total ACPH shall be documented on the certification report.

(B) Cleanroom suite. Seals and sweeps should not be installed at doors between buffer rooms and anterooms. Access doors should be hands-free. Tacky mats shall not be placed within ISO-classified areas.

(C) [~~(A)~~] Category 1 and Category 2 preparations [~~Low and Medium Risk Preparations~~]. A pharmacy that prepares Category 1 compounded sterile preparations outside of a segregated compounding area or Category 2 compounded sterile [~~low- and medium-risk~~] preparations shall have a clean room for the compounding of sterile preparations that is constructed to minimize the opportunities for particulate and microbial contamination. The clean room shall:

(i) be clean, well lit, and of sufficient size to support sterile compounding activities;

(ii) be maintained at a temperature of 20 degrees Celsius or cooler, except that a clean room for the compounding of sterile radiopharmaceuticals shall be maintained at a temperature of 25 degrees Celsius or cooler, and at a humidity of 60% or below, with excursions in temperature or humidity of no more than 10% and lasting no longer than 30 minutes [~~below 60%~~];

(iii) be used only for the compounding of sterile preparations;

(iv) be designed such that hand sanitizing and gowning occurs outside the buffer room [~~area~~] but allows hands-free access by compounding personnel to the buffer room [~~area~~];

(v) have non-porous and washable floors or floor covering to enable regular disinfection;

(vi) be ventilated in a manner to avoid disruption from the HVAC system and room cross-drafts;

(vii) have walls, ceilings, floors, fixtures, shelving, counters, and cabinets that are smooth, impervious, free from cracks and crevices (e.g., coved), non-shedding and resistant to damage by disinfectant agents;

(viii) have junctures of ceilings to walls coved or caulked to avoid cracks and crevices;

(ix) have drugs and supplies stored on shelving areas above the floor to permit adequate floor cleaning;

(x) contain only the appropriate compounding supplies and not be used for bulk storage for supplies and materials. Objects that shed particles shall not be brought into the clean room. A Class B pharmacy may use low-linting absorbent materials in the primary engineering control device;

(xi) contain an anteroom [~~ante-area~~] that contains a sink with hot and cold running water that enables hands-free use with a closed system of soap dispensing to minimize the risk of extrinsic contamination. A Class B pharmacy may have a sink with hot and cold running water that enables hands-free use with a closed system of soap dispensing immediately outside the anteroom [~~ante-area~~] if antiseptic hand cleansing is performed using a waterless alcohol-based surgical hand scrub with persistent activity following manufacturers' recommendations once inside the anteroom [~~ante-area~~]; and

(xii) contain a buffer room [~~area~~]. The buffer room shall not contain sources of water (i.e., sinks) or floor drains other than distilled or sterile water introduced for facilitating the use of heat block wells for radiopharmaceuticals. [~~The following is applicable for the buffer area:~~]

~~(I)~~ ~~There shall be some demarcation designation that delineates the ante-area from the buffer area. The demarcation shall be such that it does not create conditions that could adversely affect the cleanliness of the area;~~]

~~(II)~~ ~~The buffer area shall be segregated from surrounding, unclassified spaces to reduce the risk of contaminants being blown, dragged, or otherwise introduced into the filtered unidirectional airflow environment, and this segregation should be continuously monitored;~~]

~~(III)~~ ~~A buffer area that is not physically separated from the ante-area shall employ the principle of displacement air-~~

flow as defined in Chapter 797, Pharmaceutical Compounding--Sterile Preparations, of the USP/NF, with limited access to personnel; and]

[(IV) The buffer area shall not contain sources of water (i.e., sinks) or floor drains other than distilled or sterile water introduced for facilitating the use of heat block wells for radiopharmaceuticals.]

(D) [(B)] Category 2 prepared from any non-sterile starting component and Category 3 preparations [High-risk Preparations].

(i) In addition to the requirements in subparagraph (C) [(A)] of this paragraph, when Category 2 prepared from any non-sterile starting component or Category 3 compounded sterile [high-risk] preparations are compounded, the primary engineering control shall be located in a buffer room [area] that provides a physical separation, through the use of walls, doors and pass-throughs and has a minimum differential positive pressure of 0.02 [to 0.05] inches water column.

(ii) Presterilization procedures for Category 2 prepared from any non-sterile starting component or Category 3 [high-risk level] compounded sterile preparations, such as weighing and mixing, shall be completed in no worse than an ISO Class 8 environment using depyrogenated equipment.

(E) [(C)] Automated compounding device.

(i) General. If automated compounding devices are used, the pharmacy shall have a method to calibrate and verify the accuracy of automated compounding devices used in aseptic processing and document the calibration and verification on a daily basis, based on the manufacturer's recommendations, and review the results at least weekly.

(ii) Loading bulk drugs into automated compounding devices.

(I) Automated compounding devices may be loaded with bulk drugs only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(II) The label of an automated compounding device container shall indicate the brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor.

(III) Records of loading bulk drugs into an automated compounding device shall be maintained to show:

(-a-) name of the drug, strength, and dosage form;

(-b-) manufacturer or distributor;

(-c-) manufacturer's lot number;

(-d-) manufacturer's expiration date;

(-e-) quantity added to the automated compounding device;

(-f-) date of loading;

(-g-) name, initials, or electronic signature of the person loading the automated compounding device; and

(-h-) name, initials, or electronic signature of the responsible pharmacist.

(IV) The automated compounding device shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her signature or electronic signature to the record specified in subclause (III) of this clause.

(F) [(D)] Hazardous drugs. If the preparation is hazardous, the following is also applicable:

(i) Hazardous drugs shall be prepared only under conditions that protect personnel during preparation and storage;

(ii) Hazardous drugs shall be stored separately from other inventory in a manner to prevent contamination and personnel exposure;

(iii) All personnel involved in the compounding of hazardous drugs shall wear appropriate protective apparel, such as gowns, face masks, eye protection, hair covers, shoe covers or dedicated shoes, and appropriate gloving at all times when handling hazardous drugs, including receiving, distribution, stocking, inventorying, preparation, for administration and disposal;

(iv) Appropriate safety and containment techniques for compounding hazardous drugs shall be used in conjunction with aseptic techniques required for preparing sterile preparations;

(v) Disposal of hazardous waste shall comply with all applicable local, state, and federal requirements;

(vi) Prepared doses of hazardous drugs shall [must] be dispensed, labeled with proper precautions inside and outside, and distributed in a manner to minimize patient contact with hazardous agents.

(G) [(E)] Blood-labeling procedures. When compounding activities require the manipulation of a patient's blood-derived material (e.g., radiolabeling a patient's or donor's white blood cells), the manipulations shall be performed in an [a] ISO Class 5 biological safety cabinet located in a buffer room [area] and shall be clearly separated from routine material-handling procedures and equipment used in preparation activities to avoid any cross-contamination. The preparations shall not require sterilization.

(H) [(F)] Cleaning and disinfecting the sterile compounding areas. The following cleaning and disinfecting practices and frequencies apply to direct and contiguous compounding areas, which include ISO Class 5 compounding areas for exposure of critical sites as well as buffer rooms [areas], anterooms [ante-areas], and segregated compounding areas.

(i) The pharmacist-in-charge is responsible for developing written standard operating procedures (SOPs) for cleaning and disinfecting the direct and contiguous compounding areas and assuring the procedures are followed.

(ii) In a PEC, sterile 70% IPA shall be applied after cleaning and disinfecting, or after the application of a one-step disinfectant cleaner or sporicidal disinfectant, to remove any residue. Sterile 70% IPA shall also be applied immediately before initiating compounding. During the compounding process sterile 70% IPA shall be applied to the horizontal work surface, including any removable work trays, of the PEC at least every 30 minutes if the compounding process takes 30 minutes or less. If the compounding process takes more than 30 minutes, compounding shall not be disrupted and the work surface of the PEC shall be disinfected immediately after compounding. [These procedures shall be conducted at the beginning of each work shift, before each batch preparation is started, when there are spills, and when surface contamination is known or suspected resulting from procedural breaches, and every 30 minutes during continuous compounding of individual compounded sterile preparations, unless a particular compounding procedure requires more than 30 minutes to complete, in which case, the direct compounding area is to be cleaned immediately after the compounding activity is completed.]

(iii) Surfaces shall be cleaned prior to being disinfected unless a one-step disinfectant cleaner is used to accomplish both the cleaning and disinfection in one step. The manufacturer's directions or published data for the minimum contact time shall be followed for each of the cleaning, disinfecting, and sporicidal disinfectants used. When sterile 70% IPA is used, it shall be allowed to dry. [~~Before compounding is performed, all items shall be removed from the direct and contiguous compounding areas and all surfaces are cleaned by removing loose material and residue from spills, followed by an application of a residue-free disinfecting agent (e.g., IPA), which is allowed to dry before compounding begins~~]. In a Class B pharmacy, objects used in preparing sterile radiopharmaceuticals (e.g., dose calibrator) which cannot be reasonably removed from the compounding area shall be sterilized with an application of a residue-free disinfection agent.

(iv) Surfaces in classified areas used to prepare Category 1, Category 2, and Category 3 compounded sterile preparations shall be cleaned, disinfected, and sporicidal disinfectants applied in accordance with the following:

(I) PEC(s) and equipment inside PEC(s).

(-a-) Equipment and all interior surfaces of the PEC shall be cleaned daily on days when compounding occurs and when surface contamination is known or suspected. Equipment and all interior surfaces of the PEC shall be disinfected on days when compounding occurs and when surface contamination is known or suspected. Sporicidal disinfectants shall be applied monthly for pharmacies compounding Category 1 or Category 2 compounded sterile preparations and weekly for pharmacies compounding Category 3 compounded sterile preparations.

(-b-) Cleaning and disinfecting agents, with the exception of sporicidal disinfectants, used within the PEC shall be sterile. When diluting concentrated cleaning and disinfecting agents for use in the PEC, sterile water shall be used.

(II) Removable work tray of the PEC, when applicable. Work surfaces of the tray shall be cleaned daily on days when compounding occurs and all surfaces and the area underneath the work tray shall be cleaned monthly. Work surfaces of the tray shall be disinfected on days when compounding occurs and all surfaces and the area underneath the work tray shall be disinfected monthly. Sporicidal disinfectants shall be applied monthly on work surfaces of the tray, all surfaces, and the area underneath the work tray monthly.

(III) Pass-through chambers. Pass-through chambers shall be cleaned daily on days when compounding occurs and disinfected daily on days when compounding occurs. Sporicidal disinfectants shall be applied monthly for pharmacies compounding Category 1 or Category 2 compounded sterile preparations and weekly for pharmacies compounding Category 3 compounded sterile preparations.

(IV) Work surface(s) outside the PEC. Work surfaces outside the PEC shall be cleaned daily on days when compounding occurs and disinfected daily on days when compounding occurs. Sporicidal disinfectants shall be applied monthly for pharmacies compounding Category 1 or Category 2 compounded sterile preparations and weekly for pharmacies compounding Category 3 compounded sterile preparations.

(V) Floor(s). Floors shall be cleaned daily on days when compounding occurs and disinfected daily on days when compounding occurs. Sporicidal disinfectants shall be applied monthly for pharmacies compounding Category 1 or Category 2 compounded sterile preparations and weekly for pharmacies compounding Category 3 compounded sterile preparations.

(VI) Wall(s), door(s), door frame(s), storage shelving and bin(s), and equipment outside of the PEC(s). Walls, doors, door frames, storage shelving and bins, and equipment outside of the PECs shall be cleaned, disinfected, and sporicidal disinfectants applied on a monthly basis.

(VII) Ceiling(s). Ceilings of the classified areas shall be cleaned, disinfected, and sporicidal disinfectant applied on a monthly basis. Ceilings of the segregated compounding area shall be cleaned, disinfected, and sporicidal disinfectants applied when visibly soiled and when surface contamination is known or suspected.

~~*(iv)* Work surfaces in the buffer areas and ante-areas, as well as segregated compounding areas, shall be cleaned and disinfected at least daily. Dust and debris shall be removed when necessary from storage sites for compounding ingredients and supplies using a method that does not degrade the ISO Class 7 or 8 air quality.~~]

~~*(v)* Floors in the buffer area, ante-area, and segregated compounding area shall be cleaned by mopping with a cleaning and disinfecting agent at least once daily when no aseptic operations are in progress. Mopping shall be performed by trained personnel using approved agents and procedures described in the written SOPs. It is incumbent on compounding personnel to ensure that such cleaning is performed properly.~~]

~~*(vi)* In the buffer area, ante-area, and segregated compounding area, walls, ceilings, and shelving shall be cleaned and disinfected monthly. Cleaning and disinfecting agents shall be used with careful consideration of compatibilities, effectiveness, and inappropriate or toxic residues.~~]

(v) [~~(vii)~~] All cleaning materials, such as wipers, sponges, and mops, shall be non-shedding, and dedicated to use in the buffer room [~~area~~], anteroom [~~ante-area~~], and segregated compounding areas and shall not be removed from these areas except for disposal. Floor mops may be used in both the buffer room [~~area~~] and anteroom [~~ante-area~~], but only in that order. If cleaning materials are reused, procedures shall be developed that ensure that the effectiveness of the cleaning device is maintained and that repeated use does not add to the bio-burden of the area being cleaned.

(vi) [~~(viii)~~] Supplies and equipment removed from shipping cartons shall [~~must~~] be wiped with a disinfecting agent, such as sterile IPA. After the disinfectant is sprayed or wiped on a surface to be disinfected, the disinfectant shall be allowed to dry, during which time the item shall not be used for compounding purposes. However, if sterile supplies are received in sealed pouches, the pouches may be removed as the supplies are introduced into the ISO Class 5 area without the need to disinfect the individual sterile supply items. No shipping or other external cartons may be taken into the buffer room [~~area~~] or segregated compounding area.

(vii) Before any item is introduced into the clean side of the anteroom(s), placed into pass-through chamber(s), or brought into the segregated compounding area, providing that packaging integrity will not be compromised, the item shall be wiped with a sporicidal disinfectant, EPA-registered disinfectant, or sterile 70% IPA using low-lint wipers by personnel wearing gloves. If an EPA-registered disinfectant or sporicidal disinfectant is used, the agent shall be allowed to dwell the minimum contact time specified by the manufacturer. If sterile 70% IPA is used, it shall be allowed to dry. The wiping procedure should not compromise the packaging integrity or render the product label unreadable.

(viii) Immediately before any item is introduced into the PEC, it shall be wiped with sterile 70% IPA using sterile low-lint wipers and allowed to dry before use. When sterile items are received

in sealed containers designed to keep them sterile until opening, the sterile items may be removed from the covering as the supplies are introduced into the ISO Class 5 PEC without the need to wipe the individual sterile supply items with sterile 70% IPA. The wiping procedure shall not render the product label unreadable.

(ix) Critical sites (e.g., vial stoppers, ampule necks, and intravenous bag septums) shall be wiped with sterile 70% IPA in the PEC to provide both chemical and mechanical actions to remove contaminants. The sterile 70% IPA shall be allowed to dry before personnel enter or puncture stoppers and septums or break the necks of ampules.

~~*[(ix)* Storage shelving emptied of all supplies, walls, and ceilings shall be cleaned and disinfected at planned intervals, monthly, if not more frequently.]~~

(x) Cleaning shall [~~must~~] be done by personnel trained in appropriate cleaning techniques.

(xi) Proper documentation and frequency of cleaning shall [~~must~~] be maintained and shall contain the following:

(I) date [~~and time~~] of cleaning;

(II) type of cleaning performed; and

(III) name of individual who performed the cleaning.

(I) [~~(G)~~] Security requirements. The pharmacist-in-charge may authorize personnel to gain access to that area of the pharmacy containing dispensed sterile preparations, in the absence of the pharmacist, for the purpose of retrieving dispensed prescriptions to deliver to patients. If the pharmacy allows such after-hours access, the area containing the dispensed sterile preparations shall be an enclosed and lockable area separate from the area containing undispensed prescription drugs. A list of the authorized personnel having such access shall be in the pharmacy's policy and procedure manual.

(J) [~~(H)~~] Storage requirements and beyond-use dating.

(i) Storage requirements. All drugs shall be stored at the proper temperature and conditions, as defined in the USP/NF and in §291.15 of this title (relating to Storage of Drugs).

(ii) Beyond-use dating. When assigning a beyond-use date, compounding personnel shall consult and apply drug-specific and general stability documentation and literature where available, and they should consider the nature of the drug and its degradation mechanism, the container in which it is packaged, the expected storage conditions, and the intended duration of therapy. A shorter beyond-use date shall be assigned when the physical and chemical stability of the preparation is less than the beyond-use date limits provided in subclauses (I) - (III) of this clause.

(I) Beyond-use date limits for Category 1 compounded sterile preparations. Category 1 compounded sterile preparations shall be prepared in a segregated compounding area or cleanroom suite and have a beyond-use date of not more than 12 hours when stored at controlled room temperature or 24 hours when stored in a refrigerator.

~~*[(I)* Beyond-use dates for compounded sterile preparations shall be assigned based on professional experience, which shall include careful interpretation of appropriate information sources for the same or similar formulations.]~~

(II) Beyond-use date limits for Category 2 compounded sterile preparations. Category 2 compounded sterile preparations shall be prepared in a cleanroom suite.

(-a-) Aseptically processed compounded sterile preparations without sterility testing performed and passed.

(-1-) If prepared from one or more non-sterile starting component(s), the preparation shall have a beyond-use date of not more than one day when stored at controlled room temperature, four days when stored in a refrigerator, or 45 days when stored in a freezer.

(-2-) If prepared from only sterile starting component(s), the preparation shall have a beyond-use date of not more than four days when stored at controlled room temperature, 10 days when stored in a refrigerator, or 45 days when stored in a freezer.

(-b-) Terminally sterilized compounded sterile preparations without sterility testing performed and passed shall have a beyond-use date of not more than 14 days when stored at controlled room temperature, 28 days when stored in a refrigerator, or 45 days when stored in a freezer.

(-c-) If sterility testing is performed and passed, aseptically processed or terminally sterilized compounded sterile preparations shall have a beyond-use date of not more than 45 days when stored at controlled room temperature, 60 days when stored in a refrigerator, or 90 days when stored in a freezer.

(-d-) A Category 2 compounded sterile preparation in a nonaqueous dosage form (i.e., water activity less than 0.6) may have a beyond-use date of not more than 90 days if based on documented current literature supporting stability and sterility.

~~*[(II)* Beyond-use dates for compounded sterile preparations that are prepared strictly in accordance with manufacturers' product labeling must be those specified in that labeling, or from appropriate literature sources or direct testing.]~~

(III) Beyond-use date limits for Category 3 compounded sterile preparations. Category 3 compounded sterile preparations shall be prepared in a cleanroom suite.

(-a-) Aseptically processed compounded sterile preparations that are sterility tested and passed all applicable tests for Category 3 compounded sterile preparations shall have a beyond-use date of not more than 60 days when stored at controlled room temperature, 90 days when stored in a refrigerator, or 120 days when stored in a freezer.

(-b-) Terminally sterilized compounded sterile preparations that are sterility tested and passed all applicable tests for Category 3 compounded sterile preparations shall have a beyond-use date of not more than 90 days when stored at controlled room temperature, 120 days when stored in a refrigerator, or 180 days when stored in a freezer.

(-c-) In the presence of documented published data supporting stability, aseptically processed or terminally sterilized aqueous compounded sterile preparations in batch sizes less than 24 final yield units without sterility and endotoxin testing shall have a beyond-use date of not more than 60 days when stored at controlled room temperature, 90 days when stored in a refrigerator, or 120 days when stored in a freezer. A pharmacy may only compound one batch of less than 24 final yield units of an aseptically processed or terminally sterilized aqueous compounded sterile preparation per day without sterility and endotoxin testing, with the exception of sterile compounding for a patient specific prescription.

(-d-) A Category 3 compounded sterile preparation in a nonaqueous dosage form (i.e., water activity level less than 0.6) may have a beyond-use date of not more than 180 days if based on documented current literature supporting stability and sterility.

(-e-) Additional requirements to assign Category 3 beyond-use dates to compounded sterile preparations.

(-1-) Increased personnel competency requirements as specified in subsection (c)(4)(K) of this section apply to personnel who participate in or oversee the compounding of Category 3 compounded sterile preparations.

(-2-) Category 3 garbing requirements as specified in paragraph (15)(C)(iv)(II) of this subsection apply to all personnel entering the buffer room where Category 3 compounded sterile preparations are compounded and apply at all times regardless of whether Category 3 compounded sterile preparations are being compounded on a given day.

(-3-) Increased environmental monitoring requirements as specified in subsection (c)(4)(L) of this section and paragraph (16)(C)(vi) of this subsection apply to all classified areas where Category 3 compounded sterile preparations are compounded and apply at all times regardless of whether Category 3 compound sterile preparations are being compounded on a given day.

(-4-) The frequency of application of sporicidal disinfectants as specified in paragraph (8)(H)(iv) of this subsection applies to all classified areas where Category 3 compounded sterile preparations are compounded and applies at all times regardless of whether Category 3 compounded sterile preparations are being compounded on a given day.

[(III) ~~When assigning a beyond-use date, compounding personnel shall consult and apply drug-specific and general stability documentation and literature where available, and they should consider the nature of the drug and its degradation mechanism, the container in which it is packaged, the expected storage conditions, and the intended duration of therapy.~~]

[(IV) ~~The sterility and storage and stability beyond-use date for attached and activated container pairs of drug products for intravascular administration shall be applied as indicated by the manufacturer.~~]

(9) [~~(7)~~] Primary engineering control device. The pharmacy shall prepare sterile preparations in a primary engineering control device (PEC), such as a laminar air flow hood, biological safety cabinet, compounding aseptic isolator (CAI), or compounding aseptic containment isolator (CACI) which is capable of maintaining at least ISO Class 5 conditions for 0.5 micron and larger [~~micrometer~~] particles while compounding sterile preparations.

(A) Laminar air flow hood. If the pharmacy is using a laminar air flow hood as its PEC, the laminar air flow hood shall:

(i) be located in the buffer room [~~area~~] and placed in the buffer room [~~area~~] in a manner as to avoid conditions that could adversely affect its operation such as strong air currents from opened doors, personnel traffic, or air streams from the heating, ventilating and air condition system;

(ii) be certified for operational efficiency using certification procedures, such as those outlined in the Certification Guide for Sterile Compounding Facilities (CAG-003-2022) [~~(CAG-003-2006)~~], which shall be performed by a qualified independent individual initially and no less than every six months and whenever the device or room is relocated or altered or major service to the pharmacy [~~facility~~] is performed;

(iii) have pre-filters inspected periodically and replaced as needed, in accordance with written policies and procedures and the manufacturer's specification, and the inspection and/or replacement date documented; and

(iv) be located in a buffer room [~~area~~] that has a minimum differential positive pressure of 0.02 [~~to 0.05~~] inches water column. [~~A buffer area that is not physically separated from the ante-area shall employ the principle of displacement airflow as defined in Chapter 797, Pharmaceutical Compounding--Sterile Preparations, of the USP/NF, with limited access to personnel.~~]

(B) Biological safety cabinet.

(i) If the pharmacy is using a biological safety cabinet (BSC) as its PEC for the preparation of hazardous sterile compounded preparations, the biological safety cabinet shall be a Class II or III vertical flow biological safety cabinet located in an ISO Class 7 area that is physically separated from other preparation areas. The area for preparation of sterile chemotherapeutic preparations shall:

(I) have not less than 0.01 inches water column negative pressure to the adjacent positive pressure ISO Class 7 or better anteroom [~~ante-area~~]; and

(II) have a pressure indicator that can be readily monitored for correct room pressurization.

(ii) Pharmacies that prepare a low volume of hazardous drugs, are not required to comply with the provisions of clause (i) of this subparagraph if the pharmacy uses a device that provides two tiers of containment (e.g., closed-system vial transfer device within a BSC).

(iii) If the pharmacy is using a biological safety cabinet as its PEC for the preparation of non-hazardous sterile compounded preparations, the biological safety cabinet shall:

(I) be located in the buffer room [~~area~~] and placed in the buffer room [~~area~~] in a manner as to avoid conditions that could adversely affect its operation such as strong air currents from opened doors, personnel traffic, or air streams from the heating, ventilating and air condition system;

(II) be certified for operational efficiency using certification procedures, such as those outlined in the Certification Guide for Sterile Compounding Facilities (CAG-003-2022) [~~(CAG-003-2006)~~], which shall be performed by a qualified independent individual initially and no less than every six months and whenever the device or room is relocated or altered or major service to the pharmacy [~~facility~~] is performed;

(III) have pre-filters inspected periodically and replaced as needed, in accordance with written policies and procedures and the manufacturer's specification, and the inspection and/or replacement date documented; and

(IV) be located in a buffer room [~~area~~] that has a minimum differential positive pressure of 0.02 [~~to 0.05~~] inches water column.

(C) Compounding aseptic isolator.

(i) If the pharmacy is using a compounding aseptic isolator (CAI) as its PEC, the CAI shall provide unidirectional airflow within the main processing and antechambers, and be placed in an ISO Class 7 buffer room [~~area~~] unless the isolator meets all of the following conditions:

(I) The isolator shall [~~must~~] provide isolation from the room and maintain ISO Class 5 during dynamic operating conditions including transferring ingredients, components, and devices into and out of the isolator and during preparation of compounded sterile preparations;

(II) Particle counts sampled approximately 6 to 12 inches upstream of the critical exposure site shall [~~must~~] maintain ISO Class 5 levels during compounding operations;

(III) The CAI shall [~~must~~] be certified for operational efficiency using certification procedures, such as those outlined in the Certification Guide for Sterile Compounding Facilities (CAG-003-2022) [~~(CAG-003-2006)~~], which shall be performed by a qualified independent individual initially and no less than every six months and whenever the device or room is relocated or altered or major service to the pharmacy [~~facility~~] is performed; and

(IV) The pharmacy shall maintain documentation from the manufacturer that the isolator meets this standard when located in worse than ISO Class 7 environments.

(ii) If the isolator meets the requirements in clause (i) of this subparagraph, the CAI may be placed in a non-ISO classified area of the pharmacy; however, the area shall be segregated from other areas of the pharmacy and shall:

(I) be clean, well lit, and of sufficient size;

(II) be used only for the compounding of Category 1 or Category 2 [~~low- and medium-risk,~~] non-hazardous sterile preparations;

(III) be located in an area of the pharmacy with non-porous and washable floors or floor covering to enable regular disinfection; and

(IV) be an area in which the CAI is placed in a manner as to avoid conditions that could adversely affect its operation.

(iii) In addition to the requirements specified in clauses (i) and (ii) of this subparagraph, if the CAI is used in the compounding of Category 2 prepared from any non-sterile starting component or Category 3 [~~high-risk~~] non-hazardous preparations, the CAI shall be placed in an area or room with at least ISO Class 7 [~~8~~] quality air so that high-risk powders weighed in at least ISO Class 7 [~~ISO-8~~] air quality conditions, compounding utensils for measuring and other compounding equipment are not exposed to lesser air quality prior to the completion of compounding and packaging of the Category 2 prepared from any non-sterile starting component or Category 3 [~~high-risk~~] preparation.

(D) Compounding aseptic containment isolator.

(i) If the pharmacy is using a compounding aseptic containment isolator (CACI) as its PEC for the preparation of Category 1 or Category 2 [~~low- and medium-risk~~] hazardous drugs, the CACI shall be located in a separate room away from other areas of the pharmacy and shall:

(I) provide at least 0.01 inches water column negative pressure compared to the other areas of the pharmacy;

(II) provide unidirectional airflow within the main processing and antechambers, and be placed in an ISO Class 7 room [~~area~~], unless the CACI meets all of the following conditions;

(-a-) The isolator shall [~~must~~] provide isolation from the room and maintain ISO Class 5 during dynamic operating conditions including transferring ingredients, components, and devices into and out of the isolator and during preparation of compounded sterile preparations;

(-b-) Particle counts sampled approximately 6 to 12 inches upstream of the critical exposure site shall [~~must~~] maintain ISO Class 5 levels during compounding operations;

(-c-) The CACI shall [~~must~~] be certified for operational efficiency using certification procedures, such as those outlined in the Certification Guide for Sterile Compounding Facilities (CAG-003-2022) [~~(CAG-003-2006)~~], which shall be performed by a qualified independent individual initially and no less than every six months and whenever the device or room is relocated or altered or major service to the pharmacy [~~facility~~] is performed; and

(-d-) The pharmacy shall maintain documentation from the manufacturer that the isolator meets this standard when located in worse than ISO Class 7 environments.

(ii) If the CACI meets all conditions specified in clause (i) of this subparagraph, the CACI shall not be located in the same room as a CAI, but shall be located in a separate room in the pharmacy, that is not required to maintain ISO classified air. The room in which the CACI is located shall provide a minimum of 0.01 inches water column negative pressure compared with the other areas of the pharmacy and shall meet the following requirements:

(I) be clean, well lit, and of sufficient size;

(II) be maintained at a temperature of 20 degrees Celsius or cooler, except that a clean room for the compounding of sterile radiopharmaceuticals shall be maintained at a temperature of 25 degrees Celsius or cooler, and at a humidity of 60% or below, with excursions in temperature or humidity of no more than 10% and lasting no longer than 30 minutes [~~below 60%~~];

(III) be used only for the compounding of Category 1 or Category 2 hazardous sterile preparations;

(IV) be located in an area of the pharmacy with walls, ceilings, floors, fixtures, shelving, counters, and cabinets that are smooth, impervious, free from cracks and crevices, non-shedding and resistant to damage by disinfectant agents; and

(V) have non-porous and washable floors or floor covering to enable regular disinfection.

(iii) If the CACI is used in the compounding of Category 2 prepared from any non-sterile starting component or Category 3 [~~high-risk~~] hazardous preparations, the CACI shall be placed in an area or room with at least ISO Class 7 [~~8~~] quality air so that high-risk powders, weighed in at least ISO Class 7 [~~ISO-8~~] air quality conditions, are not exposed to lesser air quality prior to the completion of compounding and packaging of the Category 2 prepared from any non-sterile starting component or Category 3 [~~high-risk~~] preparation.

(iv) Pharmacies that prepare a low volume of hazardous drugs, are not required to comply with the provisions of clauses (i) and (iii) of this subparagraph if the pharmacy uses a device that provides two tiers of containment (e.g., CACI that is located in a non-negative pressure room).

(10) [~~(8)~~] Additional Equipment and Supplies. Pharmacies compounding sterile preparations shall have the following equipment and supplies:

(A) a calibrated system or device (i.e., thermometer) to monitor the temperature to ensure that proper storage requirements are met, if sterile preparations are stored in the refrigerator;

(B) a calibrated system or device to monitor the temperature where bulk chemicals are stored;

(C) a temperature-sensing mechanism suitably placed in the controlled temperature storage space to reflect accurately the true temperature;

(D) if applicable, a Class A prescription balance, or analytical balance and weights. Such balance shall be properly maintained and subject to periodic inspection by the Texas State Board of Pharmacy;

(E) equipment and utensils necessary for the proper compounding of sterile preparations. Such equipment and utensils used in the compounding process shall be:

(i) of appropriate design, appropriate capacity, and be operated within designed operational limits;

(ii) of suitable composition so that surfaces that contact components, in-process material, or drug products shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug preparation beyond the desired result;

(iii) cleaned and sanitized immediately prior to and after each use; and

(iv) routinely inspected, calibrated (if necessary), or checked to ensure proper performance;

(F) appropriate disposal containers for used needles, syringes, etc., and if applicable, hazardous waste from the preparation of hazardous drugs and/or biohazardous waste;

(G) appropriate packaging or delivery containers to maintain proper storage conditions for sterile preparations;

(H) infusion devices, if applicable; and

(I) all necessary supplies, including:

(i) disposable needles, syringes, and other supplies for aseptic mixing;

(ii) disinfectant cleaning solutions;

(iii) sterile 70% isopropyl alcohol;

(iv) sterile gloves, both for hazardous and non-hazardous drug compounding;

(v) sterile alcohol-based or water-less alcohol based surgical scrub;

(vi) hand washing agents with bactericidal action;

(vii) disposable, lint free towels or wipes;

(viii) appropriate filters and filtration equipment;

(ix) hazardous spill kits, if applicable; and

(x) masks, caps, coveralls or gowns with tight cuffs, shoe covers, and gloves, as applicable.

(11) [~~(9)~~] Labeling.

(A) Prescription drug or medication orders. In addition to the labeling requirements for the pharmacy's specific license classification, the label dispensed or distributed pursuant to a prescription drug or medication order shall contain the following:

(i) the generic name(s) or the official name(s) of the principal active ingredient(s) of the compounded sterile preparation;

(ii) for outpatient prescription orders other than sterile radiopharmaceuticals, a statement that the compounded sterile preparation has been compounded by the pharmacy. (An auxiliary label may be used on the container to meet this requirement); and

(iii) a beyond-use date. The beyond-use date shall be determined as outlined in Chapter 797, Pharmacy Compounding--Sterile Preparations of the USP/NF, and paragraph (8)(J) [~~(7)(G)~~] of this subsection;

(B) Batch. If the sterile preparation is compounded in a batch, the following shall also be included on the batch label:

(i) unique lot number assigned to the batch;

(ii) quantity;

(iii) appropriate ancillary instructions, such as storage instructions or cautionary statements, including hazardous drug warning labels where appropriate; and

(iv) device-specific instructions, where appropriate.

(C) Pharmacy bulk package. The label of a pharmacy bulk package shall:

(i) state prominently "Pharmacy Bulk Package--Not for Direct Infusion;"

(ii) contain or refer to information on proper techniques to help ensure safe use of the preparation; and

(iii) bear a statement limiting the time frame in which the container may be used once it has been entered, provided it is held under the labeled storage conditions.

(12) [~~(10)~~] Written drug information for prescription drug orders only. Written information about the compounded preparation or its major active ingredient(s) shall be given to the patient at the time of dispensing a prescription drug order. A statement which indicates that the preparation was compounded by the pharmacy shall [~~must~~] be included in this written information. If there is no written information available, the patient shall be advised that the drug has been compounded and how to contact a pharmacist, and if appropriate, the prescriber, concerning the drug. This paragraph does not apply to the preparation of radiopharmaceuticals.

(13) [~~(11)~~] Pharmaceutical care services [~~Care Services~~]. In addition to the pharmaceutical care requirements for the pharmacy's specific license classification, the following requirements for sterile preparations compounded pursuant to prescription drug orders shall [~~must~~] be met. This paragraph does not apply to the preparation of radiopharmaceuticals.

(A) Primary provider. There shall be a designated physician primarily responsible for the patient's medical care. There shall be a clear understanding between the physician, the patient, and the pharmacy of the responsibilities of each in the areas of the delivery of care, and the monitoring of the patient. This shall be documented in the patient medication record (PMR).

(B) Patient training. The pharmacist-in-charge shall develop policies to ensure that the patient and/or patient's caregiver receives information regarding drugs and their safe and appropriate use, including instruction when applicable, regarding:

(i) appropriate disposition of hazardous solutions and ancillary supplies;

(ii) proper disposition of controlled substances in the home;

(iii) self-administration of drugs, where appropriate;

(iv) emergency procedures, including how to contact an appropriate individual in the event of problems or emergencies related to drug therapy; and

(v) if the patient or patient's caregiver prepares sterile preparations in the home, the following additional information shall be provided:

(I) safeguards against microbial contamination, including aseptic techniques for compounding intravenous admixtures and aseptic techniques for injecting additives to premixed intravenous solutions;

(II) appropriate storage methods, including storage durations for sterile pharmaceuticals and expirations of self-mixed solutions;

(III) handling and disposition of premixed and self-mixed intravenous admixtures; and

(IV) proper disposition of intravenous admixture compounding supplies such as syringes, vials, ampules, and intravenous solution containers.

(C) Pharmacist-patient relationship. It is imperative that a pharmacist-patient relationship be established and maintained throughout the patient's course of therapy. This shall be documented in the patient's medication record (PMR).

(D) Patient monitoring. The pharmacist-in-charge shall develop policies to ensure that:

(i) the patient's response to drug therapy is monitored and conveyed to the appropriate health care provider;

(ii) the first dose of any new drug therapy is administered in the presence of an individual qualified to monitor for and respond to adverse drug reactions; and

(iii) reports of adverse events with a compounded sterile preparation are reviewed promptly and thoroughly to correct and prevent future occurrences.

(14) [~~(12)~~] Drugs, components, and materials used in sterile compounding.

(A) Drugs used in sterile compounding shall be [~~a~~] USP/NF, British Pharmacopoeia (BP), European Pharmacopoeia (EP), or Japanese Pharmacopoeia (JP) grade substances manufactured in an FDA-registered facility.

(B) If USP/NF, BP, EP, and JP grade substances are not available, substances used in sterile compounding shall be of a chemical grade in one of the following categories:

(i) Chemically Pure (CP);

(ii) Analytical Reagent (AR);

(iii) American Chemical Society (ACS); or

(iv) Food Chemical Codex.

(C) If a drug, component or material is not purchased from a FDA-registered facility, the pharmacist shall establish purity and stability by obtaining a Certificate of Analysis from the supplier and the pharmacist shall compare the monograph of drugs in a similar class to the Certificate of Analysis.

(D) All components shall:

(i) be manufactured in an FDA-registered facility; or

(ii) in the professional judgment of the pharmacist, be of high quality and obtained from acceptable and reliable alternative sources; and

(iii) be stored in properly labeled containers in a clean, dry place [~~area~~], under proper temperatures.

(E) Drug preparation containers and closures shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the compounded drug preparation beyond the desired result.

(F) Components, drug preparation containers, and closures shall be rotated so that the oldest stock is used first.

(G) Container closure systems shall provide adequate protection against foreseeable external factors in storage and use that can cause deterioration or contamination of the compounded drug preparation.

(H) A pharmacy may not compound a preparation that contains ingredients appearing on a federal Food and Drug Administration list of drug products withdrawn or removed from the market for safety reasons.

(15) [~~(13)~~] Compounding process.

(A) Standard operating procedures (SOPs). All significant procedures performed in the compounding area shall be covered by written SOPs designed to ensure accountability, accuracy, quality, safety, and uniformity in the compounding process. At a minimum, SOPs shall be developed and implemented for:

(i) the pharmacy [~~facility~~];

(ii) equipment;

(iii) personnel;

(iv) preparation evaluation;

(v) quality assurance;

(vi) preparation recall;

(vii) packaging; and

(viii) storage of compounded sterile preparations.

(B) USP/NF. Any compounded formulation with an official monograph in the USP/NF shall be compounded, labeled, and packaged in conformity with the USP/NF monograph for the drug.

(C) Personnel cleansing and garbing [~~Cleansing and Garbing~~].

(i) Any person with an apparent illness or open lesion, including rashes, sunburn, weeping sores, conjunctivitis, and active respiratory infection, that may adversely affect the safety or quality of a drug preparation being compounded shall be excluded from working in ISO Class 5, ISO Class 7, and ISO Class 8 compounding areas until the condition is remedied.

(ii) Before entering the buffer room [~~area~~], compounding personnel shall [~~must remove the following~~]:

(I) remove personal outer garments (e.g., bandanas, coats, hats, jackets, scarves, sweaters, vests);

(II) remove all cosmetics;[~~, because they shed flakes and particles; and~~]

(III) remove all hand, wrist, and other body jewelry or piercings (e.g., earrings, lip or eyebrow piercings) that can interfere with the effectiveness of personal protective equipment (e.g., fit of gloves and cuffs of sleeves); and[~~.~~]

(IV) wipe eyeglasses, if worn.

(iii) The wearing of artificial nails or extenders is prohibited while working in the sterile compounding environment. Natural nails shall be kept neat and trimmed.

(iv) Personnel shall [~~don personal protective equipment and~~] perform hand hygiene and garbing in an order determined by the pharmacy depending on the placement of the sink. The order of garbing shall be documented in the pharmacy's SOPs. Garb shall be donned and doffed in an order that reduces the risk of contamination. Donning and doffing garb shall not occur in the same area at the same

time. [~~that proceeds from the dirtiest to the cleanest activities as follows:~~]

(I) The minimum garbing requirements for preparing Category 1 or Category 2 compounded sterile preparations include the following:

(-a-) low-lint garment with sleeves that fit snugly around the wrists and an enclosed neck (e.g., gown or coverall);

(-b-) low-lint covers for shoes;

(-c-) low-lint cover for head that covers the hair and ears, and if appliable, cover for facial hair;

(-d-) low-lint face mask;

(-e-) sterile powder-free gloves; and

(-f-) if using a restricted-access barrier system (i.e., a compounding aseptic isolator or compounding aseptic containment isolator), disposable gloves should be worn inside the gloves attached to the restricted-access barrier system sleeves. Sterile gloves shall be worn over the gloves attached to the restricted-access barrier system sleeve.

~~*f(I)* Activities considered the dirtiest include donning of dedicated shoes or shoe covers, head and facial hair covers (e.g., beard covers in addition to face masks), and face mask/eye shield. Eye shields are optional unless working with irritants like germicidal disinfecting agents or when preparing hazardous drugs.~~]

(II) The following additional garbing requirements shall be followed in the buffer room where Category 3 compounded sterile preparations are prepared for all personnel regardless of whether Category 3 compounded sterile preparations are compounded on a given day:

(-a-) skin may not be exposed in the buffer room (i.e., face and neck shall be covered);

(-b-) all low-lint outer garb shall be sterile, including the use of sterile sleeves over gauntlet sleeves when a restricted-access barrier system is used;

(-c-) disposable garbing items shall not be reused and any laundered garb shall not be reused without being laundered and resterilized with a validated cycle; and

(-d-) the pharmacy's SOPs shall describe disinfection procedures for reusing goggles, respirators, and other reusable equipment. If compounding a hazardous drug, appropriate personal protective equipment shall be worn.

(III) [~~(II)~~] After donning dedicated shoes or shoe covers, head and facial hair covers, and face masks, personnel shall perform a hand hygiene procedure by removing debris from underneath fingernails using a nail cleaner under running warm water followed by vigorous hand washing. Personnel shall begin washing arms at the hands and continue washing to elbows for at least 30 seconds with either a plain (non-antimicrobial) soap, or antimicrobial soap, and water while in the anteroom [~~ante-area~~]. Disposable soap containers shall not be refilled or topped off. Brushes shall not be used for hand hygiene. Hands and forearms to the elbows shall be completely dried using lint-free disposable towels, an electronic hands-free hand dryer, or a HEPA filtered hand dryer.

(IV) [~~(III)~~] After completion of hand washing, personnel shall don clean non-shedding gowns with sleeves that fit snugly around the wrists and enclosed at the neck.

(V) [~~(IV)~~] Once inside the buffer room [~~area~~] or segregated compounding area, and prior to donning sterile powder-free gloves, antiseptic hand cleansing shall be performed using an alcohol-based hand rub [~~a waterless alcohol-based surgical hand scrub with persistent activity following manufacturers' recommendations~~]. Hands shall be allowed to dry thoroughly before donning sterile gloves.

(VI) [~~(V)~~] Sterile gloves that form a continuous barrier with the gown shall be the last item donned before compounding begins. Sterile gloves shall be donned in a classified area or segregated compounding area using proper technique to ensure the sterility of the glove is not compromised while donning. The cuff of the sterile glove shall cover the cuff of the gown at the wrist. When preparing hazardous preparations, the compounder shall double glove or shall use single gloves ensuring that the gloves are sterile powder-free chemotherapy-rated gloves. Routine application of sterile 70% IPA shall occur throughout the compounding day and whenever non-sterile surfaces are touched.

(v) Garb shall be replaced immediately if it becomes visibly soiled or if its integrity is compromised. Gowns and other garb shall be stored in a manner that minimizes contamination (e.g., away from sinks to avoid splashing). If compounding Category 1 or Category 2 compounded sterile preparations, gowns may be reused within the same shift by the same person if the gown is maintained in a classified area or adjacent to, or within, the segregated compounding area in a manner that prevents contamination. When personnel exit the compounding area, garb, except for gowns, may not be reused and shall be discarded or laundered before use. The pharmacy's SOPs shall describe disinfection procedures for reusing goggle, respirators, and other reusable equipment. [~~When compounding personnel shall temporarily exit the buffer area during a work shift, the exterior gown, if not visibly soiled, may be removed and retained in the ante-area, to be re-donned during that same work shift only. However, shoe covers, hair and facial hair covers, face mask/eye shield, and gloves shall be replaced with new ones before re-entering the buffer area along with performing proper hand hygiene.~~]

(vi) During [~~high-risk level~~] compounding activities that precede terminal sterilization, such as weighing and mixing of non-sterile ingredients, compounding personnel shall be garbed and gloved the same as when performing compounding in an ISO Class 5 environment. Properly garbed and gloved compounding personnel who are exposed to air quality that is either known or suspected to be worse than ISO Class 7 shall re-garb personal protective equipment along with washing their hands properly, performing antiseptic hand cleansing with a sterile 70% IPA-based or another suitable sterile alcohol-based surgical hand scrub, and donning sterile gloves upon re-entering the ISO Class 7 buffer room [~~area~~].

(vii) When compounding aseptic isolators or compounding aseptic containment isolators are the source of the ISO Class 5 environment, at the start of each new compounding procedure, a new pair of sterile gloves shall be donned within the CAI or CACI. In addition, the compounding personnel should follow the requirements as specified in this subparagraph, unless the isolator manufacturer can provide written documentation based on validated environmental testing that any components of personal protective equipment or cleansing are not required.

(16) [~~(14)~~] Quality assurance [~~Assurance~~].

(A) Initial formula validation [~~Formula Validation~~]. Prior to routine compounding of a sterile preparation, a pharmacy shall conduct an evaluation that shows that the pharmacy is capable of compounding a preparation that is sterile and that contains the stated amount of active ingredient(s).

~~*f(i)* Low risk level preparations.~~]

(i) [~~(I)~~] Quality assurance practices include, but are not limited to the following:

(I) [~~(-a-)~~] Routine disinfection and air quality testing of the direct compounding environment to minimize microbial surface contamination and maintain ISO Class 5 air quality;

(II) [~~(-b-)~~] Visual confirmation that compounding personnel are properly donning and wearing appropriate items and types of protective garments and goggles;

(III) Confirmation that media-fill tests indicate that compounding personnel and personnel who have direct oversight of compounding personnel but do not compound can competently perform aseptic procedures;

(IV) [~~(-c-)~~] Review of all orders and packages of ingredients to ensure that the correct identity and amounts of ingredients were compounded; and

(V) [~~(-d-)~~] Visual inspection of compounded sterile preparations, except for sterile radiopharmaceuticals, to ensure the absence of particulate matter in solutions, the absence of leakage from vials and bags, and the accuracy and thoroughness of labeling.

~~*(II)* Example of a Media-Fill Test Procedure. This, or an equivalent test, is performed at least annually by each person authorized to compound in a low-risk level under conditions that closely simulate the most challenging or stressful conditions encountered during compounding of low-risk level sterile preparations. Once begun, this test is completed without interruption within an ISO Class 5 air quality environment. Three sets of four 5-milliliter aliquots of sterile fluid culture media are transferred with the same sterile 10-milliliter syringe and vented needle combination into separate sealed, empty, sterile 30-milliliter clear vials (i.e., four 5-milliliter aliquots into each of three 30-milliliter vials). Sterile adhesive seals are aseptically affixed to the rubber closures on the three filled vials. The vials are incubated within a range of 20 - 35 degrees Celsius for a minimum of 14 days. Failure is indicated by visible turbidity in the medium on or before 14 days. The media-fill test must include a positive-control sample.]~~

~~*(ii)* Medium risk level preparations.]~~

~~*(I)* Quality assurance procedures for medium-risk level compounded sterile preparations include all those for low-risk level compounded sterile preparations, as well as a more challenging media-fill test passed annually, or more frequently.]~~

~~*(II)* Example of a Media-Fill Test Procedure. This, or an equivalent test, is performed at least annually under conditions that closely simulate the most challenging or stressful conditions encountered during compounding. This test is completed without interruption within an ISO Class 5 air quality environment. Six 100-milliliter aliquots of sterile Soybean-Casein Digest Medium are aseptically transferred by gravity through separate tubing sets into separate evacuated sterile containers. The six containers are then arranged as three pairs, and a sterile 10-milliliter syringe and 18-gauge needle combination is used to exchange two 5-milliliter aliquots of medium from one container to the other container in the pair. For example, after a 5-milliliter aliquot from the first container is added to the second container in the pair, the second container is agitated for 10 seconds, then a 5-milliliter aliquot is removed and returned to the first container in the pair. The first container is then agitated for 10 seconds, and the next 5-milliliter aliquot is transferred from it back to the second container in the pair. Following the two 5-milliliter aliquot exchanges in each pair of containers, a 5-milliliter aliquot of medium from each container is aseptically injected into a sealed, empty, sterile 10-milliliter clear vial, using a sterile 10-milliliter syringe and vented needle. Sterile adhesive seals are aseptically affixed to the rubber closures on the three filled vials. The vials are incubated within a range of 20 - 35 degrees Celsius for a minimum of 14 days. Failure is indicated by visible turbidity in the medium on or before 14 days. The media-fill test must include a positive-control sample.]~~

~~*(iii)* High risk level preparations.]~~

~~*(I)* Procedures for high-risk level compounded sterile preparations include all those for low-risk level compounded sterile preparations. In addition, a media-fill test that represents high-risk level compounding is performed twice a year by each person authorized to compound high-risk level compounded sterile preparations.]~~

~~*(II)* Example of a Media-Fill Test Procedure for Compounded Sterile Preparations Sterilized by Filtration. This test, or an equivalent test, is performed under conditions that closely simulate the most challenging or stressful conditions encountered when compounding high-risk level compounded sterile preparations. Note: Sterility tests for autoclaved compounded sterile preparations are not required unless they are prepared in batches of more than 25 units. This test is completed without interruption in the following sequence:]~~

~~[(-a-) Dissolve 3 grams of non-sterile commercially available fluid culture media in 100 milliliters of non-bacteriostatic water to make a 3% non-sterile solution.]~~

~~[(-b-) Draw 25 milliliters of the medium into each of three 30-milliliter sterile syringes. Transfer 5 milliliters from each syringe into separate sterile 10-milliliter vials. These vials are the positive controls to generate exponential microbial growth, which is indicated by visible turbidity upon incubation.]~~

~~[(-c-) Under aseptic conditions and using aseptic techniques, affix a sterile 0.2-micron porosity filter unit and a 20-gauge needle to each syringe. Inject the next 10 milliliters from each syringe into three separate 10-milliliter sterile vials. Repeat the process for three more vials. Label all vials, affix sterile adhesive seals to the closure of the nine vials, and incubate them at 20 to 35 degrees Celsius for a minimum of 14 days. Inspect for microbial growth over 14 days as described in Chapter 797 Pharmaceutical Compounding--Sterile Preparations, of the USP/NF.]~~

(ii) [~~(II)~~] Filter integrity testing [~~Integrity Testing~~]. Filters shall [~~need to~~] undergo testing to evaluate the integrity of filters used to sterilize Category 2 prepared from any non-sterile starting component or Category 3 compounded sterile [~~high-risk~~] preparations, such as bubble point testing [~~Bubble Point Testing~~] or comparable filter integrity testing. Such testing is not a replacement for sterility testing and shall not be interpreted as such. Such test shall be performed after a sterilization procedure on all filters used to sterilize each Category 2 prepared from any non-sterile starting component or Category 3 compounded sterile [~~high-risk~~] preparation or batch preparation and the results documented. The results should be compared with the filter manufacturer's specification for the specific filter used. If a filter fails the integrity test, the preparation or batch shall [~~must~~] be sterilized again using new unused filters.

(B) Finished preparation release checks and tests.

(i) Each time a Category 3 compounded sterile preparation is prepared, it shall be tested for sterility and meet the requirements of Chapter 71, Sterility Tests of the USP/NF, or a validated alternative method that is noninferior to Chapter 71 testing. Each time a Category 2 injectable compounded sterile preparation compounded from one or more non-sterile components and assigned a beyond-use date that requires sterility testing is prepared, the preparation shall be tested to ensure that it does not contain excessive bacterial endotoxins. Each time a Category 3 injectable compounded sterile preparation compounded from one or more non-sterile components is prepared, the preparation shall be tested to ensure that it does not contain excessive bacterial endotoxins. [~~All high-risk level compounded sterile prepara-~~

tions that are prepared in groups of more than 25 identical individual single-dose packages (such as ampules, bags, syringes, and vials), or in multiple dose vials for administration to multiple patients, or are exposed longer than 12 hours at 2 - 8 degrees Celsius and longer than six hours at warmer than 8 degrees Celsius before they are sterilized shall be tested to ensure they are sterile and do not contain excessive bacterial endotoxins as specified in Chapter 71, Sterility Tests of the USP/NF before being dispensed or administered.]

(ii) All compounded sterile preparations, except for sterile radiopharmaceuticals, that are intended to be solutions shall [must] be visually examined for the presence of particulate matter and not administered or dispensed when such matter is observed.

(iii) The prescription drug and medication orders, written compounding procedure, preparation records, and expended materials used to make compounded sterile preparations [at all contamination risk levels] shall be inspected for accuracy of correct identities and amounts of ingredients, aseptic mixing and sterilization, packaging, labeling, and expected physical appearance before they are dispensed or administered.

(iv) Written procedures for checking compounding accuracy shall be followed for every compounded sterile preparation during preparation, in accordance with pharmacy's policies and procedures, and immediately prior to release, including label accuracy and the accuracy of the addition of all drug products or ingredients used to prepare the finished preparation and their volumes or quantities. A pharmacist shall ensure that components used in compounding are accurately weighed, measured, or subdivided as appropriate to conform to the formula being prepared.

(C) Environmental testing [Testing].

(i) Viable and nonviable environmental sampling testing. Environmental sampling shall occur, at a minimum, every six months as part of a comprehensive quality management program and under any of the following conditions:

(I) as part of the commissioning and certification of new facilities and equipment;

(II) following any servicing of facilities and equipment;

(III) as part of the re-certification of facilities and equipment;

(IV) in response to identified problems with end products or staff technique; or

(V) in response to issues with compounded sterile preparations, observed compounding personnel work practices, or patient-related infections (where the compounded sterile preparation is being considered as a potential source of the infection).

(ii) Total particle counts. Certification that each ISO classified area (e.g., ISO Class 5, 7, and 8), is within established guidelines shall be performed no less than every six months and whenever the equipment is relocated or the physical structure of the buffer room [area] or anteroom [ante-area] has been altered. All certification records shall be maintained and reviewed to ensure that the controlled environments comply with the proper air cleanliness, room pressures, and air changes per hour. These certification records shall [must] include acceptance criteria and be made available upon inspection by the Board. Testing shall be performed by qualified operators using current, state-of-the-art equipment, with results of the following:

(I) ISO Class 5 - not more than 3,520 [3520] particles 0.5 microns [micrometer] and larger in diameter [size] per cubic meter of air;

(II) ISO Class 7 - not more than 352,000 particles of 0.5 microns [micrometer] and larger in diameter [size] per cubic meter of air for any buffer room [area]; and

(III) ISO Class 8 - not more than 3,520,000 particles of 0.5 microns [micrometer] and larger in diameter [size] per cubic meter of air for any anteroom [ante-area].

(iii) Pressure differential monitoring. A pressure gauge or velocity meter shall be installed to monitor the pressure differential or airflow between the buffer room [area] and the anteroom [ante-area] and between the anteroom [ante-area] and the general environment outside the compounding area. The results shall be reviewed and documented on a log at least every work shift (minimum frequency shall be at least daily) or by a continuous recording device. The pressure between the ISO Class 7 or ISO Class 8 and the general pharmacy area shall not be less than 0.02 inch water column.

(iv) Sampling plan. An appropriate environmental sampling plan shall be developed for airborne viable particles based on a risk assessment of compounding activities performed. Selected sampling sites shall include locations within each ISO Class 5 environment and in the ISO Class 7 and 8 areas and in the segregated compounding areas at greatest risk of contamination. The plan shall include sample location, method of collection, frequency of sampling, volume of air sampled, and time of day as related to activity in the compounding area and action levels.

(v) Viable air sampling. Evaluation of airborne microorganisms using volumetric collection methods in the controlled air environments shall be performed by properly trained individuals for all compounded sterile preparations [compounding risk levels]. Volumetric active air sampling of all active classified areas using an impaction air sampler shall be conducted in each classified area (e.g., ISO Class 5 PEC and ISO Class 7 and 8 room(s)) during dynamic operating conditions. For entities compounding Category 1 or Category 2 compounded sterile preparations, this shall be completed at least every six months. For entities compounding any Category 3 compounded sterile preparations, this shall be completed within 30 days prior to the commencement of any Category 3 compounding and at least every three months thereafter regardless of the frequency of compounding Category 3 compounded sterile preparations. Air sampling sites shall be selected in all classified areas. [For low-, medium-, and high-risk level compounding, air sampling shall be performed at locations that are prone to contamination during compounding activities and during other activities such as staging, labeling, gowning, and cleaning. Locations shall include zones of air backwash turbulence within the laminar airflow workbench and other areas where air backwash turbulence may enter the compounding area. For low-risk level compounded sterile preparations within 12-hour or less beyond-use-date prepared in a primary engineering control that maintains an ISO Class 5, air sampling shall be performed at locations inside the ISO Class 5 environment and other areas that are in close proximity to the ISO Class 5 environment during the certification of the primary engineering control.]

(vi) Air sampling [frequency and] process. [Air sampling shall be performed at least every 6 months as a part of the re-certification of facilities and equipment.]

(I) A sufficient volume of air shall be sampled [and the manufacturer's guidelines for use of the electronic air sampling equipment followed]. Follow the manufacturer's instructions for operation of the impaction air sampler, including placement of media

device(s). Using the impaction air sampler, test at least 1 cubic meter or 1,000 liters of air from each location sampled. At the end of each sampling period, retrieve the media device and cover it. Handle and store media devices to avoid contamination and prevent condensate from dropping onto the agar during incubation and affecting the accuracy of the cfu reading (e.g., invert plates). At the end of the designated sampling or exposure period for air sampling activities, the microbial growth media plates are recovered and their covers secured and they are inverted and incubated pursuant to the procedures in subclause (II) of this clause [~~at a temperature and for a time period conducive to multiplication of microorganisms~~]. Sampling data shall be collected and reviewed on a periodic basis as a means of evaluating the overall control of the compounding environment.

(II) Incubation procedures.

(-a-) Incubate the media device at 30 to 35 degrees Celsius for no less than 48 hours. Examine for growth. Record the total number of discrete colonies of microorganisms on each media device as cfu per cubic meter of air on an environmental sampling form based on sample type (i.e., viable air), sample location, and sample date.

(-b-) Then incubate the media at 20 to 25 degrees Celsius for no less than five additional days. Examine for growth. Record the total number of discrete colonies of microorganisms on each media device as cfu per cubic meter of air on an environmental sampling form based on sample type (i.e., viable air), sample location, and sample date.

(-c-) Alternatively, to shorten the overall incubation period, two sampling media devices may be collected for each sample location and incubated concurrently.

(-1-) The media devices shall either both be trypticase soy agar or shall be one trypticase soy agar and the other fungal media (e.g., malt extract agar or Sabouraud dextrose agar).

(-2-) Incubate each media device in a separate incubator. Incubate one media device at 30 to 35 degrees Celsius for no less than 48 hours, and incubate the other media device at 20 to 25 degrees Celsius for no less than five days. If fungal media are used as one of the samples, incubate the fungal media sample at 20 to 25 degrees Celsius for no less than five days.

(-3-) Count the total number of discrete colonies of microorganisms on each media device, and record these results as cfu per cubic meter of air.

(-4-) Record the results of the sampling on an environmental sampling form based on sample type (i.e., viable air), and include the sample location and sample date.

(III) The following action levels for viable air sampling apply: a [~~If an activity consistently shows elevated levels of microbial growth, competent microbiology or infection control personnel shall be consulted. A~~] colony forming unit (cfu) count greater than 1 cfu per cubic meter of air for ISO Class 5, greater than 10 cfus [~~efu~~] per cubic meter of air for ISO Class 7, and greater than 100 cfus [~~efu~~] per cubic meter of air for ISO Class 8. If levels measured during viable air sampling exceed the action levels in this subclause for the ISO classification levels of the area sampled, the cause shall be investigated and corrective action shall be taken. Data collected in response to corrective actions shall be reviewed to confirm that the actions taken have been effective. The corrective action plan shall be dependent on the cfu count and the microorganism recovered. The corrective action plan shall be documented. If levels measured during viable air sampling exceed the action levels in this subclause, an attempt shall be made to identify any microorganism recovered to the genus level with the assistance of a competent microbiologist. [~~or worse should prompt a re-evaluation of the adequacy of personnel work practices, cleaning procedures, operational procedures, and air filtration efficiency within the aseptic compounding location. An investigation into the source of the contamination shall be conducted. The source of the problem shall be eliminated, the affected area cleaned, and resampling performed. Counts of cfu are to be used as an approximate measure of the environmental microbial bioburden. Action levels are determined on the basis of cfu data gathered at each sampling location and trended over time. Regardless of the number of cfu identified in the pharmacy, further corrective actions will be dictated by the identification of microorganisms recovered by an appropriate credentialed laboratory of any microbial bioburden captured as a cfu using an impaction air sampler. Highly pathogenic microorganisms (e.g., gram-negative rods, coagulase positive staphylococcus, molds and yeasts) can be potentially fatal to patient receiving compounded sterile preparations and must be immediately remedied, regardless of colony forming unit count, with the assistance, if needed, of a competent microbiologist, infection control professional, or industrial hygienist.~~]

(vii) Compounding accuracy checks. Written procedures for checking compounding accuracy shall be followed for every compounded sterile preparation during preparation and immediately prior to release, including label accuracy and the accuracy of the addition of all drug products or ingredients used to prepare the finished preparation and their volumes or quantities. At each step of the compounding process, the pharmacist shall ensure that components used in compounding are accurately weighed, measured, or subdivided as appropriate to conform to the formula being prepared.

(17) [~~(15)~~] Quality control.

(A) Quality control procedures. The pharmacy shall follow established quality control procedures to monitor the compounding environment and quality of compounded drug preparations for conformity with the quality indicators established for the preparation. When developing these procedures, pharmacy personnel shall consider the provisions of USP Chapter 71, Sterility Tests, USP Chapter 85, Bacterial Endotoxins Test, Pharmaceutical Compounding-Non-sterile Preparations, USP Chapter 795, USP Chapter 797, Pharmaceutical Compounding--Sterile Preparations, USP Chapter 800, Hazardous Drugs--Handling in Healthcare Settings, USP Chapter 823, Positron Emission Tomography Drugs for Compounding, Investigational, and Research Uses, USP Chapter 1160, Pharmaceutical Calculations in Prescription Compounding, and USP Chapter 1163, Quality Assurance in Pharmaceutical Compounding of the current USP/NF. Such procedures shall be documented and be available for inspection.

(B) Verification of compounding accuracy and sterility.

(i) The accuracy of identities, concentrations, amounts, and purities of ingredients in compounded sterile preparations shall be confirmed by reviewing labels on packages, observing and documenting correct measurements with approved and correctly standardized devices, and reviewing information in labeling and certificates of analysis provided by suppliers.

(ii) If the correct identity, purity, strength, and sterility of ingredients and components of compounded sterile preparations cannot be confirmed such ingredients and components shall be discarded immediately. Any compounded sterile preparation that fails sterility testing following sterilization by one method (e.g., filtration) is to be discarded and not subjected to a second method of sterilization.

(iii) If individual ingredients, such as bulk drug substances, are not labeled with expiration dates, when the drug substances are stable indefinitely in their commercial packages under labeled storage conditions, such ingredients may gain or lose moisture during stor-

age and use and shall require testing to determine the correct amount to weigh for accurate content of active chemical moieties in compounded sterile preparations.

(C) Sterility testing. Sterility testing shall be performed on a number of units equal to 5% of the number of compounded sterile preparations prepared, rounded up to the next whole number. Sterility tests resulting in failure shall prompt an investigation into the possible causes of the failure and shall include identification of the microorganism and an evaluation of the sterility testing procedure, compounding facility, process, and personnel that may have contributed to the failure. The sources of the contamination, if identified, shall be corrected and the pharmacy shall determine whether the conditions causing the sterility failure affect other compounded sterile preparations. The investigation and resulting corrective actions shall be documented.

(e) Records. Any testing, cleaning, procedures, or other activities required in this subsection shall be documented and such documentation shall be maintained by the pharmacy.

(1) Maintenance of records. Every record required under this section shall [~~must~~] be:

(A) kept by the pharmacy and be available, for at least two years for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(B) supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records shall [~~must~~] be provided in an electronic format. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(2) Compounding records.

(A) Compounding pursuant to patient specific prescription drug orders or medication orders not prepared from non-sterile ingredient(s). Compounding records for all compounded preparations shall be maintained by the pharmacy and shall include a complete formula, including methodology and necessary equipment which includes the brand name(s) of the raw materials, or if no brand name, the generic name(s) or official name and name(s) of the manufacturer(s) or distributor of the raw materials and the quantities of each; however, if the sterile preparation is compounded according to the manufacturer's labeling instructions, then documentation of the formula is not required.[~~:~~]

~~*[(i)* the date and time of preparation;]~~

~~*[(ii)* a complete formula, including methodology and necessary equipment which includes the brand name(s) of the raw materials, or if no brand name, the generic name(s) or official name and name(s) of the manufacturer(s) or distributor of the raw materials and the quantities of each; however, if the sterile preparation is compounded according to the manufacturer's labeling instructions, then documentation of the formula is not required;]~~

~~*[(iii)* written or electronic signature or initials of the pharmacist or pharmacy technician or pharmacy technician trainee performing the compounding;]~~

~~*[(iv)* written or electronic signature or initials of the pharmacist responsible for supervising pharmacy technicians or pharmacy technician trainees and conducting finals checks of compounded pharmaceuticals if pharmacy technicians or pharmacy technician trainees perform the compounding function;]~~

~~*[(v)* the container used and the number of units of finished preparation prepared; and]~~

~~*[(vi)* a reference to the location of the following documentation which may be maintained with other records, such as quality control records:]~~

~~*[(I)* the criteria used to determine the beyond-use date; and]~~

~~*[(II)* documentation of performance of quality control procedures.]~~

(B) Compounding records for compounded sterile preparations prepared from non-sterile ingredient(s) or prepared for more than one patient. [~~when batch compounding or compounding in anticipation of future prescription drug or medication orders.~~]

(i) [~~Master work sheet~~]. A master formulation record [~~master work sheet~~] shall be created for compounded sterile preparations prepared from non-sterile ingredient(s) or prepared for more than one patient. Any changes or alterations to the master formulation record shall be approved and documented according to the pharmacy's SOPs. The master formulation record shall include at least the following information: [~~developed and approved by a pharmacist for preparations prepared in batch. Once approved, a duplicate of the master work sheet shall be used as the preparation work sheet from which each batch is prepared and on which all documentation for that batch occurs. The master work sheet shall contain at a minimum:~~]

(I) name, strength or activity, and dosage form of the compounded sterile preparation [~~the formula~~];

(II) identities and amounts of all ingredients and, if applicable, relevant characteristics or components (e.g., particle size, salt form, purity grade, solubility, assay, loss on drying, water content) [~~the components~~];

(III) type and size of container closure system(s) [~~the compounding directions~~];

(IV) complete instructions for preparing the compounded sterile preparation, including equipment, supplies, a description of the compounding steps, and any special precautions [~~a sample label~~];

(V) physical description of the final compounded sterile preparation, including desired pH of aqueous preparations for buffered eye drops and non-sterile to sterile compounding [~~evaluation and testing requirements~~];

(VI) beyond-use date and storage requirements; [~~specific equipment used during preparation; and~~]

(VII) reference source to support the stability of the compounded sterile preparation; [~~storage requirements.~~]

(VIII) quality control procedures (e.g., pH testing, filter integrity testing); and

(IX) other information as needed to describe the compounding process and ensure repeatability (e.g., adjusting pH and tonicity; sterilization method, such as steam, dry heat, irradiation, or filter).

(ii) A compounding record that documents the compounding process shall be created for all compounded sterile preparations. The compounding record shall include at least the following information:

(I) name, strength or activity, and dosage form of the compounded sterile preparation;

(II) date and time of preparation of the compounded sterile preparation;

(III) assigned internal identification number (e.g., prescription, order, or lot number);

(IV) written or electronic signature or initials of the pharmacist or pharmacy technician or pharmacy technician trainee performing the compounding;

(V) written or electronic signature or initials of the pharmacist responsible for supervising pharmacy technicians or pharmacy technician trainees and conducting final checks of compounded preparations if pharmacy technicians or pharmacy technician trainees perform the compounding function;

(VI) name of each component;

(VII) vendor, lot number, and expiration date for each component for compounded sterile preparations prepared for more than one patient or prepared from non-sterile ingredient(s);

(VIII) weight or volume of each component;

(IX) strength or activity of each component;

(X) total quantity compounded;

(XI) final yield (e.g., quantity, containers, number of units);

(XII) assigned beyond-use date and storage requirements;

(XIII) results of quality control procedures (e.g., visual inspection, filter integrity testing, pH testing);

(XIV) if applicable, master formulation record for the compounded sterile preparation; and

(XV) if applicable, calculations made to determine and verify quantities or concentrations of components.

~~*[(ii)* Preparation work sheet. The preparation work sheet for each batch of preparations shall document the following:]~~

~~*[(I)* identity of all solutions and ingredients and their corresponding amounts, concentrations, or volumes;]~~

~~*[(II)* lot number for each component;]~~

~~*[(III)* component manufacturer/distributor or suitable identifying number;]~~

~~*[(IV)* container specifications (e.g., syringe, pump cassette);]~~

~~*[(V)* unique lot or control number assigned to batch;]~~

~~*[(VI)* expiration date of batch-prepared preparations;]~~

~~*[(VII)* date of preparation;]~~

~~*[(VIII)* name, initials, or electronic signature of the person(s) involved in the preparation;]~~

~~*[(IX)* name, initials, or electronic signature of the responsible pharmacist;]~~

~~*[(X)* finished preparation evaluation and testing specifications, if applicable; and]~~

~~*[(XI)* comparison of actual yield to anticipated or theoretical yield, when appropriate.]~~

(f) Office use compounding and distribution of sterile compounded preparations. [~~Use Compounding and Distribution of Sterile Compounded Preparations~~]

(1) General.

(A) A pharmacy may compound, dispense, deliver, and distribute a compounded sterile preparation as specified in Subchapter D, Texas Pharmacy Act Chapter 562.

(B) A Class A-S pharmacy is not required to register or be licensed under Chapter 431, Health and Safety Code, to distribute sterile compounded preparations to a Class C or Class C-S pharmacy.

(C) A Class C-S pharmacy is not required to register or be licensed under Chapter 431, Health and Safety Code, to distribute sterile compounded preparations that the Class C-S pharmacy has compounded for other Class C or Class C-S pharmacies under common ownership.

(D) To compound and deliver a compounded preparation under this subsection, a pharmacy shall [~~must~~]:

(i) verify the source of the raw materials to be used in a compounded drug;

(ii) comply with applicable United States Pharmacopeia [~~Pharmacopoeia~~] guidelines, including the testing requirements, and the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

(iii) enter into a written agreement with a practitioner for the practitioner's office use of a compounded preparation;

(iv) comply with all applicable competency and accrediting standards as determined by the board; and

(v) comply with the provisions of this subsection.

(E) This subsection does not apply to Class B pharmacies compounding sterile radiopharmaceuticals that are furnished for departmental or physicians' use if such authorized users maintain a Texas radioactive materials license.

(2) Written Agreement. A pharmacy that provides sterile compounded preparations to practitioners for office use or to another pharmacy shall enter into a written agreement with the practitioner or pharmacy. The written agreement shall:

(A) address acceptable standards of practice for a compounding pharmacy and a practitioner and receiving pharmacy that enter into the agreement including a statement that the compounded drugs may only be administered to the patient and may not be dispensed to the patient or sold to any other person or entity except to a veterinarian as authorized by §563.054 of the Act;

(B) require the practitioner or receiving pharmacy to include on a patient's chart, medication order or medication administration record the lot number and beyond-use date of a compounded preparation administered to a patient; and

(C) describe the scope of services to be performed by the pharmacy and practitioner or receiving pharmacy, including a statement of the process for:

(i) a patient to report an adverse reaction or submit a complaint; and

(ii) the pharmacy to recall batches of compounded preparations.

(3) Recordkeeping.

(A) Maintenance of Records.

(i) Records of orders and distribution of sterile compounded preparations to a practitioner for office use or to an institutional pharmacy for administration to a patient shall:

(I) be kept by the pharmacy and be available, for at least two years from the date of the record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies;

(II) be maintained separately from the records of preparations dispensed pursuant to a prescription or medication order; and

(III) be supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy or its representative. If the pharmacy maintains the records in an electronic format, the requested records shall [~~must~~] be provided in an electronic format. Failure to provide the records set out in this subsection, either on site or within 72 hours for whatever reason, constitutes prima facie evidence of failure to keep and maintain records.

(ii) Records may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided the data processing system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(B) Orders. The pharmacy shall maintain a record of all sterile compounded preparations ordered by a practitioner for office use or by an institutional pharmacy for administration to a patient. The record shall include the following information:

(i) date of the order;

(ii) name, address, and phone number of the practitioner who ordered the preparation and if applicable, the name, address and phone number of the institutional pharmacy ordering the preparation; and

(iii) name, strength, and quantity of the preparation ordered.

(C) Distributions. The pharmacy shall maintain a record of all sterile compounded preparations distributed pursuant to an order to a practitioner for office use or by an institutional pharmacy for administration to a patient. The record shall include the following information:

(i) date the preparation was compounded;

(ii) date the preparation was distributed;

(iii) name, strength and quantity in each container of the preparation;

(iv) pharmacy's lot number;

(v) quantity of containers shipped; and

(vi) name, address, and phone number of the practitioner or institutional pharmacy to whom the preparation is distributed.

(D) Audit trail [~~Trail~~].

(i) The pharmacy shall store the order and distribution records of preparations for all sterile compounded preparations ordered by and or distributed to a practitioner for office use or by a pharmacy licensed to compound sterile preparations for administration to a patient in such a manner as to be able to provide an audit trail for all orders and distributions of any of the following during a specified time period:

(I) any strength and dosage form of a preparation (by either brand or generic name or both);

(II) any ingredient;

(III) any lot number;

(IV) any practitioner;

(V) any facility; and

(VI) any pharmacy, if applicable.

(ii) The audit trail shall contain the following information:

(I) date of order and date of the distribution;

(II) practitioner's name, address, and name of the institutional pharmacy, if applicable;

(III) name, strength and quantity of the preparation in each container of the preparation;

(IV) name and quantity of each active ingredient;

(V) quantity of containers distributed; and

(VI) pharmacy's lot number.

(4) Labeling. The pharmacy shall affix a label to the preparation containing the following information:

(A) name, address, and phone number of the compounding pharmacy;

(B) the statement: "For Institutional or Office Use Only--Not for Resale"; or if the preparation is distributed to a veterinarian the statement: "Compounded Preparation";

(C) name and strength of the preparation or list of the active ingredients and strengths;

(D) pharmacy's lot number;

(E) beyond-use date as determined by the pharmacist using appropriate documented criteria;

(F) quantity or amount in the container;

(G) appropriate ancillary instructions, such as storage instructions or cautionary statements, including hazardous drug warning labels where appropriate; and

(H) device-specific instructions, where appropriate.

(g) Recall procedures [~~Procedures~~].

(1) The pharmacy shall have SOPs [~~written procedures~~] for the recall of any compounded sterile preparation provided to a patient, to a practitioner for office use, or a pharmacy for administration. The SOPs [~~Written procedures~~] shall include, but not be limited to the requirements as specified in paragraph (3) of this subsection.

(2) The pharmacy shall immediately initiate a recall of any sterile preparation compounded by the pharmacy upon identification of a potential or confirmed harm to a patient.

(3) In the event of a recall, the pharmacist-in-charge shall ensure that:

(A) the distribution of any affected compounded sterile preparation is determined, including the date and quantity of distribution;

(B) [~~(A)~~] each practitioner, facility, and/or pharmacy to which the preparation was distributed is notified, in writing, of the recall;

(C) [~~(B)~~] each patient to whom the preparation was dispensed is notified, in writing, of the recall;

(D) [~~(C)~~] the board is notified of the recall, in writing, not later than 24 hours after the recall is issued;

(E) [~~(D)~~] if the preparation is distributed for office use, the Texas Department of State Health Services, Drugs and Medical Devices Group, is notified of the recall, in writing;

(F) [~~(E)~~] any unused dispensed compounded sterile preparations are recalled and any stock remaining in the pharmacy is quarantined [~~the preparation is quarantined~~]; and

(G) [~~(F)~~] the pharmacy keeps a written record of the recall including all actions taken to notify all parties and steps taken to ensure corrective measures.

(4) Recall of out-of-specification dispensed compounded sterile preparations.

(A) If a compounded sterile preparation is dispensed or administered before the results of testing are known, the pharmacy shall have SOPs in place to:

(i) immediately notify the prescriber of a failure of specifications with the potential to cause patient harm (e.g., sterility, strength, purity, bacterial endotoxin, or other quality attributes); and

(ii) investigate if other lots are affected and recall if necessary.

(B) SOPs for recall of out-of-specification dispensed compounded sterile preparations shall contain procedures to:

(i) determine the severity of the problem and the urgency for implementation and completion of the recall;

(ii) determine the disposal and documentation of the recalled compounded sterile preparation; and

(iii) investigate and document the reason for failure.

(5) [~~(4)~~] If a pharmacy fails to initiate a recall, the board may require a pharmacy to initiate a recall if there is potential for or confirmed harm to a patient.

(6) [~~(5)~~] A pharmacy that compounds sterile preparations shall notify the board immediately of any adverse effects reported to the pharmacy or that are known by the pharmacy to be potentially attributable to a sterile preparation compounded by the pharmacy.

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 September 19, 2025.

TRD-202503315
Daniel Carroll, Pharm.D.
Executive Director
Texas State Board of Pharmacy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-8084

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PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 516. MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

22 TAC §516.1

The Texas State Board of Public Accountancy (Board) proposes an amendment to §516.1 concerning Definitions.

Background, Justification and Summary

HB 5629 established new licensing accommodations for military members, their spouses and military veterans. The proposed revision in this section eliminates no longer needed language and defines that these rules apply to Certified Public Accountants.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will incorporate the provision of the new legislation into the board's rule providing greater notice to the public of the accommodations.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on November 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§516.1. Definitions.

The following words and terms, when used in Title 22, Part 22 of the Texas Administrative Code relating to the Texas State Board of Public Accountancy, shall have the following meanings:

(1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001 of the Texas Government Code (relating to Definitions), or similar military service of another state.

(2) "Armed forces of the United States" means the army, navy, air force, space force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "Military service member" means a person who is on active duty.

(4) "Military spouse" means a person who is married to a military service member.

(5) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

(6) "Scope of practice" means a licensed Certified Public Accountant.

~~[(6) "Restrictive license" includes the following or its equivalent:]~~

~~[(A) an individual license that does not permit the attest service practice;]~~

~~[(B) an individual's retired or disabled license that limits an individual's authority to practice public accountancy;]~~

~~[(C) an individual's non-public industry license or authorization to practice; or]~~

~~[(D) a license that limits the scope of the individual's right to practice public accountancy.]~~

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 September 18, 2025.

TRD-202503299
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-7842

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22 TAC §516.2

The Texas State Board of Public Accountancy (Board) proposes an amendment to §516.2 concerning Licensing for Military Service Members and Spouses.

Background, Justification and Summary

The proposed rule revision bundles the persons affected into one rule, requires the issuance of a license within 10 days of a complete application, directs the issuance of a license to a licensee of another state in good standing licensed as a CPA and defines good standing.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will incorporate the provisions of the new legislation into the board's rule providing greater notice to the public of the accommodations.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does

not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on November 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§516.2. Licensing for Military Service Members, Military Veteran and Military Spouses.

(a) The board will issue a license to a [~~A~~] military service member, military veteran or military spouse who: [~~may obtain a license if the applicant for licensure:~~]

[~~(1) through the fingerprinting process, has been deemed to have an acceptable criminal history according to Chapter 53 of the Texas Occupations Code (relating to Consequences of Criminal Conviction); and~~]

(1) [~~(2)~~] holds a current license as a Certified Public Accountant [~~with no restrictions~~] issued by a licensing authority of another state and is in good standing in that state and any other state the applicant may hold a license as a Certified Public Accountant [~~another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state~~]; or

(2) [~~(3)~~] held a license in this state within the five years preceding the application date [~~held a license in this state~~].

(b) The executive director may:

(1) waive any prerequisite to obtaining a license for an applicant described in subsection (a) of this section after reviewing the applicant's credentials; or

(2) consider, other methods that demonstrate the applicant is qualified to be licensed.

(c) The board will:

(1) process a military service member, military veteran or military spouse's license application, as soon as practical but no more than 10 [~~30~~] days from the date of receipt of the application, and [~~issue a non-provisional license when the board determines the applicant is qualified in accordance with board rules~~];

(A) issue a license;

(B) notify the applicant that the application is incomplete; or

(C) notify the applicant that the board does not recognize the out-of-state license because the board does not issue a license similar in scope of practice to the applicant's license.

(2) consider [~~waive the license application and examination for~~] a military service member, military veteran or military spouse applicant to be in good standing if the person:

(A) holds a license as a certified public accountant that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct by the licensing authority of another state;

[~~(A) whose military service, training or education substantially meets all the requirements for a license; or~~]

(B) has not been disciplined by the licensing authority of another state with respect to the license or person's practice as a certified public accountant for which the license was issued; and

[~~(B) who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to this agency's requirements; and~~]

(C) is not currently under investigation by the licensing authority of another state for unprofessional conduct related to the person's license as a certified public accountant.

(3) notify the license holder of the requirements for renewing the license in writing or by electronic means and the term of the license.

(d) A member of the military, a military veteran and a spouse of a military member who receive a license under this chapter are exempt from any increased fee or other penalty imposed by the board for failing to renew the license in a timely manner if the licensee establishes to the satisfaction of the board that the licensee failed to renew the license in a timely manner because the licensee was serving as a military service member.

(e) A military service member who holds a license is entitled to two years of additional time to complete:

(1) any continuing education requirements; and

(2) any other requirement related to the renewal of the military service member's license.

(f) The board will credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the board.

(g) Credit may not be awarded to an applicant who:

(1) holds a license not in good standing with another Certified Public Accountant state licensing agency; or

(2) has an unacceptable criminal history according to the law applicable to the state agency.

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 September 18, 2025.

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J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-7842

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22 TAC §516.3

The Texas State Board of Public Accountancy (Board) proposes a repeal to §516.3 concerning Licensing for Military Veterans.

Background, Justification and Summary

Repeals no longer needed, duplicative language.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the repeal.

Public Benefit

The adoption of the proposed repeal will make the rules easier to understand.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the repeal and a Local Employment Impact Statement is not required because the proposed repeal will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed repeal will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the repeal does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the repeal is in effect, the proposed repeal: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed repeal's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed repeal.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on November 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed repeal will have an adverse economic effect on small businesses. If the proposed rule repeal is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule repeal on small businesses, offer alternative methods of achieving the purpose of the rule repeal; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be repealed; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The repeal is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§516.3. Licensing for Military Veterans.

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 September 18, 2025.

TRD-202503301
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-78422

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22 TAC §516.4

The Texas State Board of Public Accountancy (Board) proposes an amendment to §516.4 concerning Accounting Practice Notification by Military Service Members and Spouses.

Background, Justification and Summary

The proposed rule revision identifies the elements of an acceptable license application for military members, spouses and veterans eligible for the license.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will provide greater notice to the public of the accommodations.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on November 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§516.4. Accounting Practice [~~Notification~~] by Military Service Members and Military Spouses.

(a) This section applies to all board regulated public accountancy practice requirements, other than the examination requirement, by a military service member or military spouse [~~not requiring a license~~].

(b) A military service member or military spouse who holds a license as a Certified Public Accountant from another state in good standing may practice accounting in Texas during the period the military service member or military spouse is stationed at a military installation in Texas if the military service member or military spouse:

(1) submits an application, on a form provided by the board, to practice accounting in Texas;

[~~(1) may practice accounting in Texas during the period the military service member or military spouse is stationed at a military installation in Texas for a period not to exceed the third anniversary of the date the military service member or military spouse receives confirmation of authorization to practice by the board, if the military service member or military spouse:~~]

[~~(A) notifies the board of an intent to practice public accountancy in this state;~~]

[~~(B) submits proof of residency in this state along with a copy of their military identification card;~~]

[~~(C) receives from the board confirmation that the board has verified the license in the other jurisdiction and that the other jurisdiction has licensing requirements that are substantially equivalent to the board's licensing requirements; and~~]

[~~(D) receives confirmation of authorization to practice public accountancy in Texas from the board;~~]

(2) submits a copy of their military orders showing relocation to this state or identification card;

[(2) may not practice in Texas with a restricted license issued by another jurisdiction nor practice with an unacceptable criminal history according to Chapter 53 of the Texas Occupations Code (relating to Consequences of Criminal Conviction); and]

(3) provides a copy of a military spouse's marriage license when the person is a military spouse;

[(3) shall comply with all other laws and regulations applicable to the practice of public accountancy in this state including, but not limited to, providing attest services through a licensed accounting firm.]

(4) provides a notarized affidavit affirming under penalty of perjury that:

(A) the applicant is the person described and identified in the application;

(B) all statements in the application are true, correct and complete;

(C) the applicant understands the scope of the practice for the license and will not perform outside that scope; and

(D) the applicant is in good standing in each state in which the applicant holds or has held a license as a Certified Public Accountant.

(5) receives from the board confirmation that the board has verified the license has been issued in another state and is in good standing; and

(6) receives confirmation of authorization to practice public accountancy in Texas.

[(c) The board, in no less than 30 days following the receipt of notice of intent, will provide confirmation of authorization to practice to a military service member or military spouse, who has satisfied the board's rules.]

[(d) In the event of a divorce or similar event that affects a person's status as a military spouse, the spouse may continue to engage in the business or occupation under the authority of this section until the third anniversary of the date the spouse received the confirmation described by subsection (b)(1)(D) 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.

Filed with the Office of the Secretary of State on September 18, 2025.

TRD-202503302
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-7842

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22 TAC §516.5

The Texas State Board of Public Accountancy (Board) proposes new §516.5 concerning Complaints.

Background, Justification and Summary

The new legislation requires to the board to retain a copy of the licensee's complaint and make it available to the public.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the new rule.

Public Benefit

The adoption of the proposed new rule will make available to the public of the licensee's disciplinary history.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on November 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses. If the proposed new rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the new rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods

of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§516.5. Complaints.

(a) The board shall maintain a record of each complaint made against a military service member, military veteran, or military spouse to whom the board issues a license.

(b) The board shall publish at least quarterly on the agency's Internet website the information maintained under subsection (a) of this section, including a general description of the disposition of each complaint.

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 September 18, 2025.

TRD-202503303
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-7842

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CHAPTER 521. FEE SCHEDULE

22 TAC §521.14

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.14 concerning Eligibility Fee

Background, Justification and Summary

The proposed revision deletes the four testing sections of licensing which are no longer applicable.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will update the basis of the licensing fees.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on November 3, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§521.14. Eligibility Fee.

(a) The board shall determine the UCPAE eligibility fee for each section for which an applicant is eligible and applies.

~~[(1) Auditing and Attestation]~~

~~[(2) Financial Accounting and Reporting]~~

~~[(3) Regulation]~~

~~(4) Business Environment and Concepts]~~

(b) Effective January 1, 2024, the board shall utilize the UCPAE available from the AICPA covering the following sections:

(1) auditing and attestation (AUD);

(2) business analysis and reporting (BAR);

(3) financial accounting and reporting (FAR);

(4) information systems and controls (ISC);

(5) taxation and regulation (REG); and

(6) tax compliance and planning (TCP).

(c) The eligibility fee shall be paid to the Texas State Board of Public Accountancy. This is a non-refundable fee.

(d) An applicant taking a section of the UCPAE shall pay an examination fee to NASBA, when required by NASBA.

(e) The eligibility fee may be paid electronically through the Texas Online system and applicable processing fees for the use of this service will be added to the total fee paid.

(f) Upon receipt by the board of an incomplete application, an applicant has 180 days to complete the application. If the application is not completed within that time, the application is terminated, the eligibility fee is forfeited and the applicant must file a new application and pay a new eligibility fee to continue with the examination process.

(g) The fee paid shall be valid for 180 days after the board determines that an applicant is eligible for a section of the UCPAE. The board may extend the 180-day eligibility to accommodate the psychometric evaluation and performance of test questions by the test provider.

(h) A military service member or military veteran who is eligible to take the UCPAE is exempt from the eligibility fee.

(i) The exemption from the eligibility fee must be evidenced by an active ID, state-issued driver's license with a veteran designation or DD214.

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 September 18, 2025.

TRD-202503304
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 305-7842

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 229. FOOD AND DRUG
SUBCHAPTER X. LICENSING OF DEVICE DISTRIBUTORS AND MANUFACTURERS

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes amendments to §§229.432 - 229.437, 229.439 - 229.443, concerning Licensing of Device Distributors and Manufacturers, and the repeal of §229.444, concerning Device Distributors and Manufacturers Advisory Committee.

BACKGROUND AND PURPOSE

The purpose of the proposal is to continue adherence with applicable federal laws pertaining to medical devices. The proposed amendments align the minimum standards in the Texas Administrative Code with new device Good Manufacturing Practice requirements under 21 Code of Federal Regulations (CFR) Part 820, which take effect on February 2, 2026. The proposal repeals §229.444 because the advisory committee no longer exists. The proposed amendment to §229.443 adds language relating to enforcement and penalties. The proposed amendments update the licensure fees based on a licensee's gross sales. The proposed amendments update definitions to clarify intent and improve compliance by harmonizing state and federal regulations. Lastly, the proposed amendments update the rules with plain language requirements to improve readability.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §229.432 replaces wording for consistency throughout this section. The proposed amendment updates the link to the DSHS website. The proposed amendment updates a federal reference.

The proposed amendment to §229.433 adds definitions to comply with CFR updates and replaces wording for consistency throughout this section. The proposed amendment provides deleted, revised, and new definitions. The proposed amendment adds clarity to the rule language and ensures consistency in interpretation of the rule. The proposed amendment updates federal reference citations.

The proposed amendment to §229.434 provides revised language to add clarity to the rule language.

The proposed amendment to §229.435 updates wording for clarity and updates DSHS contact information.

The proposed amendment to §229.436 updates the link to the DSHS website and replaces wording for consistency throughout this section.

The proposed amendment to §229.437 replaces wording for consistency throughout this section and adds clarity to rule language.

The proposed amendment to §229.439 replaces wording for consistency throughout this section and adds clarity to rule language. The proposed amendments update the licensure fees based on a licensee's gross sales. The proposed amendment updates the link to the DSHS website.

The proposed amendment to §229.440 replaces wording for consistency throughout this section.

The proposed amendment to §229.441 replaces wording for consistency throughout this section and adds clarity to rule language. The proposed amendment updates federal and state citations throughout this section. The proposed amendment expands on definitions to add clarity to rule interpretation. The proposed amendment corrects grammatical errors.

The proposed amendment to §229.442 replaces wording for consistency throughout this section.

The proposed amendment to §229.443 adds new language on general enforcement actions and penalties, and replaces wording for consistency throughout this section.

The proposed repeal of §229.444 is required because the advisory committee no longer exists.

FISCAL NOTE

Christy Havel-Burton, DSHS Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, there will be an increase in revenue to state government because of enforcing or administering the rules as proposed. Enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of local governments.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated increase in revenue of $224,884 in fiscal year (FY) 2026, $224,884 in FY 2027, $224,884 in FY 2028, $224,884 in FY 2029, and $224,884 in FY 2030.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years that the proposed rules and the repeal will be in effect:

(1) the proposed rules will not create or eliminate a government program;

(2) implementation of the proposed rules will not affect the number of DSHS employee positions;

(3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;

(4) the proposed rules will require an increase in fees paid to DSHS;

(5) the proposed rules will not create a new regulation;

(6) the proposed rules will expand and repeal existing regulations;

(7) the proposed rules will not change the number of individuals subject to the rules; and

(8) the proposed rules will not affect the state's economy.

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

Christy Havel-Burton has also determined that there will be adverse economic effect on small businesses, micro-businesses, or rural communities because the rules do impose additional costs that are required to comply with the rules. DSHS estimates that the number of small businesses, micro-businesses, and rural communities subject to the proposed rules are approximately 2,480 businesses. The projected economic impact for small businesses, micro-businesses, and rural communities are a 15%-20% increase in licensure fees based on gross annual sales.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and are necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules and repeal are in effect, the public benefit will be improved rule clarity and greater compliance with updated Good Manufacturing Practices, which help ensure that medical devices produced in the state are safe and effective for their intended use.

Christy Havel Burton, Chief Financial Officer, has also determined that for the first five years the rules and repeal are in effect, there are anticipated economic costs to persons who are required to comply with the proposed repeal or the proposed amendments.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to *HHSRulesCoordinationOffice@hhs.texas.gov*.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rules 25R022" in the subject line.

25 TAC §§229.432 - 22.437, 22.439 - 22.443

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and the administration of Texas Health and Safety Code Chapter 1001, and by Texas Health and Safety Code §431.241.

The amendments affect Texas Government Code §524.0151 and Texas Health and Safety Code Chapters 1001 and 431.

§229.432. Applicable Laws and Regulations.

(a) The department adopts by reference the following laws and regulations:

(1) Federal Food, Drug, and Cosmetic Act, 21 United States Code, et seq., as amended;

(2) 21 Code of Federal Regulations (CFR)[,] Part 801, Labeling, as amended;

(3) 21 CFR[,] Part 803, Medical Device Reporting, as amended;

(4) 21 CFR[,] Part 807, Establishment Registration and Device Listing for Manufacturers and Initial Importers of Devices, as amended;

(5) 21 CFR[,] Part 814, Premarket Approval of Medical Devices, as amended;

(6) 21 CFR[,] Part 820, Quality Management System Regulation, as amended; and

(7) 21 CFR[,] Subchapter J--Radiological Health, as amended.

(b) Copies of these laws and regulations are indexed and filed at the department, 1100 West 49th Street, Austin, Texas 78756, and are available for inspection during normal working hours. Electronic copies of these laws and regulations are available online at https://www.dshs.texas.gov [~~http://www.dshs.state.tx.us/license.shtm~~].

(c) Nothing in these sections relieves [~~shall relieve~~] any person of the responsibility for compliance with other applicable Texas and federal laws and regulations.

§229.433. Definitions.

The following words and terms, when used in these sections, [~~shall~~] have the following meanings, unless the context clearly indicates otherwise.

(1) Act--The Texas Food, Drug, and Cosmetic Act, Texas Health and Safety Code (HSC)[,] Chapter 431.

(2) Adulterated Device--Has the meaning specified in the Texas Food, Drug, and Cosmetic Act, HSC [~~Health and Safety Code, Chapter 431,~~] §431.111.

(3) Advertising--All representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

(4) Authorized agent--An employee of the department who is designated by the commissioner to enforce the provisions of this chapter.

(5) Commissioner--The commissioner of the Department of State Health Services, [~~Commissioner of Health~~] or the commissioner's [~~his~~] successor or designee.

(6) Counterfeit device--A device which, or the container, packaging or labeling of which, without authorization, bears a trademark, trade name, or other identifying mark or imprint, or any likeness thereof, or is manufactured using a design, of a device manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such device and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other device manufacturer, processor, packer, or distributor.

(7) [~~(6)~~] Department--The Department of State Health Services.

(8) [~~(7)~~] Device--An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory[~~, that is~~]:

(A) recognized in the official United States Pharmacopoeia National Formulary or any supplement to it;

(B) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in man or other animals; or

(C) intended to affect the structure or any function of the body of man or other animals and that does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and is not dependent on metabolization for the achievement of any of its principal intended purposes. The term "device" does not include software functions excluded by the Federal Food, Drug, and Cosmetic Act, 21 United States Code §360j(o).

(9) [~~(8)~~] Distributor--A person who furthers the marketing of a finished domestic or imported device from the original place of manufacture to the person who makes final delivery or sale to the ultimate user. The term includes an importer or an own-label distributor. The term does not include a person who repackages a finished device or who otherwise changes the container, wrapper, or labeling of the finished device or the finished device package.

(10) [~~(9)~~] Electronic product radiation--Any ionizing or nonionizing electromagnetic or particulate radiation, or any sonic, infrasonic, or ultrasonic wave, that [~~which~~] is emitted from an electronic product as the result of the operation of an electronic circuit in such product.

(11) [~~(10)~~] Finished device--A device, or any accessory to a device, that [~~which~~] is suitable for use, whether or not packaged or labeled for commercial distribution.

[~~(11) Flea market--A location at which booths or similar spaces are rented or otherwise made available temporarily to two or more persons and at which the persons offer tangible personal property for sale.~~]

(12) Health authority--A physician designated to administer state and local laws relating to public health.

(13) Importer--Any person who initially distributes a device imported into the United States.

(14) Ionizing radiation--Any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. Ionizing radiation includes gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles.

(15) Labeling--All labels and other written, printed, or graphic matter:

(A) upon any article or any of its containers or wrappers; or

(B) accompanying such article.

(16) Manufacture--The making by chemical, physical, biological, or other procedures of any article that meets the definition of device. The term includes the following activities:

(A) repackaging or otherwise changing the container, wrapper, or labeling of any device package in furtherance of the distribution of the device from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer; [~~or~~]

(B) initiation of specifications for devices that are manufactured by a second party for subsequent commercial distribution by the person initiating specifications; or[.]

(C) sterilization, including contract sterilization services of a device for another establishment's devices.

(17) Manufacturer--A person who manufactures, fabricates, assembles, or processes a finished device. The term includes a person who repackages or relabels a finished device. The term does not include a person who only distributes a finished device.

(18) Misbranded Device--Has the meaning specified in the Texas Food, Drug, and Cosmetic Act, HSC [~~Health and Safety Code, Chapter 431,~~] §431.112.

(19) Person--Includes individual, partnership, corporation, and association.

(20) Place of business--Each location at which a device is manufactured or held for distribution.

(21) Practitioner--As defined in HSC §483.001(12) [~~Means a person licensed by the Texas State Board of Medical Examiners, State Board of Dental Examiners, Texas State Board of Podiatric Medical Examiners, Texas Optometry Board, or State Board of Veterinary Medical Examiners to prescribe and administer prescription devices~~].

(22) Prescription device--A restricted device that [~~which~~], because of any potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such device, and hence for which adequate directions for use cannot be prepared.

(23) Radiation machine--Any device capable of producing ionizing radiation except those devices with radioactive material as the only source of radiation.

(24) Radioactive material--Any material (solid, liquid, or gas) that emits radiation spontaneously.

(25) Reconditioning--Any appropriate process or procedure by which distressed merchandise can be brought into compliance with departmental standards as specified in the Texas Food, Drug, Device, and Cosmetic Salvage Act, HSC [~~Health and Safety Code, Chapter 432,~~] §432.003, as defined [~~interpreted~~] in the rules in §229.603 [~~§229.192~~] of this chapter [~~title~~] (relating to Definitions).

(26) Restricted device--A device subject to certain controls related to sale, distribution, or use as specified in the Federal Food, Drug, and Cosmetic Act, 21 United States Code §360(j) [~~as amended, §520(e)(1)~~].

§229.434. Exemptions.

(a) A person is exempt from licensing under §229.435 of this subchapter [~~title~~] (relating to Licensure Requirements) if the person engages only in the following types of device distribution:

(1) intracompany sales;

(2) distribution from a place of business located outside the State of Texas; or

(3) the sale, purchase, or trade of a distressed or reconditioned device by a salvage broker or a salvage operator licensed under §229.605 of this chapter [~~title~~] (relating to Licensing Requirements and Procedures).

(b) A person is exempt from licensing under §229.435 of this subchapter [~~title~~] if the person holds a registration certificate issued under Texas Occupations Code[,] Chapter 266[,] and engages only in conduct within the scope of that registration.

(c) A person is exempt from licensing under §229.435 of this subchapter if the person is exempted from licensing under Texas Occupations Code §605.2515 and engages only in conduct within the scope of that exemption.

(d) [~~(c)~~] This section does not exempt a person from other applicable provisions of the Texas Food, Drug, and Cosmetic Act, HSC [~~Health and Safety Code,~~] Chapter 431; the Texas Dangerous Drug Act, HSC [~~Health and Safety Code,~~] Chapter 483; or the rules adopted to administer and enforce those chapters.

§229.435. Licensure Requirements.

(a) General. A [~~Except as provided by §229.434 of this title (relating to Exemptions), a~~] person may not distribute [~~engage in the distribution~~] or manufacture [~~of~~] devices in Texas unless the person has a valid license from the commissioner [~~Commissioner of the Department of State Health Services (commissioner)~~] for each place of business, unless exempted by §229.434 of this subchapter (relating to Exemptions).

(b) Proof [~~Display~~] of licensure [~~license~~]. The license holder must show proof of licensure in a format readily available to the [~~shall be displayed in an open~~] public [~~area at each place of business~~].

(c) Existing place of business. Each person distributing or manufacturing [~~involved in the distribution or manufacture of~~] devices in Texas on the effective date of these sections must apply for a device distributor or manufacturer license no later than 60 days following the effective date [~~of these sections~~].

(d) New place of business. Each person who acquires or establishes [~~acquiring or establishing~~] a place of business to distribute or manufacture devices must [~~for the purpose of device distribution or manufacturing after the effective date of these sections shall~~] apply to the department [~~Department of State Health Services (department)~~] for a license before [~~of such business prior to~~] beginning operations [~~operation~~].

(e) Two or more places of business. If the device distributor or manufacturer operates more than one place of business, the device distributor or manufacturer must [~~shall~~] license each place of business separately.

(f) Issuance of license. Under [~~In accordance with~~] §229.281 of this chapter [~~title~~] (relating to Processing License/Permit Applications Relating to Food and Drug Operations), the department may issue a license to a device distributor or manufacturer [~~of devices~~] who meets all applicable [~~the~~] requirements [~~of these sections,~~] and pays all fees as required by [~~in compliance with~~] §229.439 of this subchapter (relating to Licensure Fees) [~~title (relating to Licensing Fees)~~].

(g) Transfer of license. A person may not transfer a license to another person or to a different place of business [~~Licenses shall not be transferable from one person to another or from one place of business to another~~].

(h) License term. A license remains valid for two years unless it [~~Unless the license~~] is amended under [~~as provided in~~] subsection (j) of this section or revoked or suspended under [~~as provided in~~] §229.440 of this subchapter (relating to Refusal, Cancellation, Suspension, or Revocation of License [~~title (relating to Refusal, Cancellation, Suspension, or Revocation of a License), the license is valid for two years~~].

(i) Renewal of license.

(1) A person must submit the [~~The~~] license application [~~as~~] outlined in §229.436(b) of this subchapter [~~title~~] (relating to Licensing Procedures) and must pay the nonrefundable license fee [~~licensing fees as outlined in §229.439 of this title (relating to Licensing Fees)~~] for each place of business as outlined in §229.439 of this subchapter before [~~shall be submitted to the department prior to the expiration date of~~] the current license expires. A person who submits [~~files~~] a renewal application after the expiration date must pay a [~~an additional~~] $100 [~~as a~~] delinquency fee.

(2) A licensee who fails to submit a renewal application before the license [~~prior to the current licensure~~] expiration date and continues to operate [~~operations~~] may be subject to [~~the~~] enforcement and penalties under [~~penalty provisions in~~] §229.443 of this subchapter [~~title~~] (relating to Enforcement and Penalties) and to[~~, and/or the~~] revocation or [~~and~~] suspension of the license under [~~provisions in~~] §229.440 of this subchapter [~~title~~].

(3) The department must issue a renewal license only after receiving [~~A renewal license shall only be issued when~~] all past due fees [~~and delinquency fees are paid~~].

(j) Amendment of license. To amend a license, including a name change, or a change in the location of a licensed business, a person must submit [~~A license that is amended, including a change of name, ownership, or a notification of a change in the location of a licensed place of business will require submission of~~] an application as outlined in §229.436 of this subchapter and pay the applicable [~~title (relating to Licensing Procedures) and submission of~~] fees as outlined in §229.439 of this subchapter [~~title (relating to Licensing Fees)~~].

(k) Notification of change of location of place of business. [~~Not fewer than 30 days in advance of the change, the licensee shall notify the commissioner or the commissioner's designee in writing of the licensee's intent to change the location of a licensed place of business. The notice shall include the address of the new location, and the name and residence address of the individual in charge of the business at the new location. Not more than ten days after the completion of the change of location, the licensee shall notify the commissioner or the commissioner's designee in writing to verify the change of location, the specific date of change, the new location, the address of the new location, and the name and residence address of the individual in charge of the business at the new address. Notice will be deemed adequate if the licensee provides the intent and verification notices to the commissioner or the commissioner's designee by certified mail, return receipt requested, mailed to the department, 1100 West 49th Street, Austin, Texas.~~]

(1) At least 30 days before changing the location of place of business, the licensee must notify the commissioner or the commissioner's designee in writing of their intent to change locations of place of business. The notice must include address of new business location; name of person in charge of business at new location; and residence address of person in charge of business at new location.

(2) Within 10 days of completing the move, the licensee must notify the commissioner or the commissioner's designee by submitting an application to verify: change of location; specific date of move; new location; new location's address; name of person in charge of new business location; and residence address of person in charge of new business location.

(3) If the licensee provides the intent and application to the commissioner or commissioner's designee by certified mail (with return receipt requested), the notice will be deemed adequate. The intent and verification notice should be mailed to the department at 1100 West 49th Street, Austin, Texas 78756.

(l) Combination products. If the United States Food and Drug Administration determines that a combination product's [~~, with respect to a product that is a combination of a drug and a device, that the~~] primary mode of action [~~of the product~~] is that of [~~as~~] a device, a distributor or manufacturer of the product is subject to licensure as described in this section.

(m) Texas.gov [~~Texas Online~~]. Applicants may submit initial and renewal license applications electronically at www.texas.gov [~~under these sections electronically by the Internet through Texas Online at www.texasonline.state.tx.us~~]. The department is authorized to collect fees, in amounts determined by the Texas Online Authority, to recover costs of processing applications and renewals through the website [~~associated with application and renewal application processing through Texas Online~~].

§229.436. Licensing Procedures.

(a) License application forms. Applicants may obtain application forms online at www.texas.gov or from the department at [~~License application forms may be obtained from the department,~~] 1100 West 49th Street, Austin, Texas, 78756 [~~or online at http://dshs.state.tx.us/license.shtm~~].

(b) Contents of license application. The applicant must complete and submit a license application form provided by the department. The application must be signed, verified, and include [~~The application for licensure as a device distributor or manufacturer shall be signed and verified, submitted on a license application form furnished by the department, and contain the following information~~]:

(1) the name of the legal entity being [~~to be~~] licensed, including the name under which the business operates [~~is conducted~~];

(2) the address of each licensed place of business [~~that is licensed~~];

(3) the ownership details:

(A) if a proprietorship, the name and residence address of the proprietor;

(B) if a partnership, the names and residence addresses of all partners;

(C) if a corporation, the date and place of incorporation and name and address of its registered agent in the state and corporation charter number; or

(D) if any other type of association, then the names of the principals of such association;

[~~(3) if a proprietorship, the name and residence address of the proprietor; if a partnership, the names and residence addresses of all partners; if a corporation, the date and place of incorporation and name and address of its registered agent in the state and corporation charter number; or if any other type of association, then the names of the principals of such association;~~]

(4) the individual details, including the name, residence address, and valid driver license number for each individual in an [~~actual~~] administrative role: [~~capacity which,~~]

(A) for proprietorships, [~~in the case of proprietorship, shall be~~] the managing proprietor;

(B) for partnerships [~~partnership~~], the managing partner;

(C) for corporations [~~corporation~~], the officers and directors; or

(D) for any other type of association, those in a managerial capacity [~~in any other type of association~~];

(5) [~~for each place of business,~~] the residence address of the individual in charge at each place of business [~~thereof~~];

(6) selection [~~a list~~] of categories for calculation [~~which must be marked and adhered to in the determination~~] and payment of [~~the~~] fee; and

(7) a signature of verification by the applicant [~~statement verified by the applicant's signature~~] that acknowledges the applicant has read, understood, and agrees to abide by the provisions of these sections and those of the Texas Food, Drug, and Cosmetic Act, HSC [~~Health and Safety Code,~~] Chapter 431.

(c) Renewal license application. The renewal application for licensure as a device distributor or manufacturer must [~~shall~~] be made on a license application form furnished by the department.

§229.437. Report of Changes.

The license holder must [~~shall~~] notify the department in writing within 10 [~~ten~~] days of any change that [~~which~~] would render the information contained in the application for the license, as outlined in [~~reported pursuant to~~] §229.436 of this subchapter [~~title~~] (relating to Licensing Procedures), no longer accurate. Failure to notify [~~inform~~] the department within 10 days [~~no later than ten days of a change in the information required in the application for a license~~] may result in administrative penalties [~~a suspension or revocation of the license~~].

§229.439. Licensure Fees.

(a) License fee.

(1) A person must obtain a license from the department before operating or conducting business as a device distributor. [~~No person may operate or conduct business as a device distributor without first obtaining a license from the department.~~] All applicants for a device distributor license or a renewal license must [~~shall~~] pay a non-refundable licensing fee. The department issues licenses for [~~All fees are nonrefundable. Licenses are issued for~~] two-year terms and will [~~. A license shall~~] only issue a license [~~be issued~~] when all past due [~~fees and delinquency~~] fees are paid. License fees are based on gross annual device sales.

(A) For a distributor with gross annual device sales of $0 - $499,999.99, the fees are:

(i) $552 [~~$480~~] for a two-year license;

(ii) $552 [~~$480~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $276 [~~$240~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(B) For a distributor with gross annual device sales of $500,000 - $9,999,999.99, the fees are:

(i) $1,296 [~~$1,080~~] for a two-year license;

(ii) $1,296 [~~$1,080~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $648 [~~$540~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(C) For a distributor with gross annual device sales greater than or equal to $10 million, the fees are:

(i) $2,016 [~~$1,680~~] for a two-year license;

(ii) $2,016 [~~$1,680~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $1,008 [~~$840~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(2) If a [~~A~~] person who is required to be licensed as a device distributor under this section [~~and who~~] is also required to be licensed as a wholesale drug distributor under §229.246(a) of this chapter (relating to Licensure Requirements) [~~§229.252(a)(1) of this title (relating to Licensing Fee and Procedures)~~] or [~~as~~] a wholesale food distributor under §229.182(a)(3) of this chapter (relating to Licensing/Registration Fee and Procedures), the person must [~~title (relating to Licensing Fee and Procedures) shall~~] pay a combined non-refundable [~~licensure~~] fee for each place of business. The department issues licenses for two-year terms and will only issue a license [~~All fees are nonrefundable. Licenses are issued for two-year terms. A license shall only be issued~~] when all past due [~~fees and delinquency~~] fees are paid. License fees are based on [~~the combined~~] gross annual device sales [~~of these regulated products (foods, drugs, and/or devices)~~].

(A) For each place of business having combined gross annual sales of $0 - $199,999.99, the fees are:

(i) $598 [~~$520~~] for a two-year license;

(ii) $598 [~~$520~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $299 [~~$260~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(B) For each place of business having combined gross annual sales of $200,000 - $499,999.99, the fees are:

(i) $897 [~~$780~~] for a two-year license;

(ii) $897 [~~$780~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $449 [~~$390~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(C) For each place of business having combined gross annual sales of $500,000 - $999,999.99, the fees are:

(i) $1,248 [~~$1,040~~] for a two-year license;

(ii) $1,248 [~~$1,040~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $624 [~~$520~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(D) For each place of business having combined gross annual sales of $1 million - $9,999,999.99, the fees are:

(i) $1,560 [~~$1,300~~] for a two-year license;

(ii) $1,560 [~~$1,300~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $780 [~~$650~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(E) For each place of business having combined gross annual sales greater than or equal to $10 million, the fees are:

(i) $2,340 [~~$1,950~~] for a two-year license;

(ii) $2,340 [~~$1,950~~] for a two-year license for [~~that is amended due to~~] a change of ownership; and

(iii) $1,170 [~~$975~~] for a license [~~that is~~] amended during the current licensure period for [~~due to~~] minor changes.

(3) A person must first obtain a license from the department to operate and conduct business as a device manufacturer in Texas [~~No~~

person may operate or conduct business as a device manufacturer in this state without first obtaining a license from the department]. All applicants for a device manufacturer license or renewal license must [shall] pay a nonrefundable licensing fee. The department issues licenses [All fees are nonrefundable. Licenses are issued] for two-year terms and will [. A license shall] only issue a license [be issued] when all past due [fees and delinquency] fees are paid. License fees are based on gross annual device sales.

(A) For a manufacturer with gross annual device sales of $0 - $499,999.99, the fees are:

(i) $552 [$480] for a two-year license;

(ii) $552 [$480] for a two-year license for [that is amended due to] a change of ownership; and

(iii) $276 [$240] for a license [that is] amended during the current licensure period for [due to] minor changes.

(B) For a manufacturer with gross annual device sales of $500,000 - $9,999,999.99, the fees are:

(i) $2,592 [$2,160] for a two-year license;

(ii) $2,592 [$2,160] for a two-year license for [that is amended due to] a change of ownership; and

(iii) $1,296 [$1,080] for a license [that is] amended during the current licensure period for [due to] minor changes.

(C) For a manufacturer with gross annual device sales greater than or equal to $10 million, the fees are:

(i) $4,320 [$3,600] for a two-year license;

(ii) $4,320 [$3,600] for a two-year license for [that is amended due to] a change of ownership; and

(iii) $2,160 [$1,800] for a license [that is] amended during the current licensure period for [due to] minor changes.

(b) Texas.gov [Texas Online]. Applicants may submit initial [applications] and renewal license applications [for a license under these sections] electronically through www.texas.gov [by the Internet through Texas Online at www.texasonline.state.tx.us]. The department is authorized to collect fees, in amounts determined by the Texas Online Authority, to recover costs of [associated with application and renewal application] processing applications and renewals through the website [through Texas Online].

(c) Exemption from licensing fees. A person is exempt from the licensing fees required by this section if the person [is]:

(1) is licensed under §289.252 of this title (relating to Licensing of Radioactive Material) or registered under §289.226 of this title (relating to Registration of Radiation Machine Use and Services) and engages only in the following activities [types of device distribution or manufacturing]:

(A) manufacturing [the manufacture] or distributing [distribution] of radiation machines that [which] are devices; or

(B) manufacturing [the manufacture] or distributing [distribution] of devices that [which] contain radioactive materials; or

(2) is a charitable organization, as described in the Internal Revenue Code of 1986[,] §501(c)(3), or a nonprofit affiliate of one, where [the organization, to the extent otherwise] permitted by law.

(d) Sale of food, drugs, or devices. This section includes the manufacture, production, processing, packaging, exposure, offer, possession, and holding of any of the regulated articles for sale; the sale, dispensing, and giving of any regulated article; and supplying or applying of any regulated articles in the operation of any food, drug, or device place of business.

§229.440. Refusal, Cancellation, Suspension, or Revocation of License.

(a) The commissioner may refuse an application or may suspend or revoke a license if the applicant or licensee:

(1) has been convicted of a felony or misdemeanor that involves moral turpitude;

(2) is an association, partnership, or corporation and the managing officer has been convicted of a felony or misdemeanor that involves moral turpitude;

(3) has been convicted in a state or federal court of the illegal use, sale, or transportation of intoxicating liquors, narcotic drugs, barbiturates, amphetamines, desoxyephedrine, their compounds or derivatives, or any other dangerous or habit-forming drugs;

(4) is an association, partnership, or corporation and the managing officer has been convicted in state or federal court of the illegal use, sale, or transportation of intoxicating liquors, narcotic drugs, barbiturates, amphetamines, desoxyephedrine, their compounds or derivatives, or any other dangerous or habit-forming drugs;

(5) has violated any of the provisions of the Texas Food, Drug, and Cosmetic Act, HSC [Health and Safety Code,] Chapter 431 (Act) or these sections;

(6) has failed to pay any fees for licensing [a license fee] or [a] renewal [fee for a license]; [or]

(7) has failed to pay administrative penalties in full more than 30 days after the decision or order assessing the penalty is final, and has not filed a petition for judicial review of the order assessing the penalty; or

(8) [(7)] has obtained or attempted to obtain a license by fraud or deception.

(b) The commissioner may refuse an application for a license or may suspend or revoke a license if the commissioner determines from evidence presented during a hearing that the applicant or licensee:

(1) has violated HSC [the Health and Safety Code,] §431.021(l)(3), concerning the counterfeiting of a drug or the sale or holding for sale of a counterfeit drug;

(2) has violated HSC Chapter 481 (Texas Controlled Substances Act) [the Health and Safety Code, Chapter 481 (Texas Controlled Substance Act)], or HSC Chapter 483 (Texas Dangerous Drug Act) [the Health and Safety Code, Chapter 483 (Dangerous Drugs Act)]; or

(3) has violated [the] rules established by [of] the director of the Department of Public Safety, including being responsible for a significant discrepancy in [the] records the applicant or licensee is required to maintain under state law [that state law requires the applicant or licensee to maintain].

(c) After [The department may, after] providing an opportunity for a hearing, the department may refuse, suspend, or revoke a license for a device distributor or manufacturer if the applicant violates any [refuse to license a distributor or manufacturer of devices, or may suspend or revoke a license for violations of the] requirements in these sections or for any [of the] reasons described in the Act.

(d) Any hearings for the refusal, revocation, or suspension of a license are governed by §§1.21, 1.23, 1.25, and 1.27 of this title (relating to Formal Hearing Procedures).

(e) A license issued under these sections must [~~shall~~] be returned to the department if the device distributor's or manufacturer's place of business:

(1) ceases business or otherwise ceases operation on a permanent basis;

(2) relocates; or

(3) changes name or ownership. A corporation transferring 5.0% or more of the share of stock from one person to another is considered to have had an ownership change and must return the license to the department [~~For a corporation, an ownership change is deemed to have occurred, resulting in the necessity to return the license to the department, when 5.0% or more of the share of stock of a corporation is transferred from one person to another~~].

§229.441. Minimum Standards for Licensure.

(a) Minimum requirements. All device distributors or manufacturers [~~of devices~~] engaged in the design, manufacture, packaging, labeling, storage, installation, and servicing of devices must comply with the minimum standards of this section, in addition to the statutory requirements contained in the Texas Food, Drug, and Cosmetic Act, HSC [~~Health and Safety Code,~~] Chapter 431 (Act). For the purpose of this section, the department adopts the policies described in the United States Food and Drug Administration's (FDA's) Compliance Policy Guides relating [~~as they apply~~] to devices [~~shall be the policies of the Department of State Health Services (department)~~].

(b) Federal establishment registration and device listing. All persons who operate as device distributors or manufacturers in Texas must [~~shall~~] meet the applicable requirements in 21 Code of Federal Regulations (CFR)[~~,~~] Part 807, relating to Establishment Registration and Device Listing for Manufacturers and Initial Importers of Devices. [~~titled "Establishment Registration and Device Listing for Manufacturers and Initial Importers of Devices."~~] Devices distributed by device distributors or manufacturers must [~~shall~~] have met, if applicable, the premarket notification requirements of 21 CFR[~~,~~] Part 807 or the premarket approval provisions of 21 CFR[~~,~~] Part 814, relating to Premarket Approval of Medical Devices. [~~titled "Premarket Approval of Medical Devices."~~]

(c) Good manufacturing practices. Device distributors or manufacturers engaged in the design, manufacture, packaging, labeling, storage, installation, and servicing of finished devices must comply [~~shall be in compliance~~] with the applicable requirements of 21 CFR[~~,~~] Part 820, relating to Quality Management System Regulation. [~~titled "Quality System Regulation."~~] The requirements in this part govern the methods, facilities, and controls used to [~~in, and the facilities and controls used for, the~~] design, manufacture, package, label, store, install, and service [~~packaging, labeling, storage, installation, and servicing of~~] all finished devices intended for human use.

(d) Buildings and facilities.

(1) Manufacturers must conduct all [~~All~~] manufacturing, assembling, packaging, packing, holding, testing, or labeling of devices [~~by manufacturers shall take place~~] in buildings and facilities described in 21 CFR §820.45, relating to Device Labeling and Packaging Controls. [~~21 CFR, Part 820, Subpart L, titled "Handling, Storage, Distribution, and Installation."~~]

(2) Manufacturers and distributors must not conduct any [~~No~~] manufacturing, assembling, packaging, packing, holding, testing, or labeling operations of devices [~~by manufacturers or distributors shall be conducted~~] in any personal residence or any room used as a living area. Manufacturers and distributors must not manufacture or hold devices in any room used as living or sleeping quarters. All device manufacturing and storage must be completely separated from any living or sleeping quarters by a full partition.

(3) Any place of business used by a distributor to store, warehouse, hold, offer, transport, or display devices must [~~shall~~]:

(A) be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(B) have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, and space;

(C) have a designated quarantine area, physically separate from other devices, for storing [~~storage of devices that are~~] outdated, damaged, deteriorated, misbranded, or adulterated devices until the quarantined devices are destroyed or returned to the supplier;

(D) be maintained in a clean and orderly condition, including keeping walls, ceilings, windows, doors, and floors clean, in good repair, and properly maintained; and

(E) be free from infestation by insects, rodents, birds, or vermin of any kind.

(e) Storage of devices. All devices stored by distributors must [~~shall~~] be in-date, not damaged, and held at appropriate temperatures and in [~~under~~] appropriate conditions under any labeling [~~in accordance with~~] requirements[~~, if any, in the labeling~~] of such devices.

(f) Device labeling. Devices distributed by device distributors or manufacturers must [~~shall~~] meet the labeling requirements of the Act and 21 CFR[~~,~~] Part 801, relating to Labeling. [~~titled "Labeling."~~]

(g) Device labeling exemptions. Exemptions of [~~Device~~] labeling or packaging of devices [~~exemptions~~] adopted under the Federal Food, Drug, and Cosmetic Act must [~~, as amended, shall~~] apply to devices in Texas, unless [~~except insofar as~~] modified or rejected by rules of the executive commissioner [~~Executive Commissioner~~] of the Health and Human Services Commission.

(h) Reconditioned devices. Reconditioned devices must comply with the provisions of the Act and these sections and are subject to the provisions of the Texas Food, Drug, Device, and Cosmetic Salvage Act, HSC [~~Health and Safety Code,~~] Chapter 432.

(i) Medical device reporting. Device distributors or manufacturers must [~~shall~~] meet the applicable medical device reporting requirements of 21 CFR[~~,~~] Part 803, relating to Medical Device Reporting [~~titled "Medical Device Reporting"~~].

(j) Radiation emitting devices. Device distributors or manufacturers that distribute devices emitting [~~Devices which emit~~] electronic product radiation must [~~and are distributed by device distributors or manufacturers shall~~] meet the applicable requirements of the Act and 21 CFR[~~,~~] Subchapter J, relating to Radiological Health. [~~titled "Radiological Health."~~]

(k) Distribution of prescription devices.

(1) A prescription device in the possession of a device distributor or manufacturer licensed under these sections of this subchapter is exempt from HSC §431.112(e)(1) [~~Health and Safety Code, §431.112 (f)(1)~~], relating to labeling bearing adequate directions for use, providing it meets the requirements of 21 CFR §801.109, Prescription Devices, and §801.110, Retail Exemption for Prescription Devices [~~21 CFR, §801.109, titled "Prescription devices" and 801.110, titled "Retail exemption for prescription devices"~~].

(2) Each device distributor or manufacturer who distributes prescription devices must [~~shall~~] maintain a record for every prescription device. The records kept must include the identity of the device, the quantity received or manufactured, and the disposition of each de-

vice [~~, showing the identity and quantity received or manufactured and the disposition of each device~~].

(3) Each device distributor or manufacturer who delivers a prescription device to the ultimate user must [~~shall~~] maintain a record of any prescription [~~or other order lawfully issued by a practitioner in connection with the device~~].

(l) Sale of contact lenses at flea markets. Contact lenses may not be sold by persons at flea markets unless:

(1) the person selling the contact lenses has complied with the requirements of Texas Business and Commerce Code[~~,~~] §35.55; and

(2) the person selling the contact lenses has complied with the requirements of the Texas Occupations Code Chapter 353 [~~Texas Contact Lens Prescription Act, Texas Civil Statutes, Article~~ 4552-A].

(m) Distribution of nonprescription devices. Records must include the identity of each device, the quantity received or manufactured, and the final disposition of each device.

§229.442. Advertising.

(a) An advertisement of a device is [~~shall be~~] deemed [~~to be~~] false if it is false or misleading in any way [~~particular~~].

(b) An advertisement of a device is false if the advertisement represents that the device affects:

(1) infectious and parasitic diseases;

(2) neoplasms;

(3) endocrine, nutritional, and metabolic diseases and immunity disorders;

(4) diseases of blood and blood-forming organs;

(5) mental disorders;

(6) diseases of the nervous system and sense organs;

(7) diseases of the circulatory system;

(8) diseases of the respiratory system;

(9) diseases of the digestive system;

(10) diseases of the genitourinary system;

(11) complications of pregnancy, childbirth, and the puerperium;

(12) diseases of the skin and subcutaneous tissue;

(13) diseases of the musculoskeletal system and connective tissue;

(14) congenital anomalies;

(15) certain conditions originating in the perinatal period;

(16) symptoms, signs, and ill-defined conditions; or

(17) injury and poisoning.

(c) Subsection (b) of this section does not apply to an advertisement of a device if the advertisement does not violate the Act[~~,~~] §431.182(a), and is disseminated:

(1) to the public for self-medication and is consistent with the labeling claims permitted by the United States Food and Drug Administration (FDA);

(2) only to members of the medical, dental, and veterinary professions and appears only in the scientific periodicals of those professions; or

(3) only for the purpose of public health education by a person not commercially interested, directly or indirectly, in the sale of the device.

(d) This section does not indicate that self-medication for a disease, other than a disease listed under subsection (b) of this section, is safe and effective.

§229.443. Enforcement and Penalties.

(a) General enforcement actions. The department may take enforcement action for the following:

(1) failing to comply with Texas Food, Drug, and Cosmetic Act, HSC Chapter 431 (Act) or these sections;

(2) falsifying information provided in an application for a license, or making a false or misleading statement in connection with the initial or renewal application, either in the formal application itself or in any other instrument relating to the application submitted to the department;

(3) refusing to allow the department to conduct an inspection or collect samples;

(4) interfering with the department in the performance of its duties;

(5) removing or disposing a detained device;

(6) misrepresenting any regulated product sold to the public; or

(7) conviction of a felony or misdemeanor that involves moral turpitude.

(b) Administrative penalty. If a person, whether licensed or unlicensed by the department, violates these sections or an order adopted or license issued under the Act, the commissioner may assess an administrative penalty against the person.

(1) The penalty may not exceed $25,000 for each violation. Each day a violation continues is a separate violation.

(2) Violations subject to this subsection must be categorized into severity levels as determined in §229.261 of this chapter (relating to Assessment of Administrative Penalties).

(3) An administrative penalty may be assessed only after the person charged with a violation is given an opportunity for a hearing.

(4) If the person charged with the violation does not request a hearing, or defaults, the commissioner may assess a penalty after determining that a violation has occurred and the amount of the penalty.

(5) After making a determination under this subsection that a penalty is to be assessed, the commissioner must issue an order requiring that the person pay the penalty.

(6) Not later than the 30th calendar day after the date of issuance of an order finding that a violation has occurred, the commissioner must inform the person against whom the order is issued of the amount of the penalty.

(c) Emergency orders.

(1) The commissioner or a person designated by the commissioner may issue a mandatory or prohibitory emergency order, without notice, in relation to the manufacture or distribution of a food, drug, device, or cosmetic upon determination that: the manufacture or distribution creates or poses an immediate and serious threat to human life or health, and other procedures available to the department to remedy

or prevent the occurrence of the situation will result in unreasonable delay.

(2) If an emergency order is issued without a hearing, the department, not later than the 30th day after the date on which the emergency order was issued, must propose a time and place for a hearing at which the emergency order will be affirmed, modified, or set aside. The hearing must be held under departmental formal hearing rules governed by §§1.21, 1.23, 1.25, and 1.27 of this title.

(3) The department must transmit the order in person or by electronic mail or by registered or certified mail to the license or registration holder. If the license or registration holder cannot be located for a notice required under this section, the department must provide notice by posting a copy of the order on the front door of the premises of the license or registration holder.

(d) [~~(a)~~] Inspection.

(1) To enforce these sections or the Act [~~Texas Food, Drug, and Cosmetic Act, Health and Safety Code, Chapter 431 (Act)~~], the department or [~~Commissioner of the Department of State Health Services (commissioner), an~~] authorized agent[~~, or a health authority~~] may, on presenting appropriate credentials to the owner, operator, or agent in charge of a place of business:

(A) enter, at reasonable times, a place of business, including a factory or warehouse, where [~~in which~~] a device is manufactured, assembled, packed, or held for introduction into commerce or held after the introduction;

(B) enter a vehicle being used to transport or hold a device in commerce; or

(C) inspect, at reasonable times, within reasonable limits, and in a reasonable manner, the place of business or vehicle, including [~~and~~] all equipment, finished and unfinished materials, containers, and labeling of any item and obtain samples necessary for the enforcement of these sections or the Act.

(2) The inspection of a place of business, including a factory, warehouse, or consulting laboratory, where [~~in which~~] a restricted device is manufactured, assembled, packed, or held for introduction into commerce may include [~~extends to~~] any place or item, such as [~~thing, including~~] a record, file, paper, process, control, or facility, needed [~~in order~~] to determine whether the device:

(A) is adulterated or misbranded;

(B) is prohibited from being [~~may not be~~] manufactured, introduced into commerce, sold, or offered for sale under the Act; or

(C) is [~~otherwise~~] in violation of these sections or the Act.

(3) An inspection under paragraph (2) of this subsection may not extend to:

(A) financial data;

(B) sales data, except for [~~other than~~] shipment data;

(C) pricing data;

(D) personnel data, except for [~~other than~~] data relating to the qualifications of technical and professional personnel performing functions under the Act; or

(E) research data, except [~~other than~~] data that:

(i) relates [~~relating~~] to devices; and

(ii) is subject to reporting and inspection under regulations issued under [~~§519 or §520(g) of~~] the Federal Food, Drug, and Cosmetic Act, 21 United States Code §360(i) or §360(j), as amended.

(4) An inspection under paragraph (2) of this subsection must [~~shall~~] be started and completed with reasonable promptness.

(e) [~~(b)~~] Receipt for samples. An authorized agent or health authority who inspects [~~makes an inspection of~~] a place of business, including a factory or warehouse, and obtains a sample during [~~or on completion of~~] the inspection must [~~and before leaving the place of business, shall~~] give to the owner, operator, or the owner's or operator's agent a receipt describing the sample before leaving the place of business.

(f) [~~(c)~~] Access to records.

(1) A person who is required to maintain records referenced in these sections, [~~or under~~] the Act, [~~Texas Food, Drug, and Cosmetic Act, Health and Safety Code, Chapter 431 (Act)~~] or [~~§519 or §520(g) of~~] the Federal Food, Drug, and Cosmetic Act, 21 United States Code §360(i), or a person who is in charge or custody of those records must, upon [~~shall, at the~~] request by [~~of~~] an authorized agent or health authority, provide access to the records, [~~permit the authorized agent or health authority~~] at all reasonable times, for copying and verification of [~~access to and to copy and verify~~] the records.

(2) A person who is subject to licensure under these sections of this subchapter must [~~shall~~], at the request of an authorized agent or health authority, provide access to the records, [~~permit the authorized agent or health authority~~] at all reasonable times, for copying and verification of [~~access to and to copy and verify~~] all records showing:

(A) the movement in commerce of any device;

(B) the holding of any device after movement in commerce; and

(C) the quantity, shipper, and consignee of any device.

(g) [~~(d)~~] Retention of records. Records required by these sections of this subchapter must [~~shall~~] be maintained at the place of business or another reasonably accessible [~~other~~] location [~~that is reasonably accessible~~] for a period of at least two [~~2~~] years following disposition of the device, unless a longer retention [~~greater~~] period [~~of time~~] is required by laws and regulations adopted in §229.432 of this subchapter [~~title~~] (relating to Applicable Laws and Regulations).

(h) [~~(e)~~] Adulterated and misbranded device. If the department [~~Department of State Health Services (department)~~] identifies an adulterated or misbranded device, the department may impose the applicable provisions of Subchapter C of the Act,including[~~, but not limited to:~~] detention, emergency order, recall, condemnation, destruction, injunction, civil penalties, criminal penalties, and [~~and/or~~] administrative and civil penalties. Administrative [~~and civil~~] penalties will be assessed using the severity levels [~~Severity Levels~~] contained in §229.261 of this chapter [~~title~~] (relating to Assessment of Administrative [~~or Civil~~] Penalties).

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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TRD-202503316

Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 834-6755

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25 TAC §229.444

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules and policies for the operation and provision of health and human services by DSHS and the administration of Texas Health and Safety Code Chapter 1001, and by Texas Health and Safety Code §431.241.

The repeal affects Texas Government Code §524.0151 and Texas Health and Safety Code Chapters 1001 and 431.

§229.444. Device Distributors and Manufacturers Advisory Committee.

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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Department of State Health Services
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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 21. TRADE PRACTICES

The Texas Department of Insurance (TDI) proposes amendments to 28 TAC §§21.4902, 21.5002, 21.5003, 21.5010, and 21.5040, concerning out-of-network provider disclosures and the claim dispute resolution process, and §21.5070 and §21.5071, concerning data submission and payment requirements for emergency medical services. Amendments to §§21.4902, 21.5002, 21.5003, and 21.5040 implement Senate Bill 1409, 89th Legislature, 2025. Amendments to §21.5010 implement Senate Bill 2544, 89th Legislature, 2025. Amendments to §21.5070 and §21.5071 implement Senate Bill 916, 89th Legislature, 2025.

EXPLANATION. The amendments to §§21.4902, 21.5002, 21.5003, and 21.5040 are necessary to implement SB 1409, which authorizes postsecondary educational institutions to offer health benefit plans under Insurance Code Chapter 1683. SB 1409 also amends Insurance Code Chapter 1275 to make higher education health benefit plans subject to state balance billing protections and independent dispute resolution processes. Insurance Code Chapter 1275 establishes balance billing protections for plans that are otherwise not subject to state regulation. The protections in Insurance Code Chapter 1275 closely align with the requirements for out-of-network billing that were originally established by Senate Bill 1264, 86th Legislature, 2019, for health maintenance organizations and preferred provider benefit plans, and health benefit plans administered by the Employees Retirement System of Texas and Teacher Retirement System of Texas.

The amendments to §§21.4902, 21.5002, and 21.5003 add health benefit plans offered under Insurance Code Chapter 1683 to the definition and scope sections to clarify that these plans are subject to the rules found in 28 TAC Chapter 21, Subchapters OO and PP. Insurance Code §1275.004 makes Insurance Code Chapter 1467 applicable to health benefit plans identified in Insurance Code Chapter 1275.

In addition, amendments to §21.5040 require health benefit plans offered by postsecondary educational institutions to include additional information in the explanation of benefits (EOB) provided to physicians and providers. Specifically, the EOB must include an instruction that is substantially similar to the following language: "The request for mediation or arbitration must identify the plan type as 'Higher Ed Plan.'" This proposed addition is consistent with the treatment of other plan types under Insurance Code §1275.002 and should assist in identifying and processing eligible mediation and arbitration requests through the Texas IDR process.

Amendments to §21.5010 are necessary to implement SB 2544, which creates a statutory deadline for an out-of-network provider or health benefit plan issuer or administrator to request mandatory mediation under Insurance Code Chapter 1467, Subchapter B. The proposed amendment to §21.5010 adds new subsection (d) to clarify that mediation under Subchapter PP, Division 2 must be requested by the out-of-network provider or health benefit plan issuer or administrator not later than 180 days after the date the initial payment is received. The proposed language in new subsection (d) is consistent with the treatment of arbitration claims under §21.5020(d), except that the mediation deadline is 180 days.

Amendments to §21.5070 and §21.5071 are necessary to implement SB 916, which authorizes political subdivisions to annually adjust rates submitted to TDI under Insurance Code §38.006, subject to certain statutory limits. A political subdivision may not adjust a rate submitted to TDI under Insurance Code §38.006 by more than the lesser of (1) the Medicare Ambulance Inflation Factor, or (2) 10% of the provider's previous calendar year rates.

Political subdivisions first submitted rates under Insurance Code §38.006 for calendar year 2024 to implement Senate Bill 2476, 88th Legislature, 2023, which expired on September 1, 2025. While SB 2476 included a method for rates to increase when plans renewed, it did not give political subdivisions an opportunity to submit rates for calendar year 2025. Since SB 916 is effective for emergency medical services provided on or after September 1, 2025, TDI announced a new reporting opportunity between August 1 and September 1, 2025, to allow political subdivisions to submit adjusted rates. If a political subdivision does not submit a rate adjustment, the rates previously reported will continue to apply. TDI will publish new rate data within 10 days following the September 1, 2025, submission deadline. TDI recognizes the challenges of quickly implementing the published rates but seeks to comply with the statutory deadlines in SB 1409.

Going forward, TDI will provide an annual opportunity for political subdivisions to adjust previously submitted rates. For calendar year 2026, the proposed data submission deadline will be 30 days after the date this rule becomes effective. For subsequent years, the data submission deadline will be December 1 of the year prior to the calendar year for which the data is being reported. For example, a political subdivision that elects to submit a rate adjustment must submit rates applicable for calendar year 2027 by December 1, 2026. TDI will continue to publish data within 10 days of the data submission deadline. Issuers must apply the published rate for the applicable calendar year during which the service or transport was provided or, if rate data is not adjusted for the current year, the most recent available rate.

TDI intends to continue to publish previously submitted data in the four Emergency Services Billing Rates datasets available on the Texas Open Data Portal at data.texas.gov. Information in these datasets include code rates, National Provider Identifier Standard numbers, ZIP codes, and contact lists. For more information about rate data submission, including frequently asked questions and links to other resources, visit www.tdi.texas.gov/health/esbindex.html.

Consistent with SB 916, a political subdivision may annually adjust a rate by not more than the lesser of the Medicare Ambulance Inflation Factor or 10% of the provider's previous calendar rates. For 2025, the Medicare Ambulance Inflation Factor is 2.4%, so an adjusted rate that is submitted by a political subdivision for 2025 may not be more than 2.4% higher than the rate submitted for 2024 for the same service. TDI may audit the data to ensure compliance and will refer rates that violate the statutory limits to the Texas Department of State Health Services for further action as authorized under Health and Safety Code §773.061(a-1), as added by SB 916.

Descriptions of the sections' proposed amendments follow.

Section 21.4902. This section provides definitions for use in Subchapter OO. The amendments to §21.4902 expand the definition of an "administrator" to include an administrator of a health benefit plan offered by a postsecondary educational institution under new Insurance Code Chapter 1683, as added by SB 1409. The amendments also expand the definition of "health benefit plan" to include a plan offered by a postsecondary educational institution under Insurance Code Chapter 1683.

Section 21.5002. This section describes the scope of Subchapter PP. The amendments to §21.5002 expand the applicability of Subchapter PP to a qualified mediation or qualified arbitration claim filed under health benefit plan coverage administered by an administrator of a health benefit plan under new Insurance Code Chapter 1683. The amendments add a citation to Insurance Code Chapter 1683 in §21.5002(c) to reflect this expanded applicability.

Section 21.5003. This section provides definitions for use in Subchapter PP. The amendments to §21.5003 expand the definition of an "administrator" to include an administrator of a health benefit plan offered by a postsecondary educational institution under new Insurance Code Chapter 1683. The proposed amendments also expand the definition of "health benefit plan" to include a plan offered by a postsecondary educational institution under Insurance Code Chapter 1683.

Section 21.5010. The amendment to §21.5010 adds new subsection (d) to narrow the availability of mediation for eligible claim disputes that occur on or after June 20, 2025, consistent with SB 2544. Specifically, proposed new subsection (d) requires the out-of-network provider or health benefit plan issuer or administrator to request mediation under the section not later than 180 days after the date the initial payment is received. The amendment also clarifies that the initial payment made to the out-of-network provider could be zero dollars if the allowable amount was applied to an enrollee's deductible, which is consistent with how arbitration claims are treated in §21.5020(d).

Section 21.5040. This section provides the content required in an explanation of benefits (EOB) provided to an enrollee, physician, and provider. The amendment to §21.5040 adds new subsection (b)(3) to address the specific requirements for EOBs provided by a health benefit plan offered by a postsecondary educational institution under Insurance Code Chapter 1683. Proposed new subsection (b)(3) requires the health benefit plan to include in the EOB to the physician or provider an instruction to identify the plan type as "Higher Ed Plan" when requesting mediation or arbitration.

Section 21.5070. This section provides the requirements for political subdivisions or their designees to submit emergency medical service rates to TDI for publication under Insurance Code §38.006. The amendments to §21.5070 specify the deadlines for submission of a rate based on the calendar year for which the rates apply. For calendar year 2026, the proposed deadline for a political subdivision to submit new or adjusted rates is 30 days after the date §21.5070 becomes effective. The deadline for new or adjusted rates to be filed with TDI for use in a subsequent calendar year is December 1.

Proposed new subsection (g) limits the amount that a political subdivision or their designee may adjust a rate submitted under Insurance Code §38.006 compared to the provider's rate for the previous calendar year. Consistent with SB 916, new subsection (g) states a political subdivision may annually adjust a rate by not more than the lesser of the Medicare Ambulance Inflation Factor, or 10% of the provider's previous calendar year rates.

Section 21.5071. This section outlines the requirements that certain health benefit plan issuers or administrators must meet when making payments to emergency medical services providers. The amendments clarify that the health benefit plan issuer or administrator must pay the lesser of the billed charge or the EMS rate published by TDI in the EMS provider rate database for the calendar year during which the service or transport was provided. The proposed rule specifies that if a new or adjusted rate was not submitted and published in the EMS provider rate database for the calendar year in which the service or transport was provided, the health benefit plan issuer or administrator must use the most recently submitted rate published in the EMS provider rate database established by TDI.

The proposal also deletes subsections (c) - (e), concerning payments by issuers and administrators, and Figure: 28 TAC §21.5071(e), which provides examples illustrating how a health benefit plan should apply published rates to a plan year under subsection (d). Subsections (c) - (e) are no longer necessary because SB 916 removes the requirement that health benefit plans recalculate previously submitted rates and authorizes political subdivisions to submit adjusted rates annually.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Rachel Bowden, director of the Regulatory Initiatives Office, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that im-

posed by statute. Ms. Bowden made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments. The rule applies to political subdivisions that choose to submit rates to TDI, but political subdivisions are not required to participate. Any measurable fiscal impact on a political subdivision that voluntarily submits rates to TDI are a result of those requirements imposed by statute when and if a political subdivision chooses to submit rates. Likewise, the rule applies to a postsecondary educational institution, but only if it voluntarily chooses to offer higher education health benefits.

Ms. Bowden does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Bowden expects that administering the proposed amendments will have the public benefit of ensuring that TDI's rules conform to Insurance Code Chapters 1275, 1467, and 1683, and §§38.006, 1271.008, 1271.159, 1275.003, 1275.054, 1301.010, 1301.166, 1551.015, 1551.231, 1575.009, 1575.174, 1579.009, and 1579.112.

Ms. Bowden expects that the proposed amendments that implement SB 916 will not increase the cost of compliance with Insurance Code §§38.006, 1271.008, 1271.159, 1275.003, 1275.054, 1301.010, 1301.166, 1551.015, 1551.231, 1575.009, 1575.174, 1579.009, and 1579.112 because the amendments do not impose requirements beyond those in statute. Political subdivisions are authorized, but are not required, to annually adjust an EMS rate submitted to TDI under Insurance Code §38.006. Health benefit plan issuers and administrators are required by statute to cover certain EMS-related claims according to SB 916. As a result, the cost associated with submitting new or adjusted rates or payment of EMS claims does not result from enforcement or administration of the amended sections.

Ms. Bowden expects that the proposed amendments that implement SB 1409 will not increase the cost of compliance with Insurance Code Chapter 1275 because it does not impose requirements beyond those in the statute. Insurance Code §1275.002 states that a health benefit plan offered by a postsecondary educational institute is subject to the requirements in Insurance Code Chapter 1275, including the requirement in Insurance Code §1275.004. Insurance Code §1275.004 requires a health benefit plan or administrator subject to Insurance Code Chapter 1275 to comply with the requirements in Insurance Code Chapter 1467. As a result, the cost associated with complying with the requirement to use the Texas Independent Dispute Resolution system does not result from the enforcement or administration of the proposed amendments.

Ms. Bowden expects that the proposed amendments that implement SB 2544 will not increase the cost of compliance with Insurance Code Chapter 1467, Subchapter B, because it does not impose requirements beyond those in statute. Insurance Code §1467.054 creates a 180-day deadline for an out-of-network provider or health benefit plan issuer or administrator to request mandatory mediation after the date an initial payment is received for a claim. As a result, the cost associated with meeting the 180-day deadline does not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. However, even if the proposal did impose a cost on regulated persons, Insurance Code §1467.003(b) exempts a rule adopted under Insurance Code Chapter 1467 from Government Code §2001.0045, and the proposed amendments are necessary to implement legislation. The proposed amendments implement Insurance Code Chapter 1683 and §§38.006, 1271.008, 1271.159, 1275.002, 1275.003, 1275.054, 1301.010, 1301.166, 1467.054, 1551.015, 1551.231, 1575.009, 1575.174, 1579.009, and 1579.112 as added or amended by SBs 916, 1409, and 2544.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;

- will not create a new regulation;

- will expand, limit, or repeal an existing regulation;

- will increase the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by no later than 5:00 p.m., central time, on November 3, 2025. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2855 at 2:00 p.m., central time, on October 21, 2025, in Room 2.035 of the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701.

SUBCHAPTER OO. DISCLOSURES BY OUT-OF-NETWORK PROVIDERS

28 TAC §21.4902

STATUTORY AUTHORITY. TDI proposes amendments to §21.4902 under Insurance Code §§1275.004, 1467.003, 36.001.

Insurance Code §1275.004 states that Insurance Code Chapter 1467 applies to a health benefit plan to which Insurance Code Chapter 1275 applies, and the administrator of a health benefit plan to which Insurance Code Chapter 1275 applies is an administrator for purposes of Insurance Code Chapter 1467.

Insurance Code §1467.003 requires the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

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

CROSS-REFERENCE TO STATUTE. Section 21.4902 implements Insurance Code §§1275.002, 1275.003, and 1275.004, and SB 1409.

§21.4902. Definitions.

Words and terms defined in Insurance Code Chapter 1467, concerning Out-of-Network Claim Dispute Resolution, have the same meaning when used in this subchapter unless the context clearly indicates otherwise, and the following words and terms have the following meanings when used in this subchapter unless the context clearly indicates otherwise.

(1) Administrator--Has the meaning assigned by Insurance Code §1467.001, concerning Definitions. The term also includes an administrator of a nonprofit agricultural organization under Insurance Code Chapter 1682, concerning Health Benefits Provided by Certain Nonprofit Agricultural Organizations;[~~, and~~] an administrator of a self-insured or self-funded ERISA plan under Insurance Code Chapter 1275, concerning Balance Billing Prohibitions and Out-of-Network Claim Dispute Resolution for Certain Plans; and an administrator of a postsecondary educational institution under Chapter 1683, concerning Health Benefits Provided by Certain Postsecondary Educational Institutions, offering a health benefit plan.

(2) ERISA--The Employee Retirement Income Security Act of 1974 (29 USC §1001 et seq.).

(3) Health benefit plan--A plan that provides coverage under:

(A) a health benefit plan offered by an HMO operating under Insurance Code Chapter 843, concerning Health Maintenance Organizations;

(B) a preferred provider benefit plan, including an exclusive provider benefit plan, offered by an insurer under Insurance Code Chapter 1301, concerning Preferred Provider Benefit Plans;

(C) a plan, other than an HMO plan, under Insurance Code Chapters 1551, concerning Texas Employees Group Benefits Act; 1575, concerning Texas Public School Employees Group Benefits Program; 1579, concerning Texas School Employees Uniform Group Health Coverage; [~~or~~] 1682; or 1683; or

(D) a self-insured or self-funded plan established by an employer under ERISA (29 USC §1001 et seq.) for which the plan sponsor has elected to apply Insurance Code Chapter 1275 to the plan for the relevant plan year.

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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Jessica Barta
General Counsel
Texas Department of Insurance
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SUBCHAPTER PP. OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION
DIVISION 1. GENERAL PROVISIONS

28 TAC §21.5002, §21.5003

STATUTORY AUTHORITY. TDI proposes amendments to §21.5002 and §21.5003 under Insurance Code §§1275.004, 1467.003, and 36.001.

Insurance Code §1275.004 states that Insurance Code Chapter 1467 applies to a health benefit plan to which Insurance Code Chapter 1275 applies, and the administrator of a health benefit plan to which Insurance Code Chapter 1275 applies is an administrator for purposes of Insurance Code Chapter 1467.

Insurance Code §1467.003 requires the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

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

CROSS-REFERENCE TO STATUTE.

Sections 21.5002 and 21.5003 implement Insurance Code §1275.002 and SB 1409.

§21.5002. Scope.

(a) This subchapter applies to a qualified mediation claim or qualified arbitration claim filed under health benefit plan coverage:

(1) issued by an insurer as a preferred provider benefit plan under Insurance Code Chapter 1301, concerning Preferred Provider Benefit Plans, including an exclusive provider benefit plan;

(2) administered by an administrator of a health benefit plan, other than a health maintenance organization (HMO) plan, under Insurance Code Chapters 1551, concerning Texas Employees Group Benefits Act; 1575, concerning Texas Public School Employees Group Benefits Program; 1579, concerning Texas School Employees Uniform Group Health Coverage; [~~or~~] 1682, concerning Health Benefits Provided by Certain Nonprofit Agricultural Organizations; or 1683, concerning Health Benefits Provided by Certain Postsecondary Educational Institutions;

(3) offered by an HMO operating under Insurance Code Chapter 843, concerning Health Maintenance Organizations; or

(4) offered by a self-insured or self-funded plan established by an employer under ERISA if the plan sponsor submitted election according to §21.5060 of this title (relating to Election Submission Requirements).

(b) This subchapter does not apply to a claim for health benefits that is not a covered claim under the terms of the health benefit plan coverage.

(c) Except as provided in §21.5050 of this title (relating to Submission of Information), this subchapter applies to a claim for emergency care or health care or medical services or supplies, provided on or after January 1, 2020. A claim for health care or medical services or supplies provided before January 1, 2020, is governed by the rules in effect immediately before the effective date of this subsection, and those rules are continued in effect for that purpose. This subchapter applies to a claim filed for emergency care or health care or medical services or supplies by the administrator of a health benefit plan under Insurance Code Chapters [~~Chapter~~] 1682 and 1683.

§21.5003. Definitions.

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

(1) Administrator--Has the meaning assigned by Insurance Code §1467.001, concerning Definitions. The term also includes an administrator of a nonprofit agricultural organization under Insurance Code Chapter 1682, concerning Health Benefits Provided by Certain Nonprofit Agricultural Organizations;[~~, and~~] an administrator of a self-insured or self-funded ERISA plan under Insurance Code Chapter 1275, concerning Balance Billing Prohibitions and Out-of-Network Claim Dispute Resolution for Certain Plans; and an administrator of a postsecondary educational institution under Chapter 1683, concerning Health Benefits Provided by Certain Postsecondary Educational Institutions, offering a health benefit plan.

(2) Arbitration--Has the meaning assigned by Insurance Code §1467.001.

(3) Claim--A request to a health benefit plan for payment for health benefits under the terms of the health benefit plan's coverage, including emergency care, or a health care or medical service or supply, or any combination of emergency care and health care or medical services and supplies, provided that the care, services, or supplies:

(A) are furnished for a single date of service; or

(B) if furnished for more than one date of service, are provided as a continuing or related course of treatment over a period of time for a specific medical problem or condition, or in response to the same initial patient complaint.

(4) Diagnostic imaging provider--Has the meaning assigned by Insurance Code §1467.001.

(5) Diagnostic imaging service--Has the meaning assigned by Insurance Code §1467.001.

(6) Emergency care--Has the meaning assigned by Insurance Code §1301.155, concerning Emergency Care.

(7) Emergency care provider--Has the meaning assigned by Insurance Code §1467.001.

(8) ERISA--The Employee Retirement Income Security Act of 1974 (29 USC §1001 et seq.).

(9) Enrollee--Has the meaning assigned by Insurance Code §1467.001.

(10) Facility--Has the meaning assigned by Health and Safety Code §324.001, concerning Definitions.

(11) Health benefit plan--A plan that provides coverage under:

(A) a health benefit plan offered by an HMO operating under Insurance Code Chapter 843, concerning Health Maintenance Organizations;

(B) a preferred provider benefit plan, including an exclusive provider benefit plan, offered by an insurer under Insurance Code Chapter 1301, concerning Preferred Provider Benefit Plans;

(C) a plan, other than an HMO plan, under Insurance Code Chapters 1551, concerning Texas Employees Group Benefits Act; 1575, concerning Texas Public School Employees Group Benefits Program; 1579, concerning Texas School Employees Uniform Group Health Coverage; [~~or~~] 1682; or 1683; or

(D) a self-insured or self-funded plan established by an employer under ERISA for which the plan sponsor has elected to apply Insurance Code Chapter 1275 to the plan for the relevant plan year.

(12) Facility-based provider--Has the meaning assigned by Insurance Code §1467.001.

(13) Insurer--A life, health, and accident insurance company; health insurance company; or other company operating under: Insurance Code Chapters 841, concerning Life, Health, or Accident Insurance Companies; 842, concerning Group Hospital Service Corporations; 884, concerning Stipulated Premium Insurance Companies; 885, concerning Fraternal Benefit Societies; 982, concerning Foreign and Alien Insurance Companies; or 1501, concerning Health Insurance Portability and Availability Act, that is authorized to issue, deliver, or issue for delivery in this state a preferred provider benefit plan, including an exclusive provider benefit plan, under Insurance Code Chapter 1301.

(14) Mediation--Has the meaning assigned by Insurance Code §1467.001.

(15) Mediator--Has the meaning assigned by Insurance Code §1467.001.

(16) Out-of-network claim--A claim for payment for medical or health care services or supplies or both furnished by an out-of-network provider or a non-network provider.

(17) Out-of-network provider--Has the meaning assigned by Insurance Code §1467.001.

(18) Party--Has the meaning assigned by Insurance Code §1467.001.

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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Jessica Barta
General Counsel
Texas Department of Insurance
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DIVISION 2. MEDIATION PROCESS

28 TAC §21.5010

STATUTORY AUTHORITY. TDI proposes amendments to §21.5010 under Insurance Code §§1467.003, 1467.0505, and 36.001.

Insurance Code §1467.003 requires the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

Insurance Code §1467.0505 authorizes the commissioner to adopt rules, forms, and procedures necessary for the implementation and administration of the mediation program.

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

CROSS-REFERENCE TO STATUTE. The proposed amendments to §21.5010 implement Insurance Code §1467.054 and SB 2544.

§21.5010. Qualified Mediation Claim Criteria.

(a) Required criteria. An out-of-network provider that is a facility or a health benefit plan issuer or administrator may request mandatory mediation of an out-of-network claim under §21.5011 of this title (relating to Mediation Request Procedure) if the claim complies with the criteria specified in this subsection. An out-of-network claim that complies with those criteria is referred to as a "qualified mediation claim" in this subchapter.

(1) The out-of-network health benefit claim must be for:

(A) emergency care;

(B) an out-of-network laboratory service provided in connection with a health care or medical service or supply provided by a participating provider; or

(C) an out-of-network diagnostic imaging service provided in connection with a health care or medical service or supply provided by a participating provider.

(2) There is an amount billed by the provider and unpaid by the health benefit plan issuer or administrator after copayments, deductibles, and coinsurance, for which an enrollee may not be billed.

(b) Submission of multiple claim forms. The use of more than one form in the submission of a claim, as defined in §21.5003 of this title (relating to Definitions), does not prevent eligibility of a claim for mandatory mediation under this subchapter if the claim otherwise meets the requirements of this section.

(c) Ineligible claims. This division does not require a health benefit plan issuer or administrator to pay for an uncovered service or supply.

(d) Availability. With respect to a dispute that occurs on or after June 20, 2025, the out-of-network provider or the health benefit plan issuer or administrator may request mediation of a settlement of an out-of-network health benefit claim not later than the 180th day after the date an out-of-network provider receives the initial payment for a health care or medical service or supply. The initial payment could be zero dollars if the allowable amount was applied to an enrollee's deductible.

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DIVISION 5. EXPLANATION OF BENEFITS

28 TAC §21.5040

STATUTORY AUTHORITY. TDI proposes amendments to §21.5040 under Insurance Code §§1275.004, 1467.003, and 36.001.

Insurance Code §1275.004 states that Insurance Code Chapter 1467 applies to a health benefit plan to which Insurance Code Chapter 1275 applies, and the administrator of a health benefit plan to which Insurance Code Chapter 1275 applies is an administrator for purposes of Insurance Code Chapter 1467.

Insurance Code §1467.003 requires the commissioner to adopt rules as necessary to implement the commissioner's powers and duties under Insurance Code Chapter 1467.

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

CROSS-REFERENCE TO STATUTE. Section 21.5040 implements Insurance Code §1275.003 and SB 1409.

§21.5040. Required Explanation of Benefits and Enrollee Identification Card Information.

(a) General requirements for explanation of benefits. A health benefit plan issuer or administrator subject to Insurance Code §1271.008, concerning Balance Billing Prohibition Notice; §1275.003, concerning Balance Billing Prohibition Notice; §1301.010, concerning Balance Billing Prohibition Notice; §1551.015, concerning Balance Billing Prohibition Notice; §1575.009, concerning Balance Billing Prohibition Notice; or §1579.009, concerning Balance Billing Prohibition Notice, must provide written notice in accordance with this section in an explanation of benefits in connection with a health care or medical service or supply or transport provided by a non-network provider or an out-of-network provider:

(1) to the enrollee and physician or provider, which must include:

(A) a statement of the billing prohibition, as applicable; and

(B) the total amount the physician or provider may bill the enrollee under the health benefit plan and an itemization of in-network copayments, coinsurance, deductibles, and other amounts included in that total; and

(2) to the physician or provider, for a claim that is subject to mediation or arbitration under Insurance Code Chapter 1467, concerning Out-of-Network Claim Dispute Resolution, a conspicuous statement in not less than 10-point boldface type that is substantially similar to the following: "If you disagree with the payment amount, you can request mediation or arbitration. To learn more and submit a request, go to www.tdi.texas.gov. After you submit a complete request, you must notify {HEALTH BENEFIT PLAN ISSUER OR ADMINISTRATOR NAME} at {EMAIL}."

(b) Specific requirements for explanation of benefits provided by health benefit plans subject to Insurance Code Chapter 1275. In addition to the requirements in subsection (a) of this section, the following requirements apply.

(1) For a health benefit plan offered by a nonprofit agricultural organization under Insurance Code Chapter 1682, concerning Health Benefits Provided by Certain Nonprofit Agricultural Organizations, the notice to a physician or provider for a claim must also include an [~~the following~~] instruction that is substantially similar to the following: "The request for mediation or arbitration must identify the plan type as 'Ag Plan.'"

(2) For a self-insured or self-funded plan under ERISA where the plan sponsor has elected to apply Insurance Code Chapter 1275, concerning Balance Billing Prohibitions and Out-Of-Network Claim Dispute Resolution for Certain Plans, to the plan for the relevant plan year, the notice to a physician or provider for a claim must also include a statement that is substantially similar to the following: "The plan sponsor has opted in to the Texas Independent Dispute Resolution Process under Insurance Code Chapter 1275 for this plan year. A dispute related to this claim must proceed through the Texas process and may not proceed through the Federal No Surprises Act Independent Dispute Resolution Process. The request for mediation or arbitration must identify the plan type as 'ERISA Opt-In.'"

(3) For a health benefit plan offered by a postsecondary educational institution under Insurance Code Chapter 1683, concerning Health Benefits Provided by Certain Postsecondary Educational Institutions, the notice to a physician or provider for a claim must also include an instruction that is substantially similar to the following: "The request for mediation or arbitration must identify the plan type as 'Higher Ed Plan.'"

(c) Requirements for ID cards issued to enrollees of health benefit plans subject to Insurance Code Chapter 1275. For a plan that is delivered, issued for delivery, or renewed on or after 90 days following the effective date of this section, a health benefit plan issuer or administrator that is subject to Insurance Code §1275.003 must include the letters "TXI" on the front of the ID card issued to enrollees.

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

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DIVISION 8. EMERGENCY MEDICAL SERVICE RATE SUBMISSION AND PAYMENT REQUIREMENTS

28 TAC §21.5070, §21.5071

STATUTORY AUTHORITY. TDI proposes amendments to §21.5070 and §21.5071 under Insurance Code §§38.006, 1301.007, and 36.001.

Insurance Code §38.006 authorizes the commissioner to prescribe the form and manner by which political subdivisions may submit rates for ground ambulance services.

Insurance Code §1301.007 directs the commissioner to adopt rules as necessary to implement Insurance Code Chapter 1301 and ensure reasonable accessibility and availability of preferred provider services to residents of Texas.

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

CROSS-REFERENCE TO STATUTE. Section 21.5070 and §21.5071 implement Insurance Code §§38.006, 1271.159, 1275.054, 1301.166, 1551.231, 1575.174, and 1579.112, and SB 916.

§21.5070. Rate Database for Emergency Medical Services Providers.

(a) Consistent with Insurance Code §38.006, concerning Emergency Medical Services Provider Balance Billing Rate Database, this section applies to:

(1) a political subdivision that sets, controls, or regulates a rate charged for a health care service, supply, or transport provided by an emergency medical services (EMS) provider, other than an air ambulance; and

(2) an EMS provider or its designee that provides a health care service, supply, or transport on behalf of a political subdivision that sets, controls, or regulates a rate.

(b) A political subdivision or EMS provider subject to this section may not issue a bill for a health care service, supply, or transport that exceeds the amount of the rate set, controlled, or regulated by the political subdivision.

(c) A political subdivision that chooses to submit data to the Texas Department of Insurance (TDI) under this section must submit data using the data submission method available at www.tdi.texas.gov and must include at a minimum:

(1) the political subdivision's name and contact information;

(2) if known, the National Provider Identification (NPI) number of each EMS provider that provides a health care service, supply, or transport that is subject to rates set, controlled, or regulated by the political subdivision;

(3) each ZIP code that is subject to the rates set, controlled, or regulated by the political subdivision; and

(4) the applicable billing code, code type, and dollar amount for each health care service, supply, or transport rate that is set, controlled, or regulated by the political subdivision.

(d) The data submission deadline for a political subdivision that chooses to submit data for calendar year 2026 is 30 days after the date this section becomes effective. For all other data submissions under this section, the data submission deadline is December 1.

(e) TDI will publish data reported by a political subdivision no later than 10 business days after the data reporting deadline specified in subsection (d) of this section.

(f) A claim submitted by an EMS provider or its designee for a health care service, supply, or transport provided on behalf of a political subdivision must include the ZIP code in which the health care service, supply, or transport originated.

(g) For a rate submitted with respect to emergency medical services provided on or after September 1, 2025, the difference between the provider's rate for the previous calendar year and the adjusted rate may not exceed the lesser of:

(1) the Medicare Ambulance Inflation Factor; or

(2) 10%.

§21.5071. Payments to Emergency Medical Services Providers.

(a) This section applies to a health benefit plan issuer or administrator that is subject to one of the following statutes:

(1) Insurance Code §1271.159, concerning Non-Network Emergency Medical Services Provider;

(2) Insurance Code §1275.054, concerning Out-of-Network Emergency Medical Services Provider Payments;

(3) Insurance Code §1301.166, concerning Out-of-Network Emergency Medical Services Provider;

(4) Insurance Code §1551.231, concerning Out-of-Network Emergency Medical Services Provider Payments;

(5) Insurance Code §1575.174, concerning Out-of-Network Emergency Medical Services Provider Payments; or

(6) Insurance Code §1579.112, concerning Out-of-Network Emergency Medical Services Provider Payments.

(b) For a covered health care or medical service, supply, or transport that is provided to an enrollee by an out-of-network emergency medical services (EMS) provider, a health benefit plan issuer or administrator must pay:

(1) for a service or transport that originated in a political subdivision that sets, controls, or regulates the rate, the lesser of the billed charge or the applicable rate for that political subdivision that is published in the EMS provider rate database established by the department for the calendar year during which the service or transport was provided or the most recent rate data submitted [~~and adjusted as required in subsection (d) of this section~~]; or

(2) if there is not a rate published in the EMS provider rate database for the political subdivision in which the service or transport originated, the lesser of:

(A) the provider's billed charge; or

(B) 325% of the current Medicare rate, including any applicable extenders or modifiers.

[~~(c) For claims incurred during a plan year that starts before September 1, 2024, for a claim for emergency medical services that is provided on or after January 1, 2024, and before September 1, 2025, a health benefit plan issuer or administrator that must make a payment consistent with subsection (b)(1) of this section must use the rate data published in the department's EMS provider rate database for calendar year 2024.~~]

[~~(d) For claims incurred during a plan year that starts on or after September 1, 2024, a health benefit plan issuer or administrator that must make a payment consistent with subsection (b)(1) of this section must pay the lesser of:~~]

[~~(1) the billed charge;~~]

[~~(2) (2) the rate published in the department's EMS provider rate database for calendar year 2024 increased by 10%; or~~]

[~~(3) (3) the rate published in the department's EMS provider rate database for calendar year 2024 increased by the Medicare Economic Index rate that applies to the first day of the new plan year.~~]

[~~(e) Figure: 28 TAC §21.5071(e) provides examples illustrating how a health benefit plan should apply published rates to a plan year under subsection (d) of this section.~~]
[~~Figure: 28 TAC §21.5071(e)~~]

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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Jessica Barta
General Counsel
Texas Department of Insurance
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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 21. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

CHAPTER 877. GRANT AWARDS

40 TAC §877.1, §877.2

The Texas Council for Developmental Disabilities (TCDD) proposes amendments to §877.1 concerning General and §877.2 concerning Application and Review Process.

The purpose of the amendments to §877.1 is to clarify language regarding that number of allowable grants from an organization and to §877.2 is to apply consistent language to all sections regarding the Council Request for Applications process.

FISCAL NOTE

Beth Stalvey, PhD, Council Executive Director, has determined for each year of the first five years that the rules will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the rules as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

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

(1) the proposed rules will not create or eliminate a government program;

(2) implementation of the proposed rules will not affect the number of TCDD employee positions;

(3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;

(4) the proposed rules will not affect fees paid to the agency;

(5) the proposed rules will not create a new regulation;

(6) the proposed rules will not expand, limit, or repeal and existing regulation;

(7) the proposed rules will not change the number of individuals subject to the rules; and

(8) the proposed rules will not affect the state's economy.

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

Dr. Stalvey has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not apply to small or micro-businesses, or rural communities.

PUBLIC BENEFIT

Dr. Stalvey has also determined that for each year of the first five years the rules are in effect, the updates will further efforts to create change so that all people with disabilities are fully included in their communities and exercise control over their own lives.

Comments on the proposal may be submitted to Koren Vogel, 6201 E. Oltorf, Suite 600, Austin, Texas 78741-7509, or e-mail comments to: koren.vogel@tcdd.texas.gov. Comments must be submitted by November 4, 2025, 31 days from publication in the *Texas Register.*

The proposed amendments are authorized under the Texas Human Resources Code, §112.020, which provides authority for the Council to adopt rules as necessary to implement the Council's duties and responsibilities.

The amendments will affect Texas Human Resources Code, Title 7, Chapter 112, Developmental Disabilities.

§877.1. General.

(a) As authorized by Texas Human Resources Code, Title 7, Chapter 112, §112.020(a)(3), the Council may contract or provide grants to public or private organizations to implement the TCDD State Plan for Texans with Developmental Disabilities, if funds are available.

(b) The Council may solicit applications from state agencies, non-profit organizations, or private for profit organizations that have organizational expertise related to the requirements of the solicitation.

(c) The Council may accept unsolicited ideas for future projects consistent with Council policies and procedures.

(d) The Council may develop projects with organizations without competitive applications as allowed by state and federal requirements and Council policies.

(e) All grantees shall comply with applicable state and federal requirements including the Texas Uniform Grant Management Standards. Office of Management and Budget (OMB) circulars, and Council grants procedures.

(f) Independent audits of grantees are required for each year of funding in accordance with the requirements of OMB Circulars and Texas Uniform Grant Management Standards. Project specific independent reviews and other procedures may be required of grantees not subject to annual independent audit requirements of OMB or UGMS consistent with Council policies. The Council shall reimburse the grantees for the reasonable cost of the required audit activities.

(g) Grant awards shall contain appropriate provisions for program and fiscal monitoring and for collection and submission of evaluation data and related reports.

(h) The Council may limit by policy the amount of Council funds allowed to reimburse indirect costs of projects. Any indirect costs of a grantee above those amounts may be allowed as part of the required non-federal participant share.

(i) The Council may by policy reduce reimbursements to grantees when required reports or final expenditure reports are not submitted within at least 60 days following the established due date.

(j) Donated time and services may be included as a financial match contribution unless otherwise restricted by a specific request for applications or by state or federal requirements.

(k) No organization shall receive more than three (3) direct grants from the Council at one [~~any~~] time.

§877.2. Application and Review Process.

(a) All requests for applications will be published in the *Texas Register* and posted on the Council's website, and a notice will be provided to interested parties.

(b) Application instructions [~~information~~] for each request for application shall be available upon request from Council offices and will be made available at the Council's website.

(c) Applications [~~Proposals~~] received after the closing date will not be considered unless an exception is approved in a manner consistent with Council policies.

(d) Projects seeking continuation funding may have separate application forms, instructions, and procedures, as determined by Council staff.

(e) Grants shall be awarded based on guidelines that reflect state and federal mandates. Selection criteria shall be designed to select applications that provide best overall value to the state and to the Council and meet the requirements and intent of the Council as provided in the request for applications.

(f) Final approval of organizations to receive grant funding shall be determined by the Council consistent with Council policies.

(g) Council staff may negotiate with selected applicants to determine the final terms of the award.

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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Beth Stalvey
Executive Director
Texas Council for Developmental Disabilities
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For further information, please call: (512) 948-2035

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

The Texas Department of Motor Vehicles (department) proposes revisions to 43 Texas Administrative Code (TAC) Chapter 217,

Vehicle Titles and Registration. The department proposes the simultaneous repeal of Subchapter A, Motor Vehicle Titles; §217.10, relating to Appeal to the County, and addition of new Subchapter A, Motor Vehicle Titles; §217.10, relating to Department Decisions on Titles and Appeals to the County. The department additionally proposes amendments to Subchapter B, Motor Vehicle Registration; §217.41, relating to Disabled Person License Plates and Disabled Parking Placards. The department further proposes new Subchapter D, Nonrepairable and Salvage Motor Vehicles; §217.87, relating to Requirements for Certain Vehicles Acquired by a Used Automotive Parts Recycler Without a Title. The proposed amendments, new sections, and repeal are necessary to implement legislation, to clarify existing statutory requirements, and to make nonsubstantive grammatical changes to improve readability.

EXPLANATION.

The repeal of §217.10, relating to Appeal to the County, is proposed because the current language in the section is duplicative of the statutory requirements in Transportation Code, §501.052, and therefore unnecessary as rule text. To replace the proposed repealed section, the department proposes new §217.10, relating to Department Decisions on Titles and Appeals to the County. Proposed new §217.10(a) would clarify what constitutes evidence of a department title refusal or revocation under Transportation Code, §501.051, for purposes of determining eligibility for a hearing by a tax accessor-collector under Transportation Code, §501.052. The proposed language would specify that for purposes of determining whether a person is eligible for a tax accessor-collector hearing under Transportation Code §501.052, the official record of the department's refusal to issue a title is a written notice of determination from the department. Proposed new §217.10(a) would also clarify that the official record of a revoked title is a revocation remark on the motor vehicle record in the department's Registration and Title System. These proposed new provisions are necessary to clarify and prevent confusion about the official records of department action that demonstrate eligibility for an appeal hearing under Transportation Code, §501.052.

Proposed new §217.10(b) would clarify that a department decision that an applicant is ineligible to obtain a bonded title under Transportation Code §501.053 is a not a refusal to issue title under Transportation Code, §501.051, and therefore is not subject to a tax accessor-collector hearing under Transportation Code, §501.052. This proposed new language is necessary to address confusion by some tax accessor-collectors who have incorrectly treated the department's ineligibility determinations under Transportation Code, §501.053 as refusals to title under Transportation Code, §501.051. Proposed new §217.10(b) would also conform the department's rules with recent court rulings, which held that a notice from the department that a vehicle is ineligible for bonded title is not a refusal by the department to issue title under Transportation Code, §501.051.

Proposed amendments to §217.41, relating to Disabled Person License Plates and Disabled Parking Placards, are necessary to implement Senate Bill (SB) 2001, 89th Legislature, Regular Session (2025), which created Transportation Code, §504.2025, relating to Peace Officers with Disabilities. Section 504.2025 established the right of qualifying peace officers to obtain disabled peace officer license plates and disabled parking placards. Proposed amendments to §217.41(b)(1), (b)(2)(A), and (b)(3)(A) would add statutory references to Transportation Code, §504.2025, to include qualifying disabled peace officers as "disabled persons" for purposes of the eligibility for and issuance of disabled person license plates and disabled parking placards under §217.41. Proposed new §217.41(b)(2)(D) would clarify Transportation Code, §504.202(h) and §504.2025(h) by explaining that qualifying disabled veterans and disabled peace officers have the option to obtain general issue license plates at no expense, in lieu of disabled veteran or peace officer license plates.

A proposed amendment to §217.41(b)(1) would also add a reference to the Transportation Code to the citation to §504.202(b-1).

A proposed amendment to §217.41(b)(2)(B) would add the titles to §217.43 and §217.45 for ease of reference to these sections.

A proposed amendment to §217.41(c) would add the title to §217.28 for ease of reference to this section.

Proposed amendments throughout §217.41 would correct punctuation to statutory citations by inserting commas between the Texas code and section number.

Proposed new §217.87, relating to Requirements for Certain Vehicles Acquired by a Used Automotive Parts Recycler Without a Title, would implement House Bill (HB) 5436, 89th Legislature, Regular Session (2025). Transportation Code, §501.098, relating to Exception to Title Requirement for Certain Vehicles, provides a process for a used automotive parts recycler (recycler) to acquire motor vehicles without titles for the purpose of dismantling, scraping and parting them, without incurring the cost and delay of going through the bonded title process. Proposed new §217.87(a)(1) would inform a recycler of their obligation to determine if a motor vehicle acquired without a title under Transportation Code, §501.098(a) has been reported stolen or is subject to a recorded lien or security interest by submitting a form to the department within the time prescribed by Transportation Code, §501.098(c) and §501.098(g). Proposed new §217.87(a)(2) would require the recycler to separately report this information to the National Motor Vehicle Title Information System (NMVTIS), to comply with Transportation Code, §501.098(c) and to clarify that the department will not be reporting information to NMVTIS on the recycler's behalf.

Proposed new §217.87(b) would describe the information that the recycler must submit on a department form to ascertain whether a vehicle was reported stolen or is subject to any recorded liens, consistent with the information specified under 28 C.F.R. §25.56, to implement the requirements provided in Transportation Code, §501.098(c) and §501.098(g). Proposed new §217.87(b)(5) would require recyclers to attest that the vehicle meets the requirements of Transportation Code, §501.098(a)(1) and (2), in order to ensure that the vehicle is eligible for a recycler to purchase without obtaining title, so that the department can avoid wasting resources by processing forms for ineligible vehicles. Proposed new §217.87(c) would specify that a recycler must submit the form in person at one of the department's 16 regional service centers, to allow for an immediate response from the department and to reduce implementation costs for the department by not requiring additional coding in the department's Registration and Title System. Recyclers have previously gone to the department's regional service centers to process title transactions, so submitting the form in person will take the place of the title transaction with no increased inefficiency for the recycler.

Proposed new §217.87(d) would describe the actions the department will take in response to receiving the recycler's form under subsection (b) of this section. Proposed new §217.87(d)(1)(A) would require the department to provide the recycler with no-

tice of whether the motor vehicle has been reported stolen either in person or by email, to assure that the department meets the 48-hour deadline for issuing the notice in accordance with Transportation Code, §501.098(d). Proposed new §217.87(d)(1)(B) would describe the department's method of informing the recycler in person or by email if the vehicle is subject to a recorded lien or security interest in the department's Registration and Title System, to expedite the notice required under Transportation Code, §501.098(g). Proposed new §217.87(d)(1)(B) would also inform the recycler of the process of obtaining from the department the contact information for a recorded lien holder, which is information that Transportation Code, §501.098(h)(2) requires the recycler provide to the county tax accessor-collector. Proposed new §217.87(d)(2) would clarify that if there is a motor vehicle record for the vehicle in the department's Registration and Title System, the department will make a notation in the motor vehicle record that the motor vehicle has been dismantled, scrapped or destroyed, and cancel the title issued by the department for the motor vehicle, in accordance with Transportation Code, §501.098(f).

Proposed new §217.87(e) would describe the process for a lienholder or last registered owner of a motor vehicle acquired by a recycler under Transportation Code, §501.098 to request that the department reinstate the title and remove a notation in the department's records for the motor vehicle made under Transportation Code, §501.098(f)(1) and proposed new §217.87(b)(2), indicating that the vehicle had been dismantled, scrapped or destroyed. Proposed new §217.87(e) would describe the process of making the request to the department by presenting valid proof of identification and submitting a receipt received from the recycler transferring the motor vehicle back to the lienholder or last registered owner. The proposed new provisions for §217.87(e) are necessary to implement and administer Transportation Code, §501.098(j), which provides a lienholder or last registered owner the right to retrieve the motor vehicle acquired by the recycler under Transportation Code, §501.098. Additionally, proposed new §217.87(e) would avoid subjecting the lienholder or last registered owner to any additional costs, such as the bonded title process would require.

Proposed new §217.87(f) would describe the form and format for the records a recycler is required to compile under Transportation Code, §501.098(b) and have available for inspection by law enforcement or department personnel under Transportation Code, §501.098(m). Proposed new §217.87(f)(1) would require a recycler to collect and record the information specified under Transportation Code, §501.098(b)(1)-(9) on a department form made available on the department's website, and to maintain that form together with the identification documents under Transportation Code, §501.098(b)(10) and the department's response under proposed new §217.87(d). Proposed new §217.87(f)(2) would allow a recycler the option to maintain the records in an electronic format. The proposed new provisions to §217.87(f) are necessary to implement Transportation Code, §501.098(b), to clarify the manner in which a recycler is to compile and maintain the information specified in Transportation Code, §501.098(b) and (c), for inspection under Transportation Code, §501.098(m).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has anticipated that for each year of the first five years that the proposal will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal.

Annette Quintero, Director of the Vehicle Titles and Registration Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Quintero and Ms. Bowman have also determined that, for each year of the first five years the proposal is in effect, there are several public benefits anticipated and economic costs for persons required to comply with the rules.

Anticipated Public Benefits. The proposed repeal of §217.10 would remove any perceived conflict with Transportation Code, §501.052 by eliminating text that is duplicative of the statute thereby lessening any confusion by the public of the county tax assessor-collector's role in conducting hearings under Transportation Code, §501.052. Proposed new §217.10 would provide clarity to the public on what documents constitute a department decision on a vehicle title for purposes of applying for a hearing with a county assessor-collector's office, preventing any confusion or unnecessary and costly litigation. The proposed amendments to §217.41 would clarify that qualifying disabled veterans and peace officers have the option to select general issue license plates instead of disabled license plates without incurring the three-dollar fee associated with the disabled license plates.

Proposed new §217.87 would provide clarity to a recycler on the process for fulfilling their obligations under Transportation Code, §501.098 to thereby allow a recycler to acquire a vehicle for scrapping, dismantling, or parting that would not otherwise be authorized without a title. Proposed new §217.87 would also provide clarity for the public in how to reinstate and correct a title that has been marked dismantled, scrapped or destroyed, when the vehicle was later transferred back to the lienholder or last registered owner.

Anticipated Costs to Comply with the Proposal. Ms. Quintero anticipates that proposed new §217.87 will create a cost to comply. Proposed new §217.87 would require a recycler's staff to compile information and complete forms along with the acquisition of storage equipment to store the documentation if maintained in physical form, or computer equipment to store the documents in an electronic format. While proposed new §217.87(c) would require a recycler to travel to a regional service center to deliver the form necessary to confirm the status of any vehicles purchased for dismantling, scrapping or parting under Transportation Code, §501.098, the travel costs associated with delivering the form to a regional service center would be offset directly by the reduction in costs caused by the elimination of the requirement that a recycler travel to a regional service center to surrender titles for motor vehicles that are dismantled, scrapped or destroyed by the recycler. The proposed repeal of §217.10, proposed new §217.10, and the proposed amendments to §217.41 do not create any costs.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. The department does not anticipate an adverse economic impact to small business, micro-businesses or rural communities as a result of the proposed repeal of §217.10, proposed new §217.10, and the proposed amendments to §217.41. Regarding the proposed new §217.87, the department anticipates an adverse economic effect on small businesses and micro-businesses that operate as recyclers.

There are approximately 646 recyclers operating in Texas, according to the Texas Department of Licensing and

Regulation Staff Report for the Used Auto Parts Recycling Board Meeting, dated March 6, 2025, available at https://www.tdlr.texas.gov/parts/aprboard.htm#past-meetings. Of that number, most are likely to be micro-business or small businesses for purposes of Government Code, §2006.002. As noted in the Public Benefit and Cost Note, proposed new §217.87 would require a recycler to travel to a regional service center to submit the form under §217.87(c), use a department form to compile information required by Transportation Code, §501.098(b), and maintain that documentation either in hard-copy or in electronic format for inspection by the department or law enforcement.

Under Government Code, §2006.002, the department must perform a regulatory flexibility analysis for proposed new §217.87. The department considered alternatives to not adopting §217.87, exempting small and micro-businesses from this new section, and adopting separate compliance or reporting requirements for small and micro-businesses. The department rejected all three options. Foregoing the adoption of §217.87 is not acceptable because Transportation Code, §501.098(b), (c) and (m) require that the department codify a process for recyclers to comply with the statutory requirements of compiling, submitting, and maintaining data on vehicle purchases for inspection purposes and to verify a vehicle's stolen or lien status with the department. The statute also requires all recyclers regardless of their business profile to comply with these requirements, so the department would not be authorized to exempt micro or small businesses from these requirements. Finally, the department considered the option of micro or small businesses to compile their vehicle purchase data under Transportation Code, §501.098(b) using their own forms and to submit their requests to the department under §501.098(c) by email or mail as opposed to an in-person visit to a regional service center, but it was determined that department forms available on the department's website are just as economical as a form created by the recycler and that the cost of travelling to a regional service center to submit forms is offset by the efficiency of an immediate response from the department that either email or mail would not permit under the department's current systems. In addition, allowing recyclers to create their own forms would increase the cost to the department significantly, as it would require significantly more department staff time to hunt through each unique form in search of the information required by Transportation Code, §501.098(b). Allowing recyclers to submit their forms under §501.098(c) electronically would significantly increase costs to the department to recode the Registration and Title System or to hire additional staff to monitor and process forms submitted by email or mail. The proposed new rule provides flexibility for recyclers to decide whether to store the records in hard-copy or electronic form, so recyclers will be able to limit the cost and impact of the proposed rule by choosing between electronic and hard-copy depending on whether hard-copy or electronic format is better and less costly for their particular circumstances. Finally, the travel costs associated with delivering the form under §501.098(c) in person will coincide with the reduction in costs for the recyclers that result from the statutory change to no longer require a title transfer.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposal is in effect, no government program would be created or eliminated. Implementation of the proposal would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or have a significant impact on fees paid to the department. The proposal repeals an existing regulation, §217.10, that is duplicative of the requirements provided in Transportation Code, §501.052 and creates new regulations, §217.10 and §217.87, that clarify department decisions under Transportation Code, §501.052 and §501.053 and the process for compiling data on vehicle purchases without titles and verifying statuses under Transportation Code, §501.098, respectively. Proposed new §217.87 would limit existing regulations by allowing recyclers a process to avoid titling a vehicle they purchased. The proposed amendments to §217.41 expand an existing regulation and would increase the number of individuals subject to its applicability by including qualifying disabled peace officers as disabled persons under the regulation for purposes of being issued disabled license plates and disabled parking placards, as is required by Transportation Code, §504.2025. Lastly, the proposal will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on November 3, 2025. The department requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.10

STATUTORY AUTHORITY. The department proposes the repeal of §217.10 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.051, which gives the department authority to refuse, cancel, suspend or revoke a title; Transportation Code, §501.052, which provides an interested person aggrieved by a refusal, rescission, cancellation, suspension, or revocation under Transportation Code, §501.051, the right to apply for hearing to the county assessor-collector; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The proposed repeal would implement Transportation Code, Chapters 501 and 1002.

§217.10. Appeal to the County.

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 September 19, 2025.

TRD-202503320
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 465-5665

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43 TAC §217.10

STATUTORY AUTHORITY. The department proposes new §217.10 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.051, which gives the department authority to refuse, cancel, suspend or revoke a title; Transportation Code, §501.053, which gives the department authority to determine the eligibility for a bonded title; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text.

CROSS REFERENCE TO STATUTE. The proposed new section would implement Transportation Code, Chapters 501 and 1002.

§217.10. Department Decisions on Titles and Appeals to the County.

(a) Department refusal or revocation of title. For purposes of Transportation Code, §501.052, the official record of the department's refusal to issue a title under its authority in Transportation Code, §501.051 is the department's notice of determination regarding the application. The official record of the department's revocation of a title is the entry of a revocation remark on the motor vehicle record in the department's Registration and Title System.

(b) Department determination of ineligibility for bonded title. A department determination of ineligibility for bonded title is made under the authority of Transportation Code, §501.053 and is not a refusal to issue a title under Transportation Code, §501.051. An applicant that receives a notice of ineligibility for bonded title from the department is not eligible to pursue a hearing under Transportation Code, §501.052.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 465-5665

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SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.41

STATUTORY AUTHORITY. The department proposes amendments to §217.41 under Transportation Code, §504.0011, which gives the board authority to adopt rules to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code, §504.010, which authorizes the board to adopt rules governing the placement of license plates on motor vehicles; Transportation Code, §504.202, entitling a qualifying disabled veteran to elect for license plates issued under Transportation Code, Chapter 502 in lieu of disabled veteran license plates; Transportation Code, §504.2025, as created by Senate Bill 2001, 89th Legislature, Regular Session (2025), providing a qualifying peace officer with the option to obtain disabled peace officer license plates and disabled parking placards; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code, Chapters 504 and 1002.

§217.41. Disabled Person License Plates and Disabled Parking Placards.

(a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the responsibility for issuing specially designed license plates and disabled parking placards for disabled persons. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of disabled person license plates and disabled parking placards.

(b) Issuance.

(1) For purposes of this section, "disabled person" means a person eligible for issuance of a license plate bearing the International Symbol of Access under Transportation Code, §504.201, including a qualifying disabled veteran under Transportation Code, §504.202(b-1) and a qualifying disabled peace officer under Transportation Code, §504.2025.

(2) Disabled person license plates.

(A) Eligibility. In accordance with Transportation Code, §504.201; [~~and~~] §504.202(b-1) and (b-2); and §504.2025, the department will issue specially designed license plates displaying the International Symbol of Access to permanently disabled persons or their transporters instead of general issue license plates. As satisfactory proof of eligibility, an organization that transports disabled veterans who would qualify for license plates issued under Transportation Code, §504.202(b-1) must provide a written statement from the veteran's county service officer of the county in which a vehicle described by Transportation Code, §504.202(c) is registered or by the Department of Veterans Affairs that:

(i) the vehicle is used exclusively to transport veterans of the United States armed forces who have suffered, as a result of military service, a service-connected disability;

(ii) the vehicle regularly transports veterans who are eligible to receive license plates under Subsection (b-1); and

(iii) the veterans are not charged for the transportation.

(B) Specialty license plates. The department will issue disabled person specialty license plates displaying the International Symbol of Access that can accommodate the identifying insignia and that are issued in accordance with §217.43 of this title (relating to Mil-

itary Specialty License Plates) or §217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices).

(C) License plate number. Disabled person license plates will bear a license plate number assigned by the department or will bear a personalized license plate number issued in accordance with §217.43 or §217.45 of this title.

(D) General issue license plate option for qualifying disabled veterans and disabled peace officers. In accordance with Transportation Code, §504.202(h) and §504.2025(h), qualifying disabled veterans and disabled peace officers may elect to receive general issue license plates without paying license plate fees.

(3) Windshield disabled parking placards.

(A) Issuance. The department will issue removable windshield disabled parking placards to temporarily or permanently disabled persons and to the transporters of permanently disabled persons, as provided under Transportation Code, §§504.201, 504.202 (b-1) and (b-2), 504.2025, and 681.004.

(B) Display. A person who has been issued a windshield disabled parking placard shall hang the placard from a vehicle's rearview mirror when the vehicle is parked in a disabled person parking space or shall display the placard on the center portion of the dashboard if the vehicle does not have a rearview mirror.

(c) Renewal of disabled person license plates. Disabled person license plates are valid for a period of 12 months from the date of issuance and are renewable as specified in §§217.28 of this title (relating to Vehicle Registration Renewal), 217.43, and 217.45 of this title.

(d) Replacement.

(1) License plates. If a disabled person metal license plate is lost, stolen, or mutilated, the owner may obtain a replacement metal license plate by applying with a county tax assessor-collector.

(A) Accompanying documentation. To replace disabled person metal license plates, the owner must present the current year's registration receipt and personal identification acceptable to the county tax assessor-collector.

(B) Absence of accompanying documentation. If the current year's registration receipt is not available and the county tax assessor-collector cannot verify that the disabled person metal license plates were issued to the owner, the owner must reapply in accordance with this section.

(2) Disabled parking placards. If a disabled parking placard becomes lost, stolen, or mutilated, the owner may obtain a new disabled parking placard in accordance with this section.

(e) Transfer of disabled person license plates and disabled parking placards.

(1) License plates.

(A) Transfer between persons. Disabled person license plates may not be transferred between persons. An owner who sells or trades a vehicle to which disabled person license plates have been issued shall remove the disabled person license plates from the vehicle. The owner shall return the license plates to the department and shall obtain appropriate replacement license plates to place on the vehicle prior to any transfer of ownership.

(B) Transfer between vehicles. Disabled person license plates may be transferred between vehicles if the county tax assessor-collector or the department can verify the plate ownership and the owner of the vehicle is a disabled person or the vehicle is used to transport a disabled person.

(i) Plate ownership verification may include:

(I) a Registration and Title System (RTS) inquiry;

(II) a copy of the department application for disabled person license plates; or

(III) the owner's current registration receipt.

(ii) An owner who sells or trades a vehicle with disabled person license plates must remove the plates from the vehicle.

(iii) The department will provide a form that persons may use to facilitate a transfer of disabled person license plates between vehicles.

(2) Disabled parking placards.

(A) Transfer between vehicles. Disabled parking placards may be displayed in any vehicle driven by the disabled person or in which the disabled person is a passenger.

(B) Transfer between persons. Disabled parking placards may not be transferred between persons.

(f) Seizure and revocation of disabled parking placard.

(1) If a law enforcement officer seizes and destroys a disabled parking placard under Transportation Code, §681.012, the officer shall notify the department by email.

(2) The person to whom the seized disabled parking placard was issued may apply for a new disabled parking placard by submitting an application to the county tax assessor-collector of the county in which the person with the disability resides or in which the applicant is seeking medical treatment.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: November 2, 2025
For further information, please call: (512) 465-5665

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SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §217.87

STATUTORY AUTHORITY. The department proposes new §217.87 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.098, as created by House Bill 5436, 89th Legislature, Regular Session (2025), which gives the department authority to prescribe the manner in which a used automotive parts recycler compiles the information required under Transportation Code, §501.098(b) on motor vehicles purchased without title for purposes of dismantling, scrapping or parting; the authority to prescribe the manner in which a used automotive parts recycler submits to the department any information necessary to satisfy

any applicable requirement for reporting information to the National Motor Vehicle Title Information System; the authority to inspect records under Transportation Code, §501.098(m); and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text.

CROSS REFERENCE TO STATUTE. The proposed new section would implement Transportation Code, Chapters 501 and 1002.

§217.87. Requirements for Certain Vehicles Acquired by a Used Automotive Parts Recycler Without a Title.

(a) Reporting requirements.

(1) A used automotive parts recycler (recycler), as defined in Occupations Code §2309.002, that purchases a motor vehicle without a title, in accordance with Transportation Code, §501.098(a), shall determine if the motor vehicle is reported stolen and if the motor vehicle is the subject of any recorded security interests or liens by completing and submitting the form described in subsection (b) of this section to the department within the time provided under Transportation Code, §501.098(c) and §501.098(g).

(2) A recycler must separately report the information specified under Transportation Code, §501.098(c) to the National Motor Vehicle Title Information System.

(b) Information on form. A recycler shall submit a form containing the following information:

(1) name, mailing address, email address and phone number of the recycler;

(2) the vehicle identification number for the motor vehicle;

(3) the date the motor vehicle was obtained;

(4) the name of the individual or entity from whom the motor vehicle was obtained;

(5) A statement that the vehicle:

(A) is at least 13 years old,

(B) is purchased solely for parts, dismantling, or scrap, and

(C) has not been registered for at least seven years; and

(6) the signature of the recycler or the recycler's authorized agent.

(c) Submittal of form. The form shall be submitted to the department in person at one of the department's regional offices.

(d) Department response.

(1) Upon receipt of a completed and signed form under subsection (b) of this section, the department shall:

(A) notify the recycler, in person or via the email address specified on the form, within the time specified under Transportation Code, §501.098(d), whether the motor vehicle has been reported stolen; and

(B) notify the recycler, in person or via the email address specified on the form, whether the motor vehicle is the subject of a recorded security interest or lien in the department's Registration and Title System. If the vehicle has a recorded lien or security interest, the recycler may obtain the contact information of the holder of that recorded lien or security interest from the department by submitting a request in accordance with §217.123 of this title (relating to Access to Motor Vehicle Records).

(2) If the motor vehicle has a motor vehicle record in the department's Registration and Title System, the department shall:

(A) add a notation to the motor vehicle record that the motor vehicle has been dismantled, scrapped, or destroyed; and

(B) cancel the title issued by the department for the motor vehicle.

(e) Vehicles retrieved from recycler. The department shall reinstate the title and remove the notation in the department's records specified under subsection (d)(2) of this section and Transportation Code, §501.098(f)(1) at the request of a lienholder or last registered owner of a vehicle that is retrieved from a recycler under Transportation Code, §501.098(j). The request must include:

(1) a receipt from the recycler transferring the vehicle to the lienholder or last registered owner that includes the vehicle identification number, year and make; and

(2) valid proof of identification as provided in §217.7 of this title (relating to Replacement of Title).

(f) Records.

(1) A recycler shall collect and record the information specified in Transportation Code, §501.098(b)(1)-(9) on a form available on the department's website and maintain that form with the identification documents under Transportation Code, §501.098(b)(10) and the department's response under subsection (d) of this section.

(2) The records may be maintained in an electronic format.

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 September 19, 2025.

TRD-202503323
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-5665

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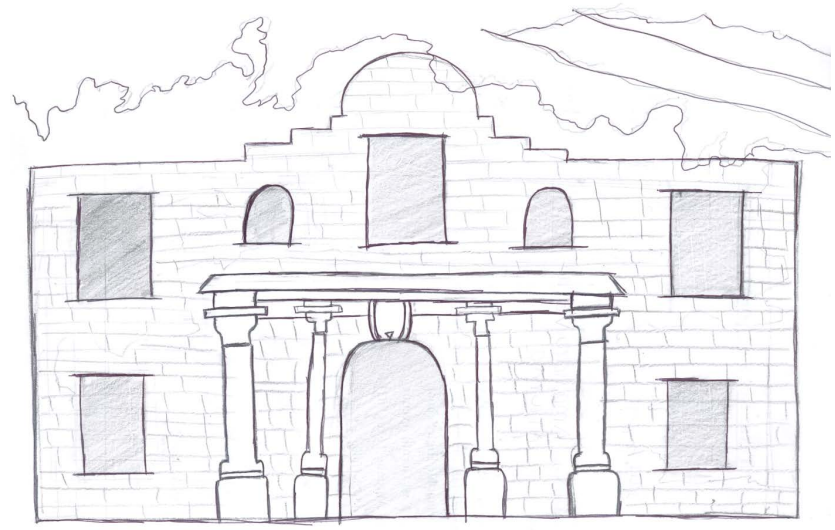

WITHDRAWN RULES

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 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE

SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT

43 TAC §§224.116, 224.121, 224.124

The Texas Department of Motor Vehicles withdraws the emergency adoption of new and amended §§224.116, 224.121, 224.124, which appeared in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4139).

Filed with the Office of the Secretary of State on September 19, 2025.

TRD-202503331
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: October 9, 2025
For further information, please call: (512) 465-5665

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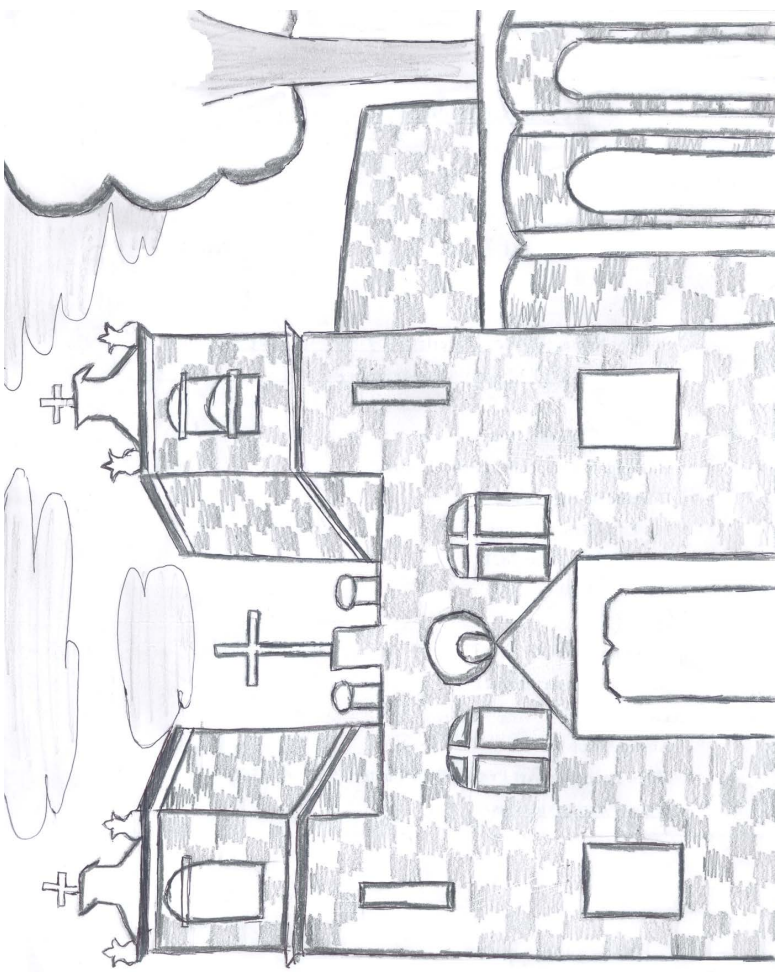

ADOPTED RULES

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 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 174. INDIGENT DEFENSE POLICIES AND STANDARDS

SUBCHAPTER B. CONTRACT DEFENDER PROGRAM REQUIREMENTS

DIVISION 2. APPLICATION OF STANDARDS AND CONTRACTING PROCEDURES

1 TAC §174.11

The Texas Indigent Defense Commission (TIDC) is a permanent Standing Committee of the Texas Judicial Council. TIDC adopts the amendment to §174.11, concerning Contract Defender Program Requirements. The amended section is adopted without changes to the proposed text as published in the July 18, 2025 issue of the *Texas Register* (50 TexReg 4079). The rule will not be republished.

EXPLANATION OF AMENDMENT

The adopted amendment to §174.11 requires the court or courts to specify the maximum annual appointed caseloads or workloads for contract defender programs of one week or less in the indigent defense plan. The amendment is adopted because the TIDC finds recurring short-term contracts, often called term assignment systems, to a small number of attorneys lead to an uneven distribution of appointments among available attorneys, as well as excessive caseloads. The adopted amendment is intended to reduce excessive attorney caseloads and lead to a fairer distribution of appointments.

The following comments were received regarding the adoption of the amendments.

Comment: The Deason Criminal Justice Reform Center at SMU's Dedman School of Law supported the proposed amendment. The Center further recommended TIDC go further than the proposed amendment and set uniform statewide maximum attorney caseloads based on the Texas Weighted Caseload Guidelines, rather than leaving limits to individual counties. The Center referred to the fact that TIDC already requires counties accepting certain TIDC grants to follow the caseload limits in the Texas Weighted Caseload Guidelines.

Response: TIDC notes the commenters support for the proposed amendment and also TIDC's intention to research the impact of establishing rules for caseload standards for all contract systems and other indigent defense systems.

Comment: The National Association for Public Defense (NAPD) supported the proposed amendment. NAPD further recommended TIDC to adopt the amendment with a specific cap of 128 felony cases per year, as used by the Harris County Public Defender's Office, to better protect clients' rights and ensure ethical representation.

Response: TIDC notes the commenters support for the proposed amendment and also TIDC's intention to research the impact of establishing rules for caseload standards for all contract systems and other indigent defense systems.

Comment: Stephen Hanlon commented that TIDC should go beyond the proposed amendment and instead adopt the National Public Defense Workload Standards to impose maximum workload standards statewide in all appointed cases with a multi-year phase in.

Response: TIDC intends to research the impact of establishing rules for caseload standards for all contract systems and other indigent defense systems.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §79.034(a-1)(8), which authorizes TIDC to develop policies and standards for providing legal representation to indigent defendants under a contract defender program.

No other statutes, articles, or codes are affected by the adopted amendment.

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 September 15, 2025.

TRD-202503263
Wesley Shackelford
Deputy Director
Texas Judicial Council
Effective date: October 5, 2025
Proposal publication date: July 18, 2025
For further information, please call: (737) 279-9208

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TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 307. PROCEEDINGS BEFORE THE COMMISSION

SUBCHAPTER C. PROCEEDINGS BY STEWARDS AND RACING JUDGES

16 TAC §307.67

The Texas Racing Commission (TXRC) adopts Texas Administrative Code, Title 16, Part 8, Chapter 307, Subchapter C, Proceedings by Stewards, and Racing Judges, §307.67. Appeal to the Commission. This rule is adopted with changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4156) and will be republished. The rule is being adopted with changes to fix a minor typographical error.

EXPLANATION AND JUSTIFICATION FOR THE AMENDMENT

The purpose of this rule amendment is to change the procedures, timeline and fine required by a licensee when appealing a ruling to the Commission.

PUBLIC COMMENTS

The 30-day comment period ended on August 24, 2025. TXRC drafted and distributed the proposed rule to persons both internal and external to the agency. The proposed rule was published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4157). During this period, the agency received no comments regarding this proposed rule change.

COMMISSION ACTION

At its meeting on September 10, 2025, the Commission adopted the proposed rule change as recommended by the Commission at the June 11, 2025 meeting and the Rules Committee meeting, held on March 27, 2025.

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

The Commission is exempt and not required to take further action under Texas Government Code §2001.0045. The Commission is specifically exempt under Texas Government Code §2001.0045(c)(7).

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §2025.001.

The statutory provisions affected by the adopted rule amendment are those set forth in Texas Occupations Code §2025.001.

§307.67. Appeal to the Commission.

(a) Right to Appeal. A person aggrieved by a ruling of the stewards may appeal to the Commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) Filing Procedure.

(1) An appeal must be in writing in a form prescribed by the executive director. An appeal from a ruling of the stewards must be filed not later than 5:00 p.m. of the third calendar day after the day the person is informed by the stewards of the ruling. An appeal from the modification of a penalty by the executive director must be filed not later than 5:00 p.m. of the fifth calendar day after the person is informed of the penalty modification. The appeal must be post marked by the fifth day after the person is informed of the penalty modification and mailed to: Texas Racing Commission, 1801 N. Congress Ave., Suite 7.600, Austin, Texas 78701.

(2) Record of Stewards' hearing. On notification by the executive director that an appeal has been filed, the stewards shall forward to the Commission the record of the proceeding being appealed. A person appealing a stewards' ruling may request a copy of the record of the hearing.

(c) Hearing Procedure. A hearing on an appeal from a ruling by the stewards is a contested case and shall be conducted by SOAH in accordance with the Rules regarding contested cases. In an appeal, the appellant has the burden to prove that the stewards' decision was clearly in error.

(d) Effect of Appeal on Fine Payment. If a person against whom a fine has been assessed appeals the ruling that assesses the fine, the person shall pay the fine in accordance with the Rules. The executive director shall place the fine amount into the agency suspense account until such time that the appeal is final. If the appeal is disposed of in favor of the appellant, the executive director shall refund the amount of the fine.

(e) Effect of Appeal on Purse Payment. If a ruling that affects the outcome of a race is appealed, the portion of the purse that is involved in the appeal shall be withheld and not distributed. The stewards may distribute the portion of the purse that is not involved in or affected by the outcome of the appeal.

(f) Effect of Appeal on Horse Eligibility. If an appeal involves the official order of finish in a horse race, all horses finishing first or declared to be the winner by the stewards carry all penalties of eligibility until the winner is determined through the final resolution of the appeal.

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 September 18, 2025.

TRD-202503308
Amy F. Cook
Executive Director
Texas Racing Commission
Effective date: October 8, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 833-6699

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TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 363. EXAMINATION AND REGISTRATION

22 TAC §363.4

The Texas State Board of Plumbing Examiners (Board) adopts the amendment to 22 Texas Administrative Code (TAC), Chapter 363, §363.4 which qualifies a journeyman plumber to take the examination for a master plumber's license with two years of journeyman work experience.

The rule is adopted without changes to the proposed text published in the July 11th, 2025, issue of the *Texas Register* (50 TexReg 3985.) The rule will not be republished.

REASONED JUSTIFICATION FOR THE RULE

The Texas Occupations Code, Chapter 1301 (Plumbing License Law or PLL) was amended by House Bill 3214 (H.B. 3214), 89th Texas Legislature, Regular Session, 2025. The proposed rule implements a statutory change made by H.B. 3214.

H.B. 3214 amended the Plumbing License Law to reduce the minimum required work experience as a journeyman plumber to qualify for a master plumber license. Under this bill, a journeyman plumber may qualify to take the examination for a master plumber's license with two years of journeyman work experience. The bill addressed a shortage of skilled plumbers in Texas by streamlining the path to becoming a master plumber, allowing capable professionals to advance more quickly and meet growing demand in the plumbing industry.

SECTION-BY-SECTION SUMMARY

The proposed rule amends the existing rule by reducing the years of experience a journeyman plumber must hold a license to qualify to take the master plumber's licensing exam from four years to two years.

SUMMARY OF COMMENT

No comment was received on the published rule amendment.

STATUTORY AUTHORITY

The rule is adopted under the authority of House Bill 3214 (H.B. 3214), 89th Texas Legislature, Regular Session, 2025 which amended the Plumbing License Law to reduce the minimum required work experience as a journeyman plumber from four years to two years in order to qualify for a master plumber license, and §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce the Plumbing License Law.

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 September 22, 2025.

TRD-202503391
Patricia Latombe
General Counsel
Texas State Board of Plumbing Examiners
Effective date: October 12, 2025
Proposal publication date: July 11, 2025
For further information, please call: (512) 936-5216

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PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 511. ELIGIBILITY

SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

22 TAC §511.51

The Texas State Board of Public Accountancy adopts an amendment to §511.51 concerning Educational Definitions, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4175) and will be republished.

Some schools use the term "upper level accounting or business courses" and others use the term "upper division accounting or business courses". This amendment makes it clear that both are accepted as having the same meaning in the Board's rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.51. Educational Definitions.

(a) The following words and terms extracted from rules promulgated by the Texas Higher Education Coordinating Board, shall have the following meanings for this chapter, unless the context clearly indicates otherwise.

(1) "Accelerated courses" means courses delivered in shortened semesters which are expected to have the same number of contact hours and the same requirement for out-of-class learning as courses taught in a normal semester.

(2) "Contact hour" means a time unit of instruction used by institutions of higher education consisting of 60 minutes, of which 50 minutes must be direct instruction.

(3) "Non-traditionally-delivered course" means a course that is offered in a non-traditional way and does not meet the definition of contact hours.

(4) "Semester" means and normally shall include 15 weeks for instruction and one week for final examination or a total of 16 weeks instruction and examination combined.

(5) "Semester credit hour" means a unit of measure of instruction consisting of 60 minutes, of which 50 minutes must be direct instruction, over a 15-week period in a semester system or a 10-week period in a quarter system.

(6) "Traditionally-delivered three semester-credit-hour course" or "traditional course" means a course containing 15 weeks of instruction (45 contact hours) plus a week for final examinations so that such a course contains 45-48 contact hours depending on whether there is a final exam.

(b) The following words and terms shall have the following meanings.

(1) "Recognized community college" means a Texas community college or campus of the community college that holds the designation 'Qualifying Educational Credit for the CPA Examination' awarded by the board.

(2) "Extension and correspondence school" means a program within an institution that offers courses that are not equivalent to courses offered in an academic department at the institution and the courses are not listed on an official transcript from the institution.

(3) "Institution" or "Institution of Higher Education" means any U.S. public or private senior college or university which confers a baccalaureate or higher degree to its students completing a program of study required for the degree.

(4) "Independent study" means academic work selected or designed by the student with the pre-approval of the appropriate depart-

ment or a college or university under faculty supervision. This work typically occurs outside of the regular classroom structure.

(5) "Internship" means faculty pre-approved and appropriately supervised short-term work experience, usually related to a student's major field of study, for which the student earns academic credit.

(6) "Proprietary organization" means a CPA review course provider.

(7) "Quarter credit hour" is the unit of measurement based upon an institution of higher education system that divides the academic year into three equal sessions of 10 to 11 weeks. A quarter credit hour represents proportionately less work than a semester hour because of the shorter session and is counted as 2/3 of a semester credit hour for each hour of credit.

(8) "Reporting institution" means the institution of higher education in the state that serves as the clearinghouse for educational institutions of higher education in Texas. Currently, the University of Texas-Austin is the reporting institution for the state of Texas.

(9) "SACS" means the Southern Association of Colleges and Schools-Commission on Colleges.

(10) "THECB" means the Texas Higher Education Coordinating Board.

(11) "Transcript," "Official Transcript" or "Official Educational Document" means a document prepared by an institution that contains a record of the academic coursework offered by an academic department that a student has taken, grades and credits earned, and degrees awarded. The document is printed on paper bearing a watermark specific to the institution and is embossed with the institution's seal, date and the signature of the Registrar who is responsible for certifying coursework and degrees. The document may be provided electronically from the institution or its authorized agent.

(12) "UCPAE" means the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants.

(13) "Upper Division Accounting Course" or "Upper Level Accounting Course" means at a minimum junior and senior year course work that requires the successful completion of introductory or basic course work before it can be taken.

(14) "Upper Division Business Course" or "Upper Level Business Course" means at a minimum junior and senior year course work that requires the successful completion of introductory or basic course work before it can be taken.

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 September 19, 2025.

TRD-202503364
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 305-7842

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22 TAC §511.52

The Texas State Board of Public Accountancy adopts an amendment to §511.52 concerning Recognized Institutions of Higher Education, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4177). The rule will not be republished.

The amendment is a grammatical change.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on September 19, 2025.

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J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 305-7842

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22 TAC §511.53

The Texas State Board of Public Accountancy adopts an amendment to §511.53 concerning Evaluation of International Education Documents, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4178) and will be republished.

The amendment relocates Board Rule §511.59 to Rule §511.56 for a better fit, eliminates Board Rule §511.60 which is outdated and no longer effective, and revises Board Rule §511.59 to provide for the 120-semester credit hour path-way to certification.

As a result of comments received eliminating 511.60 and the revision to 511.59 the title was required to be corrected.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.53. Evaluation of International Education Documents.

(a) It is the responsibility of the board to confirm that education obtained at colleges and universities outside of the United States (international education) is equivalent to education earned at board-recognized institutions of higher education in the U.S.

(b) The board shall use, at the expense of the applicant, the services of the University of Texas at Austin, Graduate and International Admissions Center, to validate, review, and evaluate international education documents submitted by an applicant to determine if the courses taken and degrees earned are substantially equivalent to those offered by the board-recognized institutions of higher education

located in the U.S. The evaluation shall provide the following information to the board:

(1) Degrees earned by the applicant that are substantially equivalent to those conferred by a board-recognized institution of higher education in the U.S. that meets §511.52 of this chapter (relating to Recognized Institutions of Higher Education);

(2) The total number of semester hours or quarter hour equivalents earned that are substantially equivalent to those earned at U.S. institutions of higher education;

(3) The total number of semester hours or quarter hour equivalents earned in accounting coursework that meets §511.57 of this chapter (relating to Courses in an Accounting Concentration to take the UCPAE;

(4) An analysis of the title and content of courses taken that are substantially equivalent to courses listed in §511.57 of this chapter; and

(5) The total number of semester hours or quarter hour equivalents earned in business coursework that meets §511.58 of this chapter (relating to Related Business Subjects).

(c) The University of Texas at Austin, Graduate and International Admissions Center, may use the American Association of Collegiate Registrars and Admissions Officers (AACRAO) material, including the Electronic Database for Global Education (EDGE), in evaluating international education documents.

(d) Other evaluation or credentialing services of international education are not accepted by the board.

(e) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(1) American College Education (ACE);

(2) Prior Learning Assessment (PLA);

(3) Defense Activity for Non-Traditional Education Support (DANTES);

(4) Defense Subject Standardized Test (DSST); and

(5) StraighterLine.

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 September 19, 2025.

TRD-202503366
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 305-7842

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22 TAC §511.54

The Texas State Board of Public Accountancy adopts an amendment to §511.54 concerning Recognized Texas Community Colleges, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4180) and will be republished.

The amendment eliminates the no longer effective Board Rule §511.60, incorporates the statutory language "Courses in an Accounting Concentration to take the UCPAE" for certification, and incorporates the three semester hour ethics course offered at community colleges for individuals studying to become certified through the 120-hour pathway.

These changes were made in response to comments which required clarification of the standards affected.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.54. Recognized Texas Community Colleges.

(a) An applicant who has completed a baccalaureate or higher degree from a board recognized institution of higher education based on the requirements of §511.52 of this chapter (relating to Recognized Institutions of Higher Education), may enter into a course of study at a board recognized Texas community college to complete the educational requirements of §§511.57, and 511.58 of this chapter (relating to Courses in an Accounting Concentration to take the UCPAE, and Related Business Subjects).

(b) The board recognizes and accepts Texas community colleges that meet board standards for a comprehensive academic program based on the educational requirements of §§511.57, and 511.58 of this chapter.

(c) Effective August 1, 2015, the standards include at a minimum all, but are not limited to, the following:

(1) The Texas community college must be accredited by SACS.

(2) Academic accounting and business courses recognized as meeting §§511.57, and 511.58 of this chapter are deemed by the board as equivalent to upper level coursework at an institution of higher education and must contain a rigorous curriculum that is similar to courses offered in a baccalaureate degree program at a university. Accounting, business, and ethics courses must be developed by a group of full time accounting faculty members and approved by the board prior to offering to students. Modifications to an approved course must be reconsidered by the board prior to offering to students.

(3) Academic courses meeting §§511.57, and 511.58 of this chapter must be taken after completing a baccalaureate degree.

(4) The Texas community college must offer at least:

(A) 30 semester hours of academic accounting courses meeting §511.57 of this chapter; and

(B) 24 semester hours of academic business courses meeting §511.58 of this chapter.

(5) The Texas community college designates an accounting faculty member(s) who is responsible for:

(A) managing the comprehensive academic program at all campuses;

(B) selecting and training qualified faculty members to teach the program courses and regularly evaluating their effectiveness in the classroom;

(C) establishing and maintaining a rigorous program curriculum;

(D) establishing and maintaining a process for advising and guiding students through the program; and

(E) providing annual updates to the board on the status of the academic program.

(6) Faculty members at a community college recognized and accepted by the board must have the following credentials to teach academic courses meeting §§511.57, and 511.58 of this chapter:

(A) Doctorate or master's degree in the teaching discipline; or

(B) Master's degree with a concentration in the teaching discipline (a minimum of 18 graduate semester hours in the teaching discipline).

(7) At least three-fourths of the faculty members who are responsible to teach academic courses meeting §511.57 of this chapter must hold a current CPA license.

(8) Faculty members will comply with the established educational definitions in §511.51 of this chapter (relating to Educational Definitions).

(9) The Texas community college will provide ongoing professional development for its faculty as teachers, scholars, and CPA practitioners.

(10) The Texas community college will make available to students a resource library containing current online authoritative literature to support the academic courses meeting §§511.57, and 511.58 of this chapter, and will incorporate the online authoritative literature in accounting courses.

(d) A community college recognized and accepted by the board under this provision must be reconsidered by the board on the fifth-year anniversary of the approval. Information brought to the attention of the board by a student or faculty member of the Texas community college that indicates non-compliance with the standards may cause the board to accelerate reconsideration.

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 September 19, 2025.

TRD-202503367
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 305-7842

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22 TAC §511.56

The Texas State Board of Public Accountancy adopts an amendment to §511.56 concerning Educational Qualifications under the Act to take the UCPAE, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4181) and will be republished.

The amendment publishes the criteria for certification through July 31, 2026 and the criteria for the additional pathway created in the Public Accountancy Act effective August 1, 2026.

Comments were received regarding a better understanding of the standards. The revisions clarify the requirements of certification with a bachelor's degree.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.56. Educational Qualifications under the Act to take the UCPAE.

(a) An applicant for the UCPAE under the current Act shall meet the following educational requirements in order to qualify to take the examination:

(1) hold a baccalaureate or graduate degree conferred by an institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) recognized by the board; and

(2) complete at least 120 semester hours or quarter-hour equivalents of courses consisting of:

(A) effective through July 31, 2026, at least 21 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Courses in an Accounting Concentration to take the UCPAE);

(B) effective August 1, 2026, at least 24 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter; and

(C) at least 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Related Business Subjects).

(b) An individual holding a baccalaureate degree conferred by a board-recognized institution of higher education, as defined by §511.52 of this chapter, and who has not completed the requirements of this section shall meet the requirements by taking coursework in one of the following ways:

(1) complete upper level or graduate courses at a board-recognized institution of higher education as defined in §511.52 of this chapter that meets the requirements of subsection (a)(2)(A) and (B) of this section; or

(2) enroll in a board-recognized community college as defined in §511.54 of this chapter (relating to Recognized Texas Community Colleges) and complete board approved accounting or business courses that meet the requirements of subsection (a)(2)(A) and (B) of this section. Only specified accounting and business courses that are approved by the board will be accepted as not all courses offered at a community college are accepted.

(c) The following courses, courses of study, certificates, and programs may not be used to meet the 120-semester hour requirement:

(1) remedial or developmental courses offered at an institution of higher education; and

(2) credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(A) American College Education (ACE);

(B) Prior Learning Assessment (PLA);

(C) Defense Activity for Non-Traditional Education Support (DANTES);

(D) Defense Subject Standardized Test (DSST); and

(E) StraighterLine.

(d) The hours from a course that has been repeated will be counted only once toward the requirements of subsection (a)(2) of this section.

(e) An applicant for the UCPAE who met the educational requirements of §511.57 and §511.58 of this chapter that were in effect at the time of examination shall continue to be examined under those requirements unless the applicant elects to meet the current education requirements of the rules, in effect on August 1, 2026.

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 September 19, 2025.

TRD-202503368
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 305-7842

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22 TAC §511.57

The Texas State Board of Public Accountancy adopts an amendment to §511.57 concerning Qualified Accounting Courses to take the UCPAE, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4183) and will be republished.

The amendment eliminates the no longer effective Board Rule §511.60 and incorporates the dates for existing criteria for certification and the added criteria for the new pathway toward certification. It also makes it clear that the effective date for certification with a baccalaureate degree is effective beginning after July 31, 2026.

A comment was received questioning the requirement of 21 hours to sit for the exam. The proposed revision makes it clear that there must be at least 21 hours to sit for the exam and that an individual that had initially applied to sit for the exam at 150 hours could sit.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.57. Courses in an Accounting Concentration to Take the UCPAE.

(a) Effective through July 31, 2026, an applicant shall meet the board's accounting course requirements in one of the following ways:

(1) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) and present official transcript(s) from board-recognized institution(s) that show degree credit for at least 21 semester credit hours of upper division accounting courses as defined in subsections (d) and (e) of this section; or

(2) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this chapter, and after obtaining the degree, complete the requisite 21 semester credit hours of upper division accounting courses, as defined in subsections (d) and (e) of this section, from four-year degree granting institutions, or accredited community colleges, provided that all such institutions are recognized by the board as defined by §511.52 or §511.54 of this chapter (relating to Recognized Texas Community Colleges).

(b) Credit for hours taken at board-recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester credit hour for each hour of credit received under the quarter system.

(c) The board will accept at least 21 semester credit hours of accounting courses from the courses listed in subsections (d) and (e) of this section. The hours from a course that has been repeated will be counted only once toward the required 21 semester hours. The courses must meet the board's standards by containing sufficient accounting knowledge and application to be useful to candidates taking the UCPAE. A board-recognized institution of higher education must have accepted the courses for purposes of obtaining a baccalaureate or higher degree or its equivalent, and they must be shown on an official transcript.

(d) The subject-matter content should be derived from the UCPAE Blueprint. A minimum of 12 semester hours with at least three semester hours in each of the following accounting course content areas is required:

(1) financial accounting and reporting for business organizations or intermediate accounting;

(2) financial statement auditing;

(3) taxation; and

(4) accounting information systems or accounting data analytics.

(e) A minimum of 9 hours in any of the following accounting course content areas is required:

(1) up to 6 semester credit hours of additional financial accounting and reporting for business organizations or intermediate accounting;

(2) advanced accounting;

(3) accounting theory;

(4) managerial or cost accounting (excluding introductory level courses);

(5) auditing and attestation services;

(6) internal accounting control and risk assessment;

(7) financial statement analysis;

(8) accounting research and analysis;

(9) up to 9 semester credit hours of taxation (including tax research and analysis);

(10) financial accounting and reporting for governmental and/or other nonprofit entities;

(11) up to 9 semester credit hours of accounting information systems, including management information systems ("MIS"), provided the MIS courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting;

(12) up to 9 semester credit hours of accounting data analytics, provided the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting; business data analytics may be considered provided the courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting; (while data analytics tools may be taught in the courses, application of the tools should be the primary objective of the courses);

(13) fraud examination;

(14) international accounting and financial reporting;

(15) mergers and acquisitions;

(16) financial planning;

(17) at its discretion, the board may accept up to three semester hours of credit of accounting course work with substantial merit in the context of a career in public accounting, provided the course work is predominantly accounting or auditing in nature but not included in paragraphs (1) - (16) of this subsection. For any course submitted under this provision, the Accounting Faculty Head or Chair must affirm to the board in writing the course's merit and content; and

(18) at its discretion, the board may accept up to three semester credit hours of independent study in accounting selected or designed by the student under faculty supervision. The curriculum for the course shall not repeat the curriculum of another accounting course that the student has completed.

(f) The following types of introductory courses do not meet the accounting course definition in subsections (d) and (e) of this section:

(1) elementary accounting;

(2) principles of accounting;

(3) financial and managerial accounting;

(4) introductory accounting courses; and

(5) accounting software courses.

(g) Any CPA review course offered by an institution of higher education or a proprietary organization shall not be used to meet the accounting course definition.

(h) CPE courses shall not be used to meet the accounting course definition.

(i) An ethics course required in §511.58(c) of this chapter (relating to Related Business Subjects) shall not be used to meet the accounting course definition in subsections (d) and (e) of this section.

(j) Accounting courses completed through an extension school of a board recognized educational institution may be accepted by the board provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

(k) The board may review the content of accounting courses and determine if they meet the requirements of this section.

(l) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(1) American College Education (ACE);

(2) Prior Learning Assessment (PLA);

(3) Defense Activity for Non-Traditional Education Support (DANTES);

(4) Defense Subject Standardized Test (DSST); and

(5) Straighterline.

(m) Effective August 1, 2026, to take the UCPAE, a minimum of 12 semester hours of upper level accounting courses, with at least three semester hours from each of subparagraphs (1) through (4) of this subsection, must be completed at a board-recognized institution of higher education and shown on an official transcript from the institution:

(1) financial accounting and reporting for business organizations or intermediate accounting;

(2) financial statement auditing;

(3) taxation; and

(4) accounting information systems or accounting data analytics.

(n) In addition to subsection (m) of this section, a minimum of 12 hours in any of the following upper level accounting course content areas must be completed at a board-recognized institution of higher education and shown on an official transcript from the institution, provided the course was not used to meet subsection (m) of this section:

(1) financial accounting and reporting for business organizations or intermediate accounting;

(2) advanced accounting;

(3) accounting theory;

(4) managerial or cost accounting (excluding introductory level courses);

(5) auditing and attestation services;

(6) internal accounting control and risk assessment;

(7) financial statement analysis;

(8) accounting research and analysis;

(9) taxation (including tax research and analysis);

(10) financial accounting and reporting for governmental and/or other nonprofit entities;

(11) accounting information systems, including management information systems ("MIS"), provided the MIS courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting;

(12) accounting data analytics;

(13) fraud examination;

(14) international accounting and financial reporting;

(15) mergers and acquisitions;

(16) financial planning; and

(17) up to three semester credit hours of independent study in accounting selected or designed by the student under faculty supervision. The curriculum for the course shall not repeat the curriculum of another accounting course that the student has completed.

(o) The board may review the content of accounting courses to determine if they meet the requirements of subsections (m) and (n) of this section, and to determine if courses contain sufficient accounting knowledge and application to be useful to candidates taking the UCPAE.

(p) A course that was repeated will be counted only once to meet the requirements of subsections (m) and (n) of this section.

(q) Credit for hours taken at board-recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester credit hour for each hour of credit received under the quarter system.

(r) The board may accept up to three semester hours of credit of accounting course if:

(1) the course work has substantial merit in the context of a career in public accounting;

(2) the course work is predominantly accounting or auditing in nature but not included in subsections (m) and (n) of this section; and

(3) the merit and content of the course submitted under this subsection is affirmed by the Accounting Faculty Head or Chair at the educational institution where the course was completed.

(s) The following types of courses do not meet the accounting course definition in subsections (m), (n) and (r) of this section:

(1) elementary accounting;

(2) principles of accounting;

(3) financial and managerial accounting;

(4) introductory accounting courses;

(5) accounting software courses;

(6) any CPA review course offered by an institution of higher education or a proprietary organization;

(7) CPE courses; and

(8) an ethics course required in §511.58 of this chapter.

(t) Accounting courses completed through an extension school of a board-recognized educational institution may be accepted by the board provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

(u) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(1) American College Education (ACE);

(2) Prior Learning Assessment (PLA);

(3) Defense Activity for Non-Traditional Education Support (DANTES);

(4) Defense Subject Standardized Test (DSST); and

(5) Straighterline.

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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J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
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For further information, please call: (512) 305-7842

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22 TAC §511.58

The Texas State Board of Public Accountancy adopts an amendment to §511.58 concerning Definitions of Related Business Subjects to take the UCPAE, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4186) and will be republished.

The amendment changes the rule to require at least 21 hours of upper level courses to sit for the UCPAE with no more than six credit hours in any of the listed subjects and a course that is repeated may only be counted as once toward the 21-hour requirement.

Two comments were received supporting the proposed revision.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.58. Related Business Subjects.

(a) Related business courses are those business courses that a board recognized institution of higher education accepts for a business baccalaureate or higher degree by that educational institution.

(b) The board will accept a minimum of 21 credit hours of upper level courses (for the purposes of this subsection, economics and statistics at any college level will count as upper level courses) as related business subjects, taken at a recognized educational institution shown on official transcripts or accepted by a recognized educational institution for purposes of obtaining a baccalaureate degree or its equivalent, in the following areas.

(1) business law, including study of the Uniform Commercial Code;

(2) economics;

(3) management;

(4) marketing;

(5) business communications;

(6) statistics and quantitative methods;

(7) information systems or technology;

(8) finance and financial planning;

(9) data analytics, data interrogation techniques, cyber security and/or digital acumen in the accounting context;

(10) no more than 6 credit semester hours of upper level business or accounting internship taken at a Board recognized educational institution of higher education; and

(11) other areas related to accounting.

(c) The Board requires a three semester hour accounting or business ethics course that includes a framework of ethical reasoning, including the core values of integrity, objectivity, and independence, professional values, and attitudes for exercising professional skepticism and other behavior in the best interest of the public and profession and shall include the ethics rules of the AICPA and the SEC. The course may be taken to meet the education requirements of §511.56 of this chapter (related to Educational Qualifications under the Act to take the UCPAE); or the certification requirements of §511.59 of this chapter (related to Qualifications for Issuance of a Certificate with not Fewer than 120 Semester Hours); or §511.164 of this chapter (related to Qualifications for Issuance of a Certificate with not Fewer than 150 Semester Hours).

(d) The board may review the content of business courses and determine if they meet the requirements of this section.

(e) Credit for hours taken at recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester hour for each hour of credit received under the quarter system.

(f) A course that was repeated will be counted only once to meet the requirements of this section.

(g) Related business courses completed through and offered by an extension school, correspondence school, or continuing education program of a board recognized educational institution may be accepted by the board, provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

(h) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(1) American College Education (ACE);

(2) Prior Learning Assessment (PLA);

(3) Defense Activity for Non-Traditional Education Support (DANTES);

(4) Defense Subject Standardized Test (DSST); and

(5) StraighterLine.

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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J. Randel (Jerry) Hill
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22 TAC §511.59

The Texas State Board of Public Accountancy adopts an amendment to §511.59 concerning Definitions of 120 Semester Hours to take the UCPAE, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4187) and will be republished.

The amendment establishes the criteria for certification with the 120-hour pathway effective August 1, 2026. It requires 27 upper level hours of accounting courses and a three-semester hour board-approved standalone course in accounting or business ethics taken at a board-recognized educational institution.

One comment recommended the addition of the 3-hour ethics requirement to become licensed. The proposed rule does not propose an additional 3-hour ethics course as proposed.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.59. Qualifications for Issuance of a Certificate with not Fewer than 120 Semester Hours.

(a) Effective August 1, 2026, an applicant who meets the education requirements of §§511.56, 511.57 and 511.58 of this chapter (relating to Educational Qualifications under the Act to take the UCPAE, Courses in an Accounting Concentration to take the UCPAE, and Related Business Subjects), may elect to qualify for CPA certification by completing the requirements in subsections (b) and (c) of this section.

(b) An applicant for CPA certification under this section shall complete upper level accounting courses as defined by §511.57 of this chapter equal to or in excess of 27 semester hours or quarter-hour equivalents of upper level accounting courses.

(c) The work experience shall be at least two years of full time, non-routine accounting experience as defined by §511.122 and §511.123 of this chapter (relating to Acceptable Work Experience and Reporting Work Experience) and supervised by a CPA as defined by §511.124 of this chapter (relating to Acceptable Supervision).

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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22 TAC §511.60

The Texas State Board of Public Accountancy adopts a repeal to §511.60 concerning Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4189) and will not be republished.

The repeal deletes Board Rule §511.60 which automatically expired by board rule on January 1, 2024.

No comments were received regarding adoption of the amendment.

The repeal is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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SUBCHAPTER H. CERTIFICATION

22 TAC §511.164

The Texas State Board of Public Accountancy adopts an amendment to §511.164 concerning Definition of 150 Semester Hours to Qualify for Issuance of a Certificate, with changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4190). The rule will be republished.

These revisions clarify the criteria for certification with 150 approved semester hours and the criteria effective beginning August 1, 2026.

A comment was received that did not support the addition of a three-hour ethics course. The board has clarified that the rule does not require an additional 3-hour ethics course.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

§511.164. Qualification for Issuance of a Certificate with not Fewer than 150 Semester Hours.

(a) To qualify for the issuance of a CPA certificate, an applicant must hold at a minimum a baccalaureate degree, conferred by a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education), and have completed the board-recognized coursework identified in paragraphs (1), or (2), and (3) - (5) this section:

(1) effective through July 31, 2026, at least 27 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Courses in an Accounting Concentration to take the UCPAE) to include a minimum of two semester credit hours in research and analysis;

(2) effective August 1, 2026, at least 30 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter;

(3) no fewer than 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Related Business Subjects);

(4) although not required to meet subsection (a)(5) of this section, the board may accept not more than six hours or quarter hour equivalents of CPA review coursework completed at a board-recognized institution of higher education; and

(5) academic coursework at an institution of higher education as defined by §511.52 of this chapter, when combined with paragraphs (1) - (4) of this subsection meets or exceeds 150 semester hours. An applicant who has met paragraphs (1) - (3) of this subsection may use a maximum of 9 total semester credit hours of undergraduate or graduate independent study and/or internships as defined in §511.51(b)(4) or §511.51(b)(5) of this chapter (relating to Educational Definitions) to meet this paragraph. The courses shall consist of:

(A) a maximum of three semester credit hours of independent study courses; and

(B) a maximum of six semester credit hours of accounting/business course internships including the coursework used to meet §511.58 of this chapter (relating to Related Business Subjects).

(b) The following courses, courses of study, certificates, and programs may not be used to meet the 150 semester hour requirement:

(1) remedial or developmental courses offered at an educational institution; and

(2) credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirement of this chapter:

(A) American College Education (ACE);

(B) Prior Learning Assessment (PLA);

(C) Defense Activity for Non-Traditional Education Support (DANTES);

(D) Defense Subject Standardized Test (DSST); and

(E) StraighterLine.

(c) The hours from a course that has been repeated will be counted only once toward the required semester hours.

(d) The work experience shall be at least one year of full time non-routine accounting experience as defined by §511.122 and §511.123 of this chapter (relating to Acceptable Work Experience and Reporting Work Experience) and supervised by a CPA as defined by §511.124 of this chapter (relating to Acceptable Supervision).

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

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For further information, please call: (512) 305-7842

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CHAPTER 512. CERTIFICATION BY RECIPROCITY

22 TAC §512.1

The Texas State Board of Public Accountancy adopts an amendment to §512.1 concerning Certification as a Certified Public Accountant by Reciprocity, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4191) and will not be republished.

The National Qualifications Appraisal Services (NQAS) of NASBA has had the responsibility to determine if another jurisdiction has substantially equivalent licensing requirements as Texas. That responsibility has been removed from the Texas Public Accountancy Act during the recent legislative session by SB 522. The revisions to §512.1 reflect that legislative revision.

No comments were received on 512.1.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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22 TAC §512.2

The Texas State Board of Public Accountancy adopts a repeal to §512.2 concerning NASBA Verified Substantially Equivalent Jurisdictions, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4193) and will not be republished.

The Board is adopting the language in §512.2 that addresses the role of the National Qualifications Appraisal Services to be repealed since that responsibility has been removed by the Texas Legislature.

No comments were received regarding repeal of the amendment.

The repeal is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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22 TAC §512.4

The Texas State Board of Public Accountancy adopts an amendment to §512.4 concerning Application for Certification by Reciprocity, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4194) and will not be republished.

With the removal of the responsibility of determining the substantial equivalency of out of state regulatory programs from the National Qualifications Appraisal Services, language is being removed from §512.4 to reflect that legislative directive.

One comment was received that supported the proposed revision to §512.4.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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CHAPTER 513. REGISTRATION

SUBCHAPTER B. REGISTRATION OF CPA FIRMS

22 TAC §513.11

The Texas State Board of Public Accountancy adopts an amendment to §513.11 concerning Qualifications for Non-CPA Owners of Firm License Holders, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4195). The rule will not be republished.

The Board is amending §513.11 to make it clear that a non-CPA firm owner must be a Texas resident. This is a statutory requirement.

One comment was received regarding language in the preamble that stated a non-CPA firm owner must be a Texas Resident. The preamble was revised to correct that statement.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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CHAPTER 515. LICENSES

22 TAC §515.8

The Texas State Board of Public Accountancy adopts an amendment to §515.8 concerning Retired or Disability Status, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4197) and will not be republished.

A licensee taking retired status may not be associated with the practice of public accountancy. The adopted rule makes it clear, however, that a retired CPA may verify the work experience requirement of a candidate to become a CPA if the experience was received when the retired CPA was not retired.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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CHAPTER 517. PRACTICE BY CERTAIN OUT OF STATE FIRMS AND INDIVIDUALS

22 TAC §517.2

The Texas State Board of Public Accountancy adopts an amendment to §517.2 concerning Practice by Certain Out of State Individuals, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4198). The rule will not be republished.

The Board Amends the rule to:

1. delete the reference to the National Qualifications Appraisal Services, which language the legislature removed from the Act;

2. clarify that the Board will allow licensees to practice in Texas without a reciprocal license, in order to provide for "mobility", so long as the state they are licensed in has substantially the same licensing requirements as Texas;

3. reflect that if an out of state licensee held the substantially equivalent out of state license on December 31, 2024, the licensee would be permitted to practice under mobility without a reciprocal license. This protects those licensed out of state on that date, if the state they were originally licensed in, is subsequently determined to not have substantially equivalent licensing requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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CHAPTER 523. CONTINUING PROFESSIONAL EDUCATION
SUBCHAPTER B. CONTINUING PROFESSIONAL EDUCATION RULES FOR INDIVIDUALS

22 TAC §523.112

The Texas State Board of Public Accountancy adopts an amendment to §523.112 concerning Required CPE Participation, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4200) and will not be republished.

The Board revises Board §523.112 to clarify that an applicant for reinstatement must have at least 120 hours of CPE within the last 36 months from the date of the application for reinstatement with 20 of those continuing professional education (CPE) hours having been completed within the 12 months preceding the application for reinstatement.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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22 TAC §523.113

The Texas State Board of Public Accountancy adopts an amendment to §523.113 concerning Exemptions from CPE, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4201) and will not be republished.

The Board is amending §523.113 to clarify that a faculty member is not considered to be in the practice of public accountancy when the faculty member only provides instruction in accounting courses. The faculty member loses this exemption from continuing professional education (CPE) and licensing when holding out to be a CPA when providing his expertise as a CPA while not providing instruction in accounting outside of the educational course work setting.

One comment was received stating that faculty members institutions of higher education should not be exempted from CPE. The board is required to exempt faculty members of institutions of higher by Section 901.003 of the Texas Public Accountancy Act.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

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22 TAC §523.118

The Texas State Board of Public Accountancy adopts an amendment to §523.118 concerning Limitations of Courses, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4203) and will not be republished.

The adopted rule revision limits the total number of hours a licensee may apply toward one certification program to 20 hours. (An example of a certification program is Certified Financial Planner). It also limits the total number of continuing professional education (CPE) credits from a certification program to no more than 50 per cent of the total CPE credits applied in a three-year reporting period.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 and §901.655 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on September 19, 2025.

TRD-202503382
J. Randel (Jerry) Hill
General Counsel
Texas State Board of Public Accountancy
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 305-7842

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES
SUBCHAPTER B. IMMUNIZATION REQUIREMENTS IN TEXAS ELEMENTARY AND SECONDARY SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION

25 TAC §97.62, §97.64

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts amendments to §97.62, concerning Exclusions from Compliance and §97.64, concerning Required Vaccinations and Exclusions for Students Enrolled in Health-related and Veterinary Courses in Institutions of Higher Education.

Section 97.62 is adopted with changes to the proposed text as published in the August 15, 2025, issue of the *Texas Register* (50 TexReg 5300). This rule will be republished.

Section 97.64 is adopted without changes to the proposed text as published in the August 15, 2025, issue of the *Texas Register* (50 TexReg 5300). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by House Bill (HB) 1586, 89th Legislature, Regular Session, which requires the department to develop a blank affidavit form to be used by a person claiming an exemption from a required immunization and make the affidavit form available on the DSHS website. DSHS has posted a blank affidavit form on the website for a person to download and submit to their child-care facility, school, or institution of higher education, including students enrolled in health-related and veterinary courses.

The amendments allow individuals to print these documents themselves (or request that DSHS send them a blank affidavit, which does not need to be printed on the security sealed paper).

To comply with HB 1586 implementation guidelines beginning with the 2025-2026 school year, a proposal was published in the July 4, 2025, issue of the *Texas Register* (50 TexReg 3854). DSHS withdrew that rule proposal to ensure the language from HB 1586 and related statutes were properly reflected in the Texas Administrative Code. The notice stating the withdrawal was published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4411). A revised proposal was published in the August 15, 2025, issue of the *Texas Register* (50 TexReg 5300). DSHS now adopts these amendments.

COMMENTS

The 14-day comment period ended August 29, 2025.

During this period, DSHS received comments from 96 commenters regarding the proposed rule amendments, including one from The Immunization Partnership (TIP), two from Texans for Vaccine Choice (TFVC), one from Ector County Health Department, one from Andrews County Health Department, two from Pfizer, one from American Samoa Government Department of Health, two from Cherokee County Public Health, one from District Nurse at Sabinal Independent School District (ISD), one from Elementary School Nurse at Cypress-Fairbanks ISD, one from ProAction/Immunize El Paso, one from Houston Health Department, and 82 from individuals. A summary of comments relating to §97.62 and §97.64 and DSHS's responses follows.

Comment: Concerning §97.62, 71 commenters requested DSHS to require parents and individuals aged 18 years and older to acknowledge viewing a clear and fact-based information web page about the risks of not vaccinating before they can download the exemption form.

Response: DSHS has reviewed the comments and has decided not to incorporate such an amendment at this time. DSHS provides a Benefits and Risks of Vaccination information sheet with the blank exemption affidavit form. Parents, legal guardians, or individuals aged 18 years and older sign the exemption affidavit stating they have read and understand the Benefits and Risks of Vaccination information sheet. No change was made as a result of this comment.

Comment: Concerning §97.62(2)(A), one commenter requested DSHS to require parents and individuals aged 18 years and older to acknowledge viewing a clear and fact-based information web page about the risks of not vaccinating before they can download the exemption form. The stakeholder requests DSHS limit the visibility of the exemption affidavit link and ensure the fact-based information page is included with the link. The stakeholder requests DSHS facilitates education and outreach to health-related and veterinary courses stakeholders.

Response: DSHS has reviewed the comment and has decided not to incorporate such an amendment at this time. DSHS provides a Benefits and Risks of Vaccination information sheet with the blank exemption affidavit form. Parents, legal guardians, or individuals aged 18 years and older sign the exemption affidavit stating they have read and understand the Benefits and Risks of Vaccination information sheet. No change was made as a result of this comment.

Comment: Concerning §97.62, one commenter believes childhood disease is putting the health of the country at risk.

Response: The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. No change was made as a result of this comment.

Comment: Concerning §97.62, one commenter requested DSHS to keep vaccine policies.

Response: The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. No change was made as a result of this comment.

Comment: Concerning §97.62, one commenter requested DSHS to require a more rigorous process.

Response: DSHS has reviewed the comment and has decided not to incorporate such an amendment at this time. DSHS provides a Benefits and Risks of Vaccination information sheet with the blank exemption affidavit form. Parents, legal guardians, or individuals aged 18 years and older sign the exemption affidavit stating they have read and understand the Benefits and Risks of

Vaccination information sheet. No change was made as a result of this comment.

Comment: Concerning §97.62, one commenter requested DSHS to require school vaccines.

Response: The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. No change was made as a result of this comment.

Comment: Concerning §97.62, one commenter stated parents are using the exemption form for convenience of missing one vaccine rather than conscience. The stakeholder requests DSHS to require parents and individuals aged 18 years and older to acknowledge viewing a clear and fact-based information web page about the risks of not vaccinating before they can download the exemption form.

Response: DSHS has reviewed the comment and has decided not to incorporate such an amendment at this time. The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. DSHS provides a Benefits and Risks of Vaccination information sheet with the blank exemption affidavit form. Parents, legal guardians, or individuals aged 18 years and older sign the exemption affidavit stating they have read and understand the Benefits and Risks of Vaccination information sheet. No change was made as a result of this comment.

Comment: Concerning §97.62, one commenter stated requiring a name and telephone number exceeds the requirement and legislative intent of HB 1586.

Response: DSHS has reviewed the comment and has amended language to clarify that required information only pertains to requests for a mailed form submitted via online, fax, mail, or hand-delivered. The amendments are necessary for DSHS to contact requestors who have issues with their address or if the mailed packet gets returned via USPS. DSHS removes the information once the request is processed.

Comment: Concerning §97.62, five commenters neither supported nor opposed the rules; however, they emphasized support for immunization policies.

Response: The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. No changes were made as a result of these comments.

Comment: Concerning §97.62, one commenter neither supported nor opposed the rules; however, they emphasized their support for school vaccination requirements and requested DSHS provide vaccine education.

Response: The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. No change was made as a result of this comment.

Comment: Concerning §97.62, eight commenters supported the new language.

Response: DSHS has reviewed the comment. No changes were made as a result of these comments.

Comment: Concerning House Bill 1586, two commenters requested DSHS reject HB 1586.

Response: The amendments are necessary to comply with Texas Health and Safety Code §161.0041, as amended by HB 1586, 89th Legislature, Regular Session. No changes were made as a result of these comments.

Comment: Concerning the proposed rules, one commenter submitted a statement that they were interested in submitting a comment.

Response: No response. No comment was received.

Comment: Concerning vaccinating kids, one commenter submitted a statement in the subject line "vaccinate kids."

Response: No response. No comment was received.

STATUTORY AUTHORITY

The amendments are adopted under Texas Health and Safety Code §161.004 and §161.0041, which authorize the executive commissioner to adopt rules necessary to administer statewide immunization of children and exceptions; and Texas Government Code §524.0151 and Texas Health and Safety Code §1001.075, which authorize the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

§97.62. Exclusions from Compliance.

Exclusions from compliance are allowable on an individual basis for medical contraindications, reasons of conscience, including a religious belief, and active duty with the armed forces of the United States. Children and students seeking enrollment in schools, child-care facilities, or institutions of higher education, including students enrolled in health-related and veterinary courses, must submit evidence for exclusion from compliance as specified in the Health and Safety Code §161.004(d), Health and Safety Code §161.0041, Education Code Chapter 38, Education Code §51.933(d), Human Resources Code Chapter 42, and §97.64 of this subchapter (relating to Required Vaccinations and Exclusions for Students Enrolled in Health-related and Veterinary Courses in Institutions of Higher Education).

(1) To claim an exclusion for medical reasons, the child or student must present an exemption statement to the school or child-care facility, dated and signed by a physician (M.D. or D.O.), properly licensed and in good standing in any state in the United States who has examined the child or student. The statement must state that, in the physician's opinion, the vaccine required is medically contraindicated or poses a significant risk to the health and well-being of the child or student or any member of the child's or student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

(2) To claim an exclusion for reasons of conscience, including a religious belief, the child's parent, legal guardian, or a student 18 years of age or older must present to the school or child-care facility a completed, signed, and notarized affidavit on a form provided by the department stating that the child's parent, legal guardian, or the student declines vaccinations for reasons of conscience, including because of the person's religious beliefs. The affidavit will be valid for a two-year period from the date of notarization. A child or student, who has not received the required immunizations for reasons of conscience, including religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of the department.

(A) A person claiming exclusion for reasons of conscience, including a religious belief, from a required immunization may only obtain the affidavit form from the department by:

(i) downloading the affidavit form from the department's internet website, or

(ii) submitting a request (via online, fax, mail, or hand-delivery) to the department.

(B) A request for a mailed affidavit submitted online, fax, mail, or hand-delivery must include the following information:

(i) complete mailing address, including name, address, and telephone number; and

(ii) number of requested affidavit forms.

(C) Requests for mailed affidavit forms must be submitted to the department through one of the following methods:

(i) written request through the United States Postal Service (or other commercial carrier) to the department at: DSHS Immunization Branch, Mail Code 1946, P.O. Box 149347, Austin, Texas 78714-9347;

(ii) by fax to (512) 776-7544;

(iii) by hand-delivery to the department's physical address at 1100 West 49th Street, Austin, Texas 78756; or

(iv) via the department's Immunization program website (at www.ImmunizeTexas.com).

(D) The department will mail the requested affidavit forms to the specified mailing address.

(E) The department may not maintain a record of the personally identifiable information of individuals who request an affidavit and must return the original documents (when applicable) with the requested affidavit forms.

(3) To claim an exclusion for armed forces, persons who can prove active duty service with the armed forces of the United States are exempted from the requirements in these sections.

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 September 18, 2025.

TRD-202503297
Cynthia Hernandez
General Counsel
Department of State Health Services
Effective date: October 8, 2025
Proposal publication date: August 15, 2025
For further information, please call: (512) 776-6319

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 511. LIMITED SERVICES RURAL HOSPITALS

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §511.2, concerning Definitions, and §511.12, concerning Application and Issuance of Initial License; and new §511.79, concerning Workplace Violence Prevention.

Amended §511.2 and §511.12, and new §511.79, are adopted without changes to the proposed text as published in the June 6, 2025, issue of the *Texas Register* (50 TexReg 3416). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The new section is necessary to implement Senate Bill (SB) 240, 88th Legislature, Regular Session, 2023. SB 240 added new Texas Health and Safety Code (THSC) Chapter 331 which requires certain facilities, including limited services rural hospitals, to establish a workplace violence prevention committee or authorize an existing facility committee to develop the workplace violence prevention plan. THSC Chapter 331 also requires facilities to adopt, implement, and enforce a written workplace violence prevention policy and plan and to respond to workplace violence incidents.

The new section requires limited services rural hospitals to establish a workplace violence prevention committee or authorize an existing facility committee to develop the workplace violence prevention plan. The new section specifies the required membership for a committee. The new section requires a hospital to adopt, implement, and enforce a written workplace violence prevention policy and plan to protect health care providers and employees from violent behavior and threats of violent behavior occurring at the hospital. The new section requires the committee to annually evaluate the written workplace violence prevention plan and report the results of the evaluation to the hospital's governing body. The new section requires each hospital to make a copy of the hospital's workplace violence prevention plan available to each hospital health care provider or employee while providing protection from the release of information in the plan that would pose a security threat if made public.

The new section establishes minimum requirements for a hospital to respond to workplace violence incidents and creates protections for individuals with respect to reporting incidents of workplace violence.

The amended sections are necessary to add a definition of the term "facility" to the chapter and to correct a cross reference for the qualified rural hospital definition.

COMMENTS

The 31-day comment period ended July 7, 2025.

During this period, HHSC received comments regarding the proposed rules from two individuals. A summary of comments relating to the rules and HHSC responses follows.

Comment: A commenter suggested revising §511.79 to require the workplace violence prevention committee to include a person employed by local law enforcement if no limited service rural hospital employee who provides security services is available.

Response: HHSC declines to revise the rules as suggested because the rules are consistent with THSC §331.002(b).

Comment: A commenter expressed support of §511.79 because it helps protect healthcare workers, especially in underserved rural communities.

Response: HHSC acknowledges this comment.

SUBCHAPTER A. GENERAL PROVISIONS

26 TAC §511.2

STATUTORY AUTHORITY

The amendment section is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; THSC §241.302, which provides that the executive commissioner of HHSC shall adopt rules to establish minimum standards for limited services rural hospitals; and THSC Chapter 331, which requires licensed hospitals to adopt a workplace violence prevention policy and adopt and implement a workplace violence prevention plan in accordance with that chapter.

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

Filed with the Office of the Secretary of State on September 19, 2025.

TRD-202503312
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: October 9, 2025
Proposal publication date: June 6, 2025
For further information, please call: (512) 834-4591

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SUBCHAPTER B. LICENSING REQUIREMENTS

26 TAC §511.12

STATUTORY AUTHORITY

The amendment section is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; THSC §241.302, which provides that the executive commissioner of HHSC shall adopt rules to establish minimum standards for limited services rural hospitals; and THSC Chapter 331, which requires licensed hospitals to adopt a workplace violence prevention policy and adopt and implement a workplace violence prevention plan in accordance with that chapter.

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

Filed with the Office of the Secretary of State on September 19, 2025.

TRD-202503313
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: October 9, 2025
Proposal publication date: June 6, 2025
For further information, please call: (512) 834-4591

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SUBCHAPTER C. OPERATIONAL REQUIREMENTS

26 TAC §511.79

STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; THSC §241.302, which provides that the executive commissioner of HHSC shall adopt rules to establish minimum standards for limited services rural hospitals; and THSC Chapter 331, which requires licensed hospitals to adopt a workplace violence prevention policy and adopt and implement a workplace violence prevention plan in accordance with that chapter.

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

Filed with the Office of the Secretary of State on September 19, 2025.

TRD-202503314
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: October 9, 2025
Proposal publication date: June 6, 2025
For further information, please call: (512) 834-4591

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION

SUBCHAPTER NN. FIREWORKS TAX

34 TAC §3.1281

The Comptroller of Public Accounts adopts the repeal of §3.1281, concerning fireworks tax, without changes to the proposed text as published in the August 15, 2025, issue of the *Texas Register* (50 TexReg 5340). The rule will not be republished.

The comptroller repeals this section following the passage of Senate Bill 761, 84th Legislature, 2015, effective September 1, 2015, which repealed Tax Code, Chapter 161 (Fireworks Tax).

After filing the report and paying the fireworks tax, due August 20, 2015, fireworks sellers are no longer required to file a report and pay this tax. This period is now outside the four-year statute of limitations for assessments and refund claims. See Tax Code, §111.107(a) (When Refund or Credit Is Permitted) and §111.201 (Assessment Limitation).

The comptroller did not receive any comments regarding adoption of the amendment.

This repeal is adopted under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating

to the administration and enforcement of the provisions of Tax Code, Title 2 (State Taxation), as well as taxes, fees, and other charges that the comptroller administers under other law.

This adoption implements the repeal of Tax Code Chapter 161 (Fireworks Tax).

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 September 18, 2025.

TRD-202503305
Jenny Burleson
Director, Tax Policy Division
Comptroller of Public Accounts
Effective date: October 8, 2025
Proposal publication date: August 15, 2025
For further information, please call: (512) 475-2220

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

SUBCHAPTER A. ADMISSION, PLACEMENT, RELEASE, AND DISCHARGE

The Texas Juvenile Justice Department (TJJD) adopts amendments to 37 TAC §380.8501, Definitions; §380.8555, Program Completion for Non-Sentenced Offenders; and §380.8557, Release Review Panel, with minor capitalization changes to the proposed text as published in the August 1, 2025, issue of the *Texas Register* (50 TexReg 5040). The rules will be republished.

SUMMARY OF CHANGES

Amendments to §380.8501 include modifying the definition of *committing offense* to make it clear that only conduct that a child is adjudicated for and committed to TJJD for may be considered the child's committing offense.

Amendments to §380.8555 include: (1) removing the requirement for a youth without a determinate sentence to complete the extension length of stay assigned by the Release Review Panel in order to be meet program completion criteria; (2) establishing a process to determine when a youth who has completed the minimum length of stay but not the extension length of stay has met program completion criteria; and (3) establishing that if the youth loses release eligibility within 30 days before completion of the extension length of stay, the youth's case is referred to the Release Review Panel.

Amendments to §380.8557 include: (1) clarifying the definition of *clear and convincing evidence*; (2) modifying the definition of *extension length of stay* to be consistent with the change that youth are not required to complete it in order to meet program completion release criteria; (3) removing the definition of *Release Review Panel* as unnecessary and instead including an explanation of the purpose of the panel; (4) removing portions of the rule that restate statute; (5) removing portions of the rule that create processes that the executive director is responsible for establishing in policy; (6) adding a provision requiring the executive director to adopt such policies; (7) clarifying that extension lengths of stay may be assigned only when consistent with statute (i.e., if there is clear and convincing evidence that the youth is in need of additional rehabilitation from TJJD and a residential placement will provide the most suitable environment for that rehabilitation); (8) specifying that, consistent with statute, if the panel does not extend the youth's stay, the youth shall be released under supervision or discharged from TJJD; (9) adding language explaining the purpose of a request for reconsideration; (10) replacing the term *representative* with the term *designated advocate*, with regard to who may request a reconsideration of a panel decision, in keeping with statutory language; (11) adding a provision allowing the executive director to specify additional persons who may request a reconsideration; and (12) clarifying that the panel's discretion to accept late requests for reconsideration is limited to instances in which good cause is shown for the delay.

PUBLIC COMMENTS

TJJD received no public comments on the proposed rulemaking action.

DIVISION 1. DEFINITIONS

37 TAC §380.8501

STATUTORY AUTHORITY

The amended section is adopted under §242.003, Human Resources Code, which requires the board to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

§380.8501. Definitions.

As used in this chapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise.

(1) Assessment Rating--A score derived from evidence-based criminogenic factors in a youth's history used to assess the danger a youth poses to the community.

(2) Committing Offense--The most serious of the relevant offenses for which the youth was adjudicated and committed to TJJD, to include offenses for which the youth was committed directly to TJJD and offenses for which the youth was on probation if the probation was modified to commit the youth to TJJD. If a committing offense is a violation of a federal statute, the offense will be treated as a violation of a state statute which prohibits the same conduct as the relevant federal offense.

(3) Community Reentry/Transition Plan--An individual case plan that includes conditions of parole or placement for youth who are moving to a less restrictive environment. The community reentry/transition plan summarizes the youth's progress, identifies risk factors and protective factors, provides referrals to community services and supports, and identifies objectives for the youth to complete at the next placement.

(4) Conditional Placement--A trial living arrangement at a lower restriction level without changing the youth's currently assigned placement. Conditional placements may be to medium-restriction facilities or approved home placements. Continued placement at the lower restriction level is dependent on meeting pre-established conditions.

(5) Determinate Sentence Review--A review conducted for youth with determinate sentences who have not met program completion criteria in which staff determines the appropriate action (e.g., request a transfer hearing under §54.11, Family Code, transfer to TDCJ parole).

(6) Discharge--An action that ends the jurisdiction of the Texas Juvenile Justice Department (TJJD) over a youth.

(7) Final Decision Authority--The TJJD executive director or a staff member designated by the executive director in writing (e.g., via operational manual, administrative directive).

(8) High Restriction and Medium Restriction--See definitions in §380.8527 of this chapter.

(9) Home Placement--A placement in the home of the parent, other relative or individual acting in the role of parent, managing conservator, or guardian or in an independent living arrangement (excluding contract independent living programs).

(10) Home Substitute Placement--A program placement in the community that is not high restriction for youth who have earned parole status.

(11) Initial Placement--A placement to which youth are assigned upon being committed to TJJD. This definition does not include a youth's placement at the orientation and assessment unit.

(12) Minimum Length of Stay--The predetermined minimum period of time established by TJJD that a youth will be assigned to live in a high- or medium-restriction placement before being placed on parole status.

(13) Minimum Period of Confinement--The predetermined minimum period of time established by law that a youth committed to TJJD on a determinate sentence must remain confined in a high-restriction placement.

(14) Most Serious of the Relevant Offenses--The offense that carries the most severe consequences, which are, from most to least severe:

(A) an offense which carries a determinate sentence;

(B) the offense for which the designated minimum length of stay will produce the longest time in the physical custody of TJJD;

(C) the offense which requires the highest facility restriction level;

(D) the offense which carries the most severe criminal penalty; and

(E) the most recently adjudicated offense.

(15) Non-Sentenced Offender--A youth who is committed to TJJD for an indeterminate period of time, not to exceed age 19.

(16) Offense Severity--A rating of high, moderate, or low based on the degree of the committing or revocation offense as defined by the Penal Code or relevant federal statute and any of the following applicable aggravating factors:

(A) sex offense as identified in §62.001, Code of Criminal Procedure;

(B) felony against a person;

(C) possession or use of a weapon or firearm during the commission of the committing offense.

(17) Parole Status--A status assigned to a youth when program completion criteria have been met or the Release Review Panel has ordered the youth's release under supervision. Parole status qualifies the youth for placement in the home or a home substitute and ensures that the youth may not be moved to a high-restriction placement without the highest level of due process afforded to TJJD youth.

(18) Program Completion Criteria--Specific requirements established by rule that entitle a youth to parole when met.

(19) Program Completion Review--A review in which staff determines whether a youth appears to meet program completion criteria.

(20) Release under Supervision (or Release)--The act of placing a youth on parole status under TJJD supervision.

(21) Revocation Offense--The offense on which a youth's minimum length of stay is based following a parole revocation hearing. It is the most serious of the relevant offenses found at the hearing.

(22) Risk and Protective Factors--Risk factors are aspects of a youth's environment, behavior, and mental processes that contribute to potential for further delinquent activity. Protective factors are positive aspects of individual youth situations that keep a youth away from delinquent activity.

(23) Risk Level--A level derived from the risk assessment tool used to assess the danger a youth poses to the community.

(24) Sentenced Offender--A youth committed to TJJD pursuant to §54.04(d)(3) or §54.05(f), Family Code, with a fixed sentence assigned by the committing court. Depending on the length of the sentence, a youth may be transferred to the Texas Department of Criminal Justice (TDCJ) to complete the sentence.

(25) Transfer--A movement of a sentenced offender to the TDCJ - Correctional Institutions Division or TDCJ - Parole Division.

(26) Transition--The act of moving a youth from a high-restriction facility to a medium-restriction facility based on the youth's progress in the rehabilitation program. Transition does not result in the youth being placed on parole status.

(27) Transition Review--A review in which staff determines whether a youth meets criteria for transition under §380.8545 of this chapter.

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

Filed with the Office of the Secretary of State on September 16, 2025.

TRD-202503272
Jana Jones
General Counsel
Texas Juvenile Justice Department
Effective date: October 15, 2025
Proposal publication date: August 1, 2025
For further information, please call: (512) 490-7278

DIVISION 5. PROGRAM COMPLETION AND RELEASE

37 TAC §380.8555, §380.8557

STATUTORY AUTHORITY

The amended sections are adopted under §242.003, Human Resources Code, which requires the board to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs. The amended sections are also proposed under §245.101, Human Resources Code, which requires the Board to establish a panel whose function is to determine whether a youth who has completed a minimum length of stay should be discharged, released under supervision, or remain in custody for an additional period of time.

§380.8555. Program Completion for Non-Sentenced Offenders.

(a) Purpose. The purpose of this rule is to establish criteria and the approval process for release of youth upon program completion.

(b) Applicability.

(1) This rule does not apply to sentenced offenders.

(2) This rule does not apply to decisions by the Release Review Panel. See §380.8557 of this chapter for more information on the Release Review Panel.

(c) General Provisions. A detainer or bench warrant is not an automatic bar to earned release. The Texas Juvenile Justice Department (TJJD) releases youth to authorities pursuant to a warrant.

(d) Program Completion Criteria. Youth in high- or medium-restriction facilities are eligible for release to TJJD parole when the following criteria have been met:

(1) no major rule violations proven at a Level II due process hearing within 30 days before the program completion review or during the approval process; and

(2) completion of the minimum length of stay; and

(3) participation in or completion of assigned specialized treatment programs or curriculum as required under §380.8751 of this chapter; and

(4) completion of the following rehabilitation program requirements:

(A) for TJJD-operated facilities, assignment to the highest stage in the assigned rehabilitation program as described in §380.8703 of this chapter; or

(B) for facilities operated under contract with TJJD, completion of requirements for release to parole as defined in the TJJD-approved rehabilitation program; and

(5) participation in or completion of any statutorily required rehabilitation programming, including but not limited to:

(A) participation in a reading improvement program for identified youth to the extent required under §380.9155 of this chapter;

(B) participation in a positive behavior support system to the extent required under §380.9155 of this chapter; and

(C) completion of at least 12 hours of a gang intervention education program, if required by court order.

(e) Review and Approval Process.

(1) Program Completion Review.

(A) Before the expiration of a youth's initial or revocation minimum length of stay and before the expiration of an extension length of stay, a program completion review is conducted to determine whether the youth appears to meet program completion criteria.

(B) If it is determined the youth does not meet program completion criteria, the youth's case is referred to the Release Review Panel. Staff will discuss with the youth the reasons for the decision to refer the youth's case to the panel.

(C) If it is determined the youth appears to meet program completion criteria, the youth's case is referred to the final decision authority.

(2) Final Decision Authority for Approval of Release.

(A) The final decision authority shall confirm whether the youth meets all release criteria and ensure the community reentry/transition plan adequately addresses risk factors prior to approving the release.

(B) If the final decision authority approves the release, the youth must be placed on parole or parole status no later than 15 calendar days after the minimum length of stay date.

(C) If the final decision authority does not approve the release, the youth's case is referred to the Release Review Panel.

(3) Program Completion Prior to Expiration of the Extension Length of Stay.

(A) This paragraph applies to a youth who is not subject to review under paragraph (1) of this subsection.

(B) A youth with an extension length of stay is not required to complete the extension in order to meet program completion criteria. As soon as a youth with an extension length of stay appears to meet the program completion criteria in subsection (d) of this section, a program completion review is conducted.

(C) If it is determined the youth appears to meet program completion criteria, the youth's case is referred to the final decision authority.

(D) If the final decision authority approves the release, the youth must be placed on parole or parole status no later than 15 calendar days after the extension length of stay date.

(E) If the final decision authority does not approve the release, the youth remains in the facility and is reviewed again under this paragraph or paragraph (1) of this subsection, as appropriate.

(f) Loss of Release Eligibility.

(1) Except as provided by paragraph (2) of this subsection, if a youth loses release eligibility after the program completion review and before release to parole, the youth's case is referred to the Release Review Panel.

(2) If a youth approved for release under subsection (e)(3) of this section loses release eligibility, the youth's case is referred to the Release Review Panel only if the youth has completed the extension length of stay or will do so within 30 days.

(g) Active Warrants. At least ten calendar days before the youth's release, TJJD notifies any entity that has issued an active warrant for the youth.

§380.8557. Release Review Panel.

(a) Purpose. This rule establishes a Release Review Panel to determine whether a youth who has completed the minimum length of stay should be discharged from the custody of the Texas Juvenile Justice Department (TJJD), released under supervision, or given an extended length of stay. This rule also establishes a process to request reconsideration of an order issued by the Release Review Panel.

(b) Applicability. This rule applies to all youth committed to TJJD without a determinate sentence who have completed the mini-

mum length of stay or extension length of stay and have not been approved for release under §380.8555 of this chapter.

(c) Definitions. Except as specified in this subsection, see §380.8501 of this chapter for definitions of terms used in this rule. The following terms, as used in this rule, have the following meanings unless the context clearly indicates otherwise.

(1) Clear and Convincing Evidence--A standard of proof meaning that the thing that must be proven is highly probable or reasonably certain to exist; more than a preponderance of the evidence but less than beyond a reasonable doubt.

(2) Extension Length of Stay--A period of time in addition to the minimum length of stay that a youth is assigned to remain in residential placement unless the youth meets release criteria before the time has expired.

(3) Major Rule Violation--A violation in the most serious category of rule violations for residential facilities, as listed in §380.9503 of this chapter.

(4) Residential Placement--A high- or medium-restriction facility, as defined in §380.8527 of this chapter.

(5) Victim--Any victim who has requested notification of release or discharge proceedings.

(d) General Provisions.

(1) Purpose of the Panel. The purpose of the panel is to review youth committed to TJJD without a determinate sentence who have completed the minimum length of stay or extension length of stay but have not been approved for release under TJJD policy.

(2) Panel Members. Panel members are appointed by the executive director in accordance with state law and policies adopted by the executive director.

(3) Executive Director Policies.

(A) The executive director shall adopt policies that ensure the transparency, consistency, and objectivity of the panel's composition, procedures, and decisions.

(B) The policies must allow the panel to review any information relevant to the youth's progress and rehabilitation, irrespective of the form of the information.

(C) The policies must ensure the youth, parents/guardians, victims, attorneys for youth, and other relevant individuals are given the opportunity to provide information for the panel's consideration.

(4) Extension Length of Stay.

(A) An extension length of stay may be assigned only if the panel determines by majority vote that there is clear and convincing evidence that:

(i) the youth is in need of additional rehabilitation from TJJD; and

(ii) a residential placement will provide the most suitable environment for that rehabilitation.

(B) If the panel extends the length of a youth's stay, the panel shall specify the length of the extension length of stay.

(C) If the panel does not extend the length of a youth's stay, the youth must be released under supervision or discharged from TJJD.

(e) Request for Reconsideration of an Extension Order.

(1) The purpose of a request for reconsideration is to request that a decision by the panel be reconsidered and changed.

(2) A request for reconsideration of an extension order may be submitted by:

(A) the youth;

(B) the youth's parent/guardian;

(C) an attorney or designated advocate for the youth;

(D) the youth's victim(s);

(E) a TJJD employee;

(F) an employee of a TJJD contractor;

(G) a person who provides volunteer services at a TJJD facility;

(H) the TJJD ombudsman; or

(I) any other person designated by the executive director.

(3) The request for reconsideration must be in writing and must be received by the panel no later than 15 calendar days after the date of the written notice explaining the reason for the extension. Requests for reconsideration received after that time may be considered at the discretion of the panel if good cause is shown for the delay.

(4) The youth may request assistance from any TJJD staff member or volunteer in completing a request for reconsideration.

(5) The person submitting the request for reconsideration must state in the request the reason for the request. The request should relate to the reasons given for the extension or be based on relevant information concerning the youth's programming and treatment progress.

(6) Upon receipt of a request for reconsideration that is timely filed or that is accepted late by the panel as provided in paragraph (3) of this subsection, the panel:

(A) shall reconsider an extension order that extends the youth's stay in TJJD custody by six months or more or that, when combined with previous extension orders, results in an extension of the youth's stay in TJJD custody by six months or more; and

(B) may, at its discretion, reconsider extension orders that extend a youth's stay in TJJD custody by a length of time not addressed in subparagraph (A) of this paragraph.

(7) The panel must complete the reconsideration no later than 15 days after receipt of the request. The panel shall provide the youth, the youth's parent/guardian, the attorney or designated advocate of the youth, and the person who submitted the request for reconsideration with a written explanation of the panel's decision. The explanation shall include an indication that the panel has considered the information submitted in the request. If the reconsideration results in a decision to release or discharge the youth, any victims shall be notified.

(8) A reconsideration decision by the panel exhausts all administrative remedies regarding release after expiration of the minimum length of stay.

(f) Request for Reconsideration of a Release or Discharge Order.

(1) For youth in a high-restriction facility, a release or discharge order is considered conditional until the youth has been physically released from the facility.

(2) For youth in a medium-restriction facility, including a halfway house:

(A) a release order is considered conditional until the youth's status has been changed from institutional to parole status; and

(B) a discharge order is considered conditional until the youth has been physically released from the facility.

(3) The executive director, the chief inspector general, the general counsel, the deputy executive director for state services, the chief of staff, the facility administrator, appropriate contract-care monitoring staff, staff designated by the executive director, or the TJJD ombudsman may request a reconsideration of a release or discharge order as long as the release or discharge order is still conditional, as provided by paragraphs (1) and (2) of this subsection.

(4) If, while the release or discharge order is still conditional, the youth is alleged to have committed a major rule violation or new information becomes available that indicates the youth is likely in need of further rehabilitation at a TJJD facility, staff designated by the executive director must request reconsideration of the release or discharge order.

(5) The youth shall be provided a copy of the request for reconsideration before the panel makes its decision regarding the reconsideration. The youth shall be given the opportunity to provide information to the panel concerning the reason(s) for the request. If the youth is represented by an attorney or other representative, that person shall also be provided with a copy of the request for reconsideration and given an opportunity to provide information to the panel.

(6) The panel must complete the reconsideration no later than 15 days after the receipt of the request. The panel shall provide the youth, the youth's parent/guardian, the requestor, and facility staff with a written explanation of the panel's decision. The reply shall include an indication that the panel has considered the information submitted in the request. If the reconsideration results in a change in the original panel decision, any victims shall be notified.

(7) If reconsideration of a release or discharge order results in a decision to extend the youth's length of stay, a person listed in subsection (g) of this section may request reconsideration according to the process established in that subsection. That reconsideration decision exhausts all administrative remedies.

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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Jana Jones
General Counsel
Texas Juvenile Justice Department
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For further information, please call: (512) 490-7278

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 211. CRIMINAL HISTORY OFFENSE AND ACTION ON LICENSE

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code, (TAC) §211.1 and §211.2; repeal of §§211.3 - 211.6; and new sections §§211.10 - 211.13. The amendments, repeals, and new sections are necessary to organize the rules into two subchapters for consistency with other chapters in TAC Title 43, to clarify the types of licenses to which the chapter applies, to clarify which crimes relate to the duties and responsibilities of these license holders, to delete duplicative language found in statute, to conform rule language with statutory changes; to clarify existing requirements, and to modernize language and improve readability. Adopted language implements Senate Bill (SB) 2587, 89th Legislature, Regular Session (2025), which clarified the persons from whom the department could require a fingerprint-based criminal history background check; and SB 1080, 89th Legislature, Regular Session (2025), which added circumstances in which a state agency is required to revoke a license upon imprisonment of the license holder. Adopted language also conforms with SB 224, 88th Legislature, Regular Session (2023), which amended the Penal Code to add felony offenses involving damage to motor vehicles during the removal or attempted removal of a catalytic converter.

The department adopts amendments to §211.1 and §211.2 and new §§211.10 - 221.12 without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4349) and is not republishing these rules. The department adopts §211.13 with changes at adoption and is republishing this rule. In conjunction with this adoption, the department is adopting the repeal of §§211.3 - 211.6 without changes, as published in the July 25, 2025, issue of the *Texas Register*. The repealed rules will not be republished.

REASONED JUSTIFICATION. The department is conducting a review of its rules under Chapter 211 in compliance with Government Code, §2001.039. As a part of the review, the department is adopting necessary amendments, repeals, and new sections as detailed in the following paragraphs.

Occupations Code, Chapter 53 and §§2301.651, 2302.104, 2302.105, and 2302.108, and Transportation Code, §503.034 and §503.038 authorize the department and its board to investigate and act on a license application, or on a license, when a person has committed a criminal offense. Chapter 211 allows the department to maintain fitness standards for license holders with prior criminal convictions while implementing the legislature's stated statutory intent in Occupations Code, §53.003 to enhance opportunities for a person to obtain gainful employment after the person has been convicted of an offense and discharged the sentence for that offense.

The department must follow the requirements of Occupations Code, Chapter 53 to determine whether a person's past criminal history can be considered in evaluating the person's fitness for licensing.

Occupations Code, §53.021 gives a licensing authority the power to suspend or revoke a license, to disqualify a person from receiving a license, or to deny a person the opportunity to take a licensing examination on the grounds that the person has been convicted of: (1) an offense that directly relates to the duties and responsibilities of the licensed occupation; (2) an offense listed in Article 42A.054, Code of Criminal Procedure; or (3) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure. The department's evaluation of past criminal history applies to all license applications. Under Occupations Code, §53.021(a)(1), the department is responsi-

ble for determining which offenses directly relate to the duties and responsibilities of a particular licensed occupation.

Occupations Code, §53.022 sets out criteria for consideration in determining whether an offense directly relates to the duties and responsibilities of the licensed occupation. Based on those criteria, the department has determined that certain offenses directly relate to the duties and responsibilities of an occupation licensed by the department. However, conviction of an offense that directly relates to the duties and responsibilities of the licensed occupation or is listed in Occupations Code, §53.021(a)(2) and (3) is not an automatic bar to licensing; the department must also consider the factors listed under Occupations Code, §53.023 in making its fitness determination. The factors include, among other things, the person's age when the crime was committed, rehabilitative efforts, and overall criminal history. The department is required to publish guidelines relating to its practice under this chapter in accordance with Occupations Code, §53.025.

Adopted New Subchapter A, General Provisions

Prior to the adoption of these revisions, Chapter 211 contained only one subchapter. The adopted amendments divide Chapter 211 into two subchapters. An adopted amendment retitles Subchapter A "General Provisions," consistent with the organization and naming conventions found in Chapters 215 and 221 of this title. This adopted amendment provides consistency and improves readability because Chapter 211 applies to the same applicants and license holders as Chapters 215 and 221. Sections 211.1 and 211.2 are adopted for inclusion in retitled Subchapter A for consistency and ease of reference.

An adopted amendment to the title of §211.1 adds "Purpose and" to the section title to indicate that adopted amendments to this section include the purpose for the chapter in addition to definitions. This adopted change places the chapter purpose description in the same subchapter and in the same order as similar language in Chapters 215 and 221 of this title for improved understanding and readability. Adopted new §211.1(a) describes the purpose of Chapter 211 by incorporating existing language from repealed §211.3(a). The adopted amendments add, at the end of the paragraph, the obligation for the department to review criminal history of license applicants before issuing a new or renewal license and the option for the department to act on the license of an existing license holder who commits an offense during the license period, consistent with Occupations Code, Chapter 53 and §§2301.651, 2302.104, 2302.105, and 2302.108, Transportation Code, §503.034 and §503.038, and existing department procedures.

An adopted amendment to §211.1 reorganizes the definitions into a subsection (b). Adopted amendments to §211.1(2) delete references to "registration or authorization," including any related punctuation. Other adopted amendments add an "or" to §211.1(2)(B), delete an "or" and add sentence punctuation in §211.1(2)(C), and delete §211.1(2)(D). These adopted amendments clarify that Chapter 211 only applies to licenses issued by the department under Transportation Code, Chapter 503 and Occupations Code, Chapters 2301 and 2302, and does not apply to registrations the department may issue under the authority of another Transportation Code chapter. Registrations or permits that the department issues under other Transportation Code chapters do not currently require a review of an applicant's criminal history. Adopted amendments to §211.1(3) delete the list of specific retail license types and define the term "retail" by listing only those license types that are not considered to be retail. This adopted amendment shortens the sentence to improve readability without changing the meaning or scope of the definition. Additionally, this adopted amendment eliminates the need to update the rule if a future statutory change creates a new type of vehicle, changes the name of an existing vehicle type, or creates a new retail license type.

An adopted amendment to the title of §211.2 substitutes "Chapter" for "Subchapter" for consistency with the rule text. An adopted amendment in §211.2(b) adds a comma after Occupations Code for consistency in punctuation.

The remaining sections in Subchapter A are adopted for repeal as each of these sections are adopted for inclusion in new Subchapter B.

Adopted New Subchapter B, Criminal History Evaluation

An adopted amendment adds a new subchapter, Subchapter B. Criminal History Evaluation Guidelines and Procedures. Adopted for inclusion in new Subchapter B are new sections §§211.10 - 211.13. These adopted new sections contain the rule language previously found in repealed §§211.3 - 211.6, with the addition of the adopted changes described below.

Adopted new §211.10 includes the rule text of repealed §211.3 with changes as follows. The repealed text of §211.3(a) is not incorporated into adopted new §211.10 because that language has been incorporated into adopted new §211.1(a), which describes the purpose of Chapter 211. Adopted new §211.10(a) incorporates the language of repealed §211.3(b), except for the two paragraphs at the end of that subsection which duplicate a statutory requirement in Occupations Code, §53.022 and do not need to be repeated in rule. Adopted new §211.10(b) recodifies language from repealed §211.3(c), except for §§211.3(c)(1) and (2), which were redundant and unnecessary statutory references.

Adopted new §211.10(c) incorporates §211.3(d) with the following changes. Adopted new §211.10(c) adds a comma to correct missing punctuation after "Occupations Code" and deletes three sentences that specify which offenses apply to a license type. Adopted new §211.10(c) includes clarifying paragraph numbers: paragraph (1) identifies offenses that apply to all license types, and paragraph (2) separates and identifies additional offenses that apply only to retail license types. The adopted new language adds clarity and improves readability by dividing the offense categories from repealed §211.3(d)(1) - (16) between the new paragraphs as relettered subparagraphs of §§211.10(c)(1) and (2). Adopted new §211.10(c)(1)(B), incorporates language from repealed §211.3(d)(2) and adds language to clarify that offenses involving forgery, falsification of records, or perjury include the unauthorized sale, manufacturing, alteration, issuance, or distribution of a license plate or temporary tag. This adopted clarifying language provides additional notice to applicants and license holders that the department considers forging or falsification of license plates or temporary tags to be a serious and potentially disqualifying offense.

Adopted new §211.10(c)(1)(E) incorporates language from repealed §211.3(d)(5) and adds possession and dismantling of motor vehicles to the list of felony offenses under a state or federal statute or regulation that could potentially be disqualifying. Adopted new §211.10(c)(1)(E) also includes "motor vehicle parts" to clarify that disqualifying felony offenses include crimes related to motor vehicle parts as well as to motor vehicles. These adopted clarifications are important due to the increasing frequency of motor vehicle parts theft targeting catalytic converters, tailgates, batteries, wheel rims, and tires. Adopted

new §211.10(c)(1)(G) incorporates language from repealed §211.3(d)(7) and clarifies that an offense committed while engaged in a licensed activity or on a licensed premises includes falsification of a motor vehicle inspection required by statute. This clarification is important because emissions inspections in certain counties are required by law and harm the health and safety of Texas citizens if not performed.

Adopted new §211.10(c)(1)(I) adds that offenses of attempting or conspiring to commit any of the foregoing offenses are potentially disqualifying offenses because the person intended to commit an offense. This adopted new language incorporates language from repealed §211.3(d)(16) and is necessary to add because the offenses that apply to all license holders and the additional offenses that only apply to retail license types are adopted to be reorganized into separate paragraphs to improve readability, so the language regarding conspiracies or attempts to commit the offenses must be repeated in each paragraph to provide notice of these potentially disqualifying offenses.

Adopted new §211.10(c)(2)(E) makes felony offenses under Penal Code, §28.03 potentially disqualifying when a motor vehicle is damaged, destroyed, or tampered with during the removal or attempted removal of a catalytic converter. This new amendment aligns with Senate Bill (SB) 224, 88th Legislature, Regular Session (2023), which amended Penal Code, §28.03 to create new felony offenses based on the damage caused by the removal or attempted removal of a catalytic converter from a motor vehicle. Adopted new §211.10(c)(2)(D) incorporates §211.3(d)(12) and adds two additional offenses against the family: Penal Code, §25.04 and §25.08. Penal Code, §25.04 includes offenses involving the enticement of a child away from the parent or other responsible person, and Penal Code, §25.08 includes offenses related to the sale or purchase of a child. These offenses are relevant to the retail professions licensed by the department because parents frequently bring children to a dealership when considering a vehicle purchase, and a retail license holder may have unsupervised access to a child while a parent test drives a vehicle or is otherwise engaged in viewing or inspecting a vehicle offered for sale. License holders also have access to the parent's motor vehicle records, including the family's home address. A person with a predisposition to commit these types of crimes have the opportunity to engage in further similar conduct.

Adopted new §211.10(c)(2)(F) incorporates the language of repealed §211.3(d)(13), and clarifies that the department considers any offense against the person to potentially be disqualifying, adds a reference to Penal Code, Title 5, and further clarifies that an offense in which use of a firearm resulted in fear, intimidation, or harm of another person is included in the list of potentially disqualifying crimes. Additionally, adopted new §211.10(c)(2)(F) clarifies that a felony offense of driving while intoxicated which resulted in harm to another person may also be potentially disqualifying. The department considers these offenses to be related to the occupations of retail license holders because these license holders have direct contact with members of the public during vehicle test drives or other settings in which no one else is present, and retail license holders have access to an individual's motor vehicle records, including the individual's home address. A person with a predisposition for violence or committing personal harm would have the opportunity in these situations to engage in further similar conduct. These adopted amendments further clarify which offenses against a person the department considers directly related to the licensed occupation and therefore potentially disqualifying. The department's consideration of these crimes is subject to certain limitations in Occupations Code, Chapter 53.

Adopted new §211.11 incorporates language from repealed §211.4, with the addition of adopted new §211.11(a), which clarifies that the department will deny a pending application if an applicant or an applicant's representative as defined in §211.2(a)(2) is imprisoned. Occupations Code, §53.021(b) requires an agency to revoke a license holder's license on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision. Because the department also determines licensure eligibility based on individuals serving as representatives for the license holder, the department also considers the effect of imprisonment of those persons on a license holder. Because the revocation for a felony conviction is mandatory in Occupations Code, §53.021(b), the department must also deny a pending application. An applicant who is imprisoned may reapply once the applicant is no longer imprisoned and an applicant whose application is denied based on an imprisoned individual serving in a representative capacity may choose a different representative and reapply for licensure. Adopted new §211.11(b) substitutes "of" for "or" to correct a typographical error made at adoption of §211.4. Adopted new §211.11(b) implements SB 1080, 89th Legislature (2025), which amended Occupations Code, §53.021 to require the department to revoke a license if the license holder is imprisoned following a felony conviction for an offense that directly relates to the duties and responsibilities of the licensed occupation, an offense in Code of Criminal Procedure, Article 42A.054, or a sexually violent offense in Code of Criminal Procedure, Article 62.001. Adopted amendments to new §211.11(b) also incorporate the existing language from current §211.4(c) as phrased in Occupations Code, §53.021(b). Adopted new §211.11(c) incorporates language from repealed§211.4(d). Adopted new §211.11(d) incorporates language from repealed §211.4(c).

Adopted new §211.12 incorporates without change the language in repealed §211.5 that addresses the procedure for a person to obtain a criminal history evaluation letter from the department. This process allows a person to request an evaluation prior to applying for a license if the person so desires.

Adopted new §211.13(a) incorporates the repealed language of §211.6(a) and clarifies that fingerprint requirements apply to "an applicant for a new or renewal license" to improve readability without changing meaning. Adopted §211.13(b) moves the introductory phrase "Unless previously submitted for an active license issued by the department," to adopted §211.13(c) to improve readability and to allow the department to further clarify submission requirements in §211.13(c). Adopted new §211.13(b)(1) incorporates the language of current §211.6(b)(1). At adoption, the phrase describing the various types of persons who may apply was deleted as unnecessary, because the type of persons who apply and may be fingerprinted is in Government Code, §411.12511(a) and does not need to be repeated in rule. These adopted amendments implement Government Code, §411.12511, as amended by SB 2587, 89th Regular Session (2025). Adopted new §211.13(b)(2) incorporates the language of current §211.6(b)(2) and clarifies that a person acting in a representative capacity includes an officer, director, manager, trustee, principal, manager of business affairs, or other employee whose act or omission in the course or scope of the representation would be cause for denying, revoking, or suspending a license. The adopted language recognizes that many license holders are small businesses that may employ

only one or a few employees and may assign or delegate key management tasks such as administering the license plate system for the license holder, and that a principal may be a representative and not necessarily an owner of the applicant. These adopted amendments implement Government Code, §411.12511, as amended by SB 2587, 89th Regular Session (2025). Adopted new §211.13(c) incorporates the current language of §211.6(c) and the introductory phrase from §211.6(b), and further clarifies that the department will not require a person to submit fingerprints if the person previously submitted a complete and acceptable set of fingerprints, and the person remains fully enrolled in the Texas Department of Public Safety's (DPS) criminal history clearinghouse and validly subscribed in the federal criminal history database maintained by the Federal Bureau of Investigation (FBI). This clarification is important as DPS or the FBI may change the enrollment or subscription status of a person previously fingerprinted if, for example, a court expunges a crime from a person's criminal history record. If DPS or the FBI change a person's enrollment or subscription status, the department must require the person to be fingerprinted again, or the department will not be able to access that person's criminal history records for use in evaluating the license application.

SUMMARY OF COMMENTS.

The department received no comments on the adopted amendments within the public comment period, which ended on August 25, 2025.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §211.1, §211.2

STATUTORY AUTHORITY. The department adopts amendments to Chapter 211 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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Proposal publication date: July 25, 2025
For further information, please call: (512) 465-5665

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43 TAC §§211.3 - 211.6

STATUTORY AUTHORITY. The department adopts repeals to Chapter 211 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;

Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to adopt or rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted repeals implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-5665

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SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES

43 TAC §§211.10 - 211.12

STATUTORY AUTHORITY. The department adopts new sections to Chapter 211 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

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43 TAC §211.13

STATUTORY AUTHORITY. The department adopts new sections to Chapter 211 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or

insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

§211.13. Fingerprint Requirements for Designated License Types.

(a) The requirements of this section apply to an applicant for a new or renewal license for the license types designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure.

(b) The following persons may be required to submit a complete and acceptable set of fingerprints to the Texas Department of Public Safety and pay required fees for purposes of obtaining criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation:

(1) a person applying for a new license, license amendment due to change in ownership, or license renewal; and

(2) a person acting in a representative capacity for an applicant or license holder who is designated as an authorized representative on a licensing application, including an officer, director, manager, trustee, principal, manager of business affairs, or other employee whose act or omission in the course or scope of the representation would be cause for denying, revoking, or suspending a license.

(c) After reviewing a licensure application and licensing records, the department will notify the applicant or license holder of which persons in subsection (b) of this section are required to submit fingerprints to the Texas Department of Public Safety. The department will not require a person to submit fingerprints if the person previously submitted a complete and acceptable set of fingerprints for a currently active license issued by the department, and the person remains fully enrolled in the Texas Department of Public Safety's criminal history clearinghouse and validly subscribed in the federal criminal history database maintained by the Federal Bureau of Investigation.

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 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter B. Licenses, Generally, §215.83 and adopts new §215.91; adopts amendments to Subchapter D, General Distinguishing Numbers and In-Transit Licenses, §§215.133, 215.140, 215.141, 215.144, 215.150 - 215.152, 215.155, and 215.158; and adopts new §215.163. These amendments and new sections are necessary to implement House Bill (HB) 718, 88th Legislature, Regular Session (2023), Senate Bill (SB) 1902, 89th Legislature, Regular Session (2025), HB 5629, 89th Legislature, Regular Session (2025), and SB 1818, 89th Legislature, Regular Session (2025). HB 5629 and SB 1818 amended Occupations Code, Chapter 55, effective September 1, 2025, to change state agency licensing requirements for military service members, military veterans, and military spouses. Because these requirements apply to all licenses issued by the department, a new rule setting out the licensure requirements and procedures for military service members, military veterans, and military spouses, §215.91 is adopted in Subchapter B, Licenses, Generally, which applies to all licenses issued by the department under Occupations Code, Chapter 2301, and Transportation Code, Chapter 503. Adopted amendments to §215.83 prevent any conflict or confusion with adopted new §215.91.

HB 718 amended Transportation Code, Chapter 503, to end the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures, and set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and required the department to adopt related rules by December 1, 2024. The department did so by publishing proposed rules in the April 26, 2024, issue of the *Texas Register* (49 TexReg 2717), and publishing adopted rules in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8953). HB 718 required a Texas dealer, beginning July 1, 2025, to ensure that an assigned general issue license plate or set of license plates stayed with the vehicle if that vehicle is later sold to another Texas buyer.

However, SB 1902 changed that process to require a dealer to transfer a removed license plate to another vehicle of the same class within 10 days or dispose of the license plate according to department rules. SB 1902, effective July 1, 2025, requires the department to adopt implementing rules by October 1, 2025. The department adopts amendments to §§215.140, 215.141, 215.150 - 215.152, 215.155, and 215.158 to implement SB 1902.

In §215.151, the department adopts amendments to implement HB 718 to address circumstances in which the department will permit a dealer to mail or deliver a license plate or set of license plates to a buyer or a converter for attachment to a vehicle. These amendments are necessary because in prior rulemaking the department did not address circumstances in which a person other than a dealer should be able to affix a license plate to a lawfully-sold vehicle when the vehicle is not at the dealer's location.

Adopted new §215.163, implements both HB 718 and SB 1902 to address license plate disposition when a license holder offers a vehicle for sale at auction or on consignment. This new rule

is necessary because the department did not address disposition of license plates for these types of sales in prior rulemaking. During the rulemaking process, license holders raised questions about disposition of license plates when motor vehicles are sold at auctions or on consignment based on concerns that the department may require operational changes that would increase business costs. In November 2024, the department provided an early draft of this adopted new rule to the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC). Committee members voted on formal motions and provided informal comments. The department incorporated input from this committee as well as comments from license holders that regularly hold or participate in motor vehicle auctions. In adopting this rule, the department sought to minimize opportunities for license plate fraud related to auction and other consignment sales and to eliminate any unnecessary operational or cost impacts to license holders.

In June 2025, the MVIRAC reviewed drafts of the proposed revisions to §§215.141, 215.150, 215.151, 215.152, 215.155, 215.158, and 215.163 and provided the department with comments on those provisions. The department incorporated the feedback from the committee into these adopted rules.

The department adopts nonsubstantive amendments in §215.133 and §215.144 to improve readability by using consistent terminology.

The following amended sections are adopted without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4356) and will not be republished: §§215.91, 215.133, 215.140, 215.144, and 215.150 - 215.152.

The following sections are adopted with changes at adoption to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4356) and will be republished: §§215.83, 215.141, 215.155, 215.158, and 215.163.

REASONED JUSTIFICATION.

§215.83

Adopted amendments to §215.83 delete subsection (i) and amend subsection (h) to replace specific requirements with a cross-reference to adopted new §215.91. These adopted amendments ensure that the licensure requirements for military service members, military spouses and military veterans are consolidated into adopted new §215.91 to avoid any confusion or conflict between §215.83 and adopted new §215.91. At adoption, a reference in §215.83(k) was corrected to refer to the adopted relettered §215.83(j).

§215.91

Adopted new §215.91(a) implements Occupations Code, §55.002, which exempts an individual that holds a license from incurring a penalty for failing to renew a license in a timely manner because the individual was on active duty. Adopted new §215.91(b) implements Occupations Code, §55.0041(a) and §55.0041(b), as amended by HB 5629, which require a state agency to issue a license to a military service member or military spouse within ten days if the member or spouse holds a current license issued by another state that is similar in the scope of practice to Texas requirements and is in good standing, or held the same Texas license within the past five years, if a military service member or military spouse submits an application and other required documents described in Occupations Code, §55.0041(b). Adopted new §215.91(b)(1) describes the application and the documents the military service member or military spouse must submit to the department. Adopted new §215.91(b)(2) describes the department's review process after receiving an application and related documents, including confirming licensure and good standing in the other state and comparing licensing requirements to determine if the other state's requirements are similar in scope of practice. Adopted new §215.91(b)(2)(C) states that the department will issue a provisional license upon receipt of a license application from a military service member, military veteran, or military spouse. This new provision implements Occupations Code, §55.0041, as amended by SB 1818. Adopted new §215.91(b)(3) informs an applicant that within 10 days the department will either issue a license if the applicant meets the requirements in Occupations Code, §55.0041 or notify the applicant why the department is unable to issue a license. Adopted new §215.91(b)(3) also informs an applicant that the license is subject to the requirements of this chapter and Occupations Code, Chapter 2301, and Transportation Code, Chapter 503, unless exempted or modified under Occupations Code, Chapter 55, consistent with Occupations Code, §55.0041(c). Adopted new §215.91(b) implements Occupations Code, §55.0041 as amended by HB 5629. Adopted new §215.91(c) informs a military service member, military veteran, or military spouse that this rule establishes requirements and procedures authorized or required by Texas law and does not affect any rights under federal law. Adopted new §215.91 implements Occupations Code, Chapter 55, as amended by HB 5629, and informs military service members, veterans, and military spouses about their eligibility for special licensing consideration.

§215.133

Adopted amendments to §215.133(i), (j), and (k) add "dealer" to describe the type of independent motor vehicle general distinguishing number (GDN) referenced in these subsections for consistency with phrasing in other rule subsections and to improve readability without changing meaning.

§215.140

An adopted amendment to §215.140(a)(6)(E) deletes a reference to dealer license plate storage requirements for assigned license plates for vehicles in inventory and adds a reference to unassigned license plates. SB 1902 eliminated the requirement for a dealer to keep an inventory of assigned license plates. Instead, SB 1902 requires a dealer to keep a license plate removed from a sold vehicle and reassign that license plate to a sold vehicle of the same class within 10 days or dispose of the license plate according to department rules.

§215.141

An adopted amendment to §215.141(b)(26) expands the sanction for failure to securely store a license plate after July 1, 2025, to include failure to destroy a previously issued but not currently assigned license plate within the time prescribed by statute. This adopted amendment implements SB 1902, which amended Transportation Code, §504.901 to require a dealer to either transfer a license plate removed from a vehicle to the same class of vehicle within 10 days or dispose of the license plate no later than the tenth day after the license plate was removed from the vehicle.

An adopted amendment to §215.141(b)(34) deletes a sanction for failure to remove a license plate from a vehicle sold to an out-of-state buyer or from a vehicle sold for export and substitutes a sanction for failure to remove a license plate from a vehicle as required by statute or rule. This adopted amendment is necessary to conform the language to the requirements of SB

1902, which requires dealers to remove a license plate from a vehicle that is transferred to or purchased by the dealer, and is necessary to conform with adopted new §215.163 which requires a dealer to remove a license plate from a vehicle in certain other circumstances such as before a vehicle is offered for sale at auction or on consignment.

At adoption, an unnecessary connector was deleted from §215.141(a)(6) and §215.141(b)(32).

§215.144

Adopted amendments to §215.144(i)(2) add the phrase "GDN holder that acts as a…" to clarify the type of motor vehicle auction referenced in subsection (i). Adopted amendments to §215.144(i)(2)(A) substitute the phrase "before offering a vehicle for sale at auction" for "it offers for sale." These adopted amendments improve readability by using consistent terminology without changing meaning.

§215.150

Adopted amendments to §215.150(a) and §215.150(e) add a reference to a general issue license plate as a type of license plate that a buyer can transfer to a newly purchased vehicle to implement the option in SB 1902 that allows a dealer to transfer an existing buyer's general issue license plate to a purchased vehicle of the same class within 10 days. An adopted amendment to §215.150(a)(2) deletes a reference to issuing a license plate if the vehicle did not come with a buyer's license plate because SB 1902 eliminated the requirement for a license plate to remain with a vehicle upon subsequent retail sale. An adopted amendment to §215.150(d)(3) adds a closed GDN to the list of circumstances in which a GDN dealer could no longer issue a buyer's license plate. The amendment recognizes that a dealer may choose to close a GDN issued by the department at any time, and after closure the person would not be a licensed GDN dealer under Transportation Code, Chapter 503, and therefore not authorized to issue a buyer's license plate or a buyer's temporary license plate. Adopted amendments to §215.150(f)(4) delete a reference to license plates assigned to vehicles in inventory, delete unnecessary punctuation, and add a reference to unassigned license plates. SB 1902 eliminated the requirement for a dealer to keep an inventory of assigned license plates. Instead, SB 1902 requires a dealer to reassign a removed license plate within a 10-day window before disposing of the license plate.

§215.151

Adopted amendments throughout §215.151(a) and in §215.151(c) add a reference to a general issue license plate as a type of license plate that a buyer can transfer to a newly purchased vehicle. These amendments implement SB 1902's requirement that a dealer transfer an existing buyer's general issue license plate to a purchased vehicle of the same class within 10 days or destroy the license plate. Adopted amendments to §215.151(a)(3) delete a reference to when a dealer must, or a governmental agency may, issue a buyer's license plate to the buyer of a used vehicle, and replace that language with issuing a buyer's license plate when the buyer does not have a general issue, specialty, personalized or other qualifying license plate to transfer to the vehicle. These adopted amendments implement SB 1902, which no longer requires a license plate to remain with a vehicle to which the license plate was first assigned.

An adopted amendment to §215.151(c) deletes a reference to a vehicle that has an assigned license plate because SB 1902 eliminated the requirement for a license plate to remain assigned to a vehicle upon subsequent retail sale. Adopted amendments to §215.151(c) add language to require the removal of any previously assigned license plate and require the dealer to reassign that license plate to a vehicle of the same class within 10 days before disposing of that license plate when a buyer provides a different qualifying license plate to be assigned to a purchased vehicle. This adopted amendment implements the requirements for plate transfer or disposal by a dealer in Transportation Code, §504.901, as amended by SB 1902. Adopted amendments to §215.151(d) implement the requirements of SB 1902 by adding language that allows a dealer to reassign a license plate to a vehicle of the same class within 10 days, and deleting references to providing an assigned license plate to a Texas retail buyer or Texas dealer and voiding plates for vehicles sold to out-of-state or exporting buyers. These adopted amendments implement SB 1902, which eliminated the requirement for a license plate to remain assigned to a vehicle upon subsequent retail sale and instead requires a dealer to dispose of any license plate that is not reassigned after 10 days according to department rules.

Adopted amendments add new §215.151(e) to describe circumstances in which a dealer is not required to secure or affix an assigned license plate to a vehicle after a lawful sale. Adopted new §215.151(e)(1) allows a retail buyer who purchases a vehicle for direct delivery to the buyer to authorize the dealer in writing to mail or securely deliver the dealer-assigned buyer's license plate to the buyer. Adopted new §215.151(e)(1) is necessary to accommodate lawful sales in which vehicles are shipped directly to a retail buyer, which is common in multi-vehicle or fleet purchases. Adopted new §215.151(e)(2) allows a retail buyer to authorize a dealer in writing to mail or securely deliver a license plate or set of license plates to a licensed converter who could then affix the assigned buyer's license plate to the vehicle once the vehicle is complete prior to delivery to the customer, or allow the converter to provide the license plate to the customer at vehicle delivery. Adopted new §215.151(e)(1) and new §215.151(e)(2) facilitate delivery of a dealer-assigned buyer's license plate when a vehicle is sold in a lawful retail transaction, but the purchased vehicle is not located at the dealer's licensed location.

§215.152

Adopted amendments to §215.152(c) and §215.152(d) add "new" to describe the type of buyer's license plates that the department will be allocating to each dealer and delete the term unassigned. These amendments implement SB 1902, which amended Transportation Code, §504.901 to require a dealer to transfer an unassigned license plate to a purchased vehicle of the same class within 10 days or destroy the license plate.

An adopted amendment to §215.152(d)(4) adds "or decrease" to allow the department to decrease the annual allotment of license plates for dealers based on changes in the market, temporary conditions, or other relevant factors in the state, county, or other geographical or population area. For example, sales may decline during an economic recession, resulting in dealers needing fewer plates to assign to new cars. When this happens, the state should not incur the expense to manufacture or distribute license plates that will not be used, and a dealer should not be required to undergo the expense or effort to store and track a larger number of license plates than what the dealer will likely use. To address this, an adopted amendment to §215.152(g) allows a new dealer to request fewer buyer's license plates or buyer's temporary license plates than what is allocated under §215.152(e).

Adopted new §215.152(i) describes the circumstances in which a dealer is not eligible to receive a quarterly allocation of buyer's license plates delivered to the dealer's licensed physical location. These circumstances are: if the dealer's license has been closed, canceled, or revoked in a final order; if the department has issued a notice of department decision for a violation of premises requirements because the dealer appears to have abandoned the licensed location; if the dealer has been denied access to the temporary tag system or the license plate system; if a dealer fails a compliance review performed by the department under Transportation Code, §503.063(d); if the dealer's license expires during that quarter and a renewal application has not been submitted to the department; if a dealer does not have an owner or bona fide employee at the licensed location during posted business hours to accept a license plate delivery; or if a dealer fails to keep license plates or the license plate system secure. In accordance with Occupations Code, §2301.152, the department is responsible for reducing the opportunities for license plate fraud or misuse. This adopted new subsection enables the department to fulfill that obligation.

Adopted new §215.152(j) allows a dealer who has an active license and access to the license plate database, but is ineligible to receive a quarterly license plate allocation under subsection (i), to request that the department conduct a compliance review under Transportation Code, §503.063(d) to determine if the dealer is eligible to receive a future allocation. A dealer may request a compliance review by submitting an email request to DealerCompliance@txdmv.gov, and the department will perform the requested compliance review within 14 days. This new adopted subsection allows a dealer to become eligible for a future license plate allocation once the dealer passes a compliance review performed by the department, consistent with Transportation Code, §503.063(d).

Adopted new §215.152(k) allows the department to require a dealer with an active license to obtain buyer's license plates from a county tax assessor-collector or department regional service center if the dealer is not eligible to receive license plates under §215.152(i). This adopted new subsection allows a licensed dealer to continue to operate while the dealer addresses a security or other operational issue that prevents the department from securely delivering license plates to the licensed location. An adopted amendment reletters §215.152(i) to (l) to accommodate the three new adopted subsections described above.

An adopted amendment adds new §215.152(m), which describes when a dealer may request fewer buyer's license plates or buyer's temporary license plates. A dealer may request fewer license plates after using less than 50 percent of the quarterly allocation of general issue license plates or buyer temporary license plates in a quarter, or after using less than 50 percent of the allotted annual maximum number of general issue license plates or buyer temporary license plates in a year. A dealer should not be required to undergo the expense or effort to store and track a significantly larger number of license plates than what the dealer will use. Adopted amendments reletter §215.152(j) to (n) and reletter the subsequent subsections accordingly to accommodate the new adopted subsections described above.

Adopted amendments to relettered §215.152(n) add a reference to a dealer being able to request a decrease in a quarterly or annual allocation by submitting a request in the department's designated license plate system, and delete a reference to subsection (i). These amendments inform a dealer how to request a decrease in a quarterly or annual buyer's license plate or buyer's temporary license plate allocation.

An adopted amendment to relettered §215.152(o) adds "or decrease" in recognition that a dealer may request a decrease in a maximum annual allotment. Adopted amendments throughout relettered §215.152(o) delete "additional" to describe license plates because amendments to this rule are adopted to allow a dealer to request fewer license plates. An adopted amendment to relettered §215.152(o)(2) deletes the phrase "for more license plates" to describe the type of additional requests a dealer may submit because a dealer may submit additional requests for fewer license plates. An adopted amendment to relettered §215.152(o)(3)(D) deletes a reference to issuing no additional license plates because a dealer may request to reduce the number of license plates, and the department may deny that request. Adopted amendments to relettered §215.152(o)(3)(E)(ii) delete a reference to additional license plates being added to the dealer's allocation and substitute text to state that the dealer's allocation will be adjusted. These adopted amendments recognize that a dealer's request for fewer license plates may be adjusted by the designated director in the department's Vehicle Titles and Registration Division. An adopted amendment to relettered §215.152(o)(3)(E)(ii) adds "informed about" to improve readability without changing meaning. An adopted amendment to relettered §215.152(o)(5) deletes a reference to additional license plates because the adopted amendment allows a dealer to submit a subsequent request for fewer license plates during a calendar year.

§215.155

Adopted amendments to §215.155(c) delete §215.155(c)(2), which requires a selling dealer to provide a license plate to a purchasing dealer for placement on the vehicle at time of retail sale and modifies related punctuation and numbering. These adopted amendments implement SB 1902, which eliminated the requirement for an assigned license plate to stay with a vehicle upon a subsequent retail sale of the vehicle. At adoption, the department removed unnecessary conjunctions from §215.155(a) in response to public comment.

§215.158

In §215.158(a) the phrase "of this title" was added for consistency at adoption. Adopted amendments to §215.158(b) delete a reference to removing a previously assigned buyer's license plate or other type of license plate for a vehicle sold to an out-of-state buyer or for another reason allowed by rule and simplify the subsection to apply only when a dealer is required to void a previously assigned buyer's license plate from a vehicle. These adopted amendments align the rule text with Transportation Code, §504.901, as amended by SB 1902, which requires a dealer to void a previously assigned buyer's license plate within 10 days unless the dealer has reassigned that license plate to another vehicle of the same class. At adoption, the department removed an unnecessary "or" conjunction between §215.158(b)(1) and (2) in response to public comment.

§215.163

Adopted new §215.163 addresses how a license holder must manage a license plate or set of license plates for a motor vehicle sold at auction or on consignment. Adopted new §215.163 clarifies license plate disposition and the reporting responsibilities of a dealer and a wholesale motor vehicle auction GDN holder when offering a motor vehicle for sale at a wholesale auction, and clarifies a dealer's responsibilities when offering a motor vehicle

for sale at auction or on consignment at the dealer's licensed location consistent with the requirements of Transportation Code, §§503.063, 503.0633, and 504.901 as amended by HB 718 and SB 1902, effective July 1, 2025.

Adopted new §215.163(a) addresses license plate disposition requirements for motor vehicles offered for sale at a wholesale motor vehicle auction, in which only dealers are allowed to purchase a motor vehicle under Transportation Code, §503.037. Adopted new §215.163(a) requires a wholesale motor vehicle auction GDN holder who receives a motor vehicle on consignment from a person who is not a GDN holder to remove and mark any license plate with the vehicle as void; and destroy, recycle, or return any license plate in keeping with the requirements of §215.158 (relating to General Requirements for Buyer's License Plates). Adopted new §215.163(a) prevents Texas license plates from being distributed out-of-state or exported and used fraudulently. These adopted amendments are also consistent with Transportation Code, §503.063 and §504.901, as amended by HB 718 and SB 1902, which authorizes dealers to issue a buyer's license plate and access the license plate system but does not authorize motor vehicle auction license holders to do so.

Adopted new §215.163(b) describes a dealer's license plate disposition responsibilities if a motor vehicle with a license plate is sold at a public auction, at which members of the public can bid on and purchase a motor vehicle. Adopted new §215.163(b) requires a dealer who is authorized to sell a consigned vehicle to return an assigned license plate to the vehicle's owner in keeping with Transportation Code §504.901(b), or destroy, recycle, or return the license plate in accordance with §215.158 (relating to General Requirements for Buyer's License Plates). The option for a dealer to destroy an assigned license plate is necessary because in some circumstances a dealer may be unable to return an assigned plate to the vehicle's owner. For example, a dealer could not do so if the vehicle's owner has died or the vehicle's owner relocated without a forwarding address. If a dealer offers a motor vehicle from the dealer's inventory for sale at a public auction, the dealer is required to remove and securely store the license plate before offering the vehicle for sale at a public auction as required in adopted 43 TAC §215.150(f) (relating to Dealer Authorization to Issue License Plates) and must reassign the license plate within 10 days to a vehicle of the same class or destroy the license plate. If the purchaser is a Texas retail buyer, the dealer must issue a buyer's license plate to the purchaser and update the license plate database unless the buyer has a general issue, specialty, personalized, or other qualifying license plate to transfer, consistent with adopted amendments to 43 TAC §215.151 (relating to License Plate General Use Requirements). If the purchaser at the public auction is a dealer, export buyer, or out-of-state buyer, the selling dealer must not issue a buyer's license plate. Additionally, if the purchaser at an auction is an out-of-state buyer, the dealer may only issue a buyer's temporary license plate if the buyer requires this license plate to transport the vehicle to another state in accordance with Transportation Code, §503.063, as amended by HB 718, and with 43 TAC §215.150(c) (relating to Dealer Authorization to Issue License Plates). Adopted new §215.163(b) clarifies license plate disposition for different types of sales that can occur at a public auction and minimizes potential fraud or misuse of license plates that may occur, consistent with the requirements of Transportation Code, §503.063 and §504.901, as amended by HB 718 and SB 1902, and the adopted amendments to 43 TAC §§215.150, 215.151, and 215.158.

Adopted new §215.163(c) implements dealer requirements for other types of consignment sales which occur at a dealer's licensed location and not at auction. Adopted new §215.163(c) addresses license plate disposition for other types of consignment sales to minimize potential fraud or misuse of license plates, consistent with the requirements of Transportation Code, §503.063 and §504.901, as amended by HB 718 and SB 1902, and the requirements of the department's adopted rules implementing HB 718. Adopted new §215.163(c)(1) requires a dealer to remove and return any license plate to the vehicle's owner. Adopted new §215.163(c)(1) further clarifies that a dealer may use its dealer's temporary license plate to demonstrate the consigned vehicle to a potential purchaser, in accordance with 43 TAC §215.138 (relating to Use of Dealer's License Plates).

Adopted new §215.163(c)(2) aligns the requirements for dealer consignment sales with the general license plate disposition requirements in the department's rules implementing HB 718, adopted effective July 1, 2025. Adopted new §215.163(c)(2) requires a dealer, upon the sale of a consigned motor vehicle, to assign a license plate to a Texas retail buyer that purchases the vehicle unless the buyer has a general issue, specialty, personalized, or other qualifying license plate to transfer, and to update the license plate database, consistent with 43 TAC §215.151 (relating to License Plate General Use Requirements). If the vehicle is sold to an out-of-state buyer, for export, or to a Texas dealer, a dealer may not issue a buyer's license plate and may only issue a buyer's temporary license plate if the out-of-state purchaser requires a temporary license plate to transport the vehicle to another state for titling and registration in that jurisdiction. At adoption, a capitalization error in §215.163(c)(2)(B) was corrected.

Adopted new §215.163(c)(3) clarifies license plate disposition requirements for independent motor vehicle dealers whose business includes the sale of salvage vehicles or total loss vehicles as defined by the applicable insurance contract, and who may receive consignments from non-GDN holders such as insurance or finance companies. In these situations, an independent motor vehicle dealer must remove and destroy, recycle, or return the license plate as required in §215.158 (relating to General Requirements for Buyer's License Plates). Under Occupations Code, §2302.009, an independent motor vehicle dealer that acts as a salvage vehicle dealer or displays a motor vehicle as an agent of an insurance company must comply with Occupations Code, Chapter 2302, including the requirement to immediately remove any unexpired license plate. Requiring an independent motor vehicle dealer to either transfer or void, destroy, recycle, or return the license plate as required in §215.158 (relating to General Requirements for Buyer's License Plates) reduces the risk of fraud or misuse of the plates, since salvage or total loss vehicles may not be driven on Texas roads. Adopted new §215.163(c) minimizes potential fraud or misuse of these license plates and is consistent with the requirements of Occupations Code, Chapter 2302, and Transportation Code, §503.063 and §504.901, as amended by HB 708 and SB 1902.

SUMMARY OF COMMENTS.

The department received four written comments on the proposal from one individual, the National Auto Auction Association (NAAA), the Texas Automobile Dealers Association (TADA), and the Texas Independent Automobile Dealers Association (TIADA).

Comment: An individual commenter requests the department return to using temporary tags and use watermarked paper to address security concerns.

Response: The department disagrees. Paper tags are easier for bad actors to counterfeit than license plates. Transportation Code, §503.063 requires dealers to issue buyer's license plates on or after July 1, 2025.

Comment: NAAA thanks the department for collaborating on rule language in §215.163 regarding auction and consignment sales.

Response: The department agrees and appreciates the continued collaboration provided by NAAA and its members in developing the rule proposal.

Comment: TIADA requests the department correct a reference in §215.183(k).

Response: The department agrees, assuming the intended reference is to §215.83(k) because §215.183(k) is outside the scope of this rulemaking. The department corrected that reference at adoption.

Comment: TIADA requests the department to delete all references to temporary tags and July 1, 2025, in §215.133 and throughout the rules.

Response: The department disagrees. The department continues to process applications filed prior to July 1, 2025, and enforce violations of the law that occurred before July 1, 2025, so references to both temporary tags and license plate requirements are necessary at this time.

Comment: TIADA and TADA request that rules regarding certificates of occupancy be amended in §215.133 and §215.140 to limit applicability to instances when a dealership is new, recently relocated, or when a building permit is necessary for a dealership remodel. TADA also requests that in §215.141 be similarly limited to sanctions for premises violations related to certificates of occupancy.

Response: The department disagrees. Changes regarding certificates of occupancy are beyond the scope of this rule package. Additionally, current practices regarding certificates of occupancy are already consistent with or less onerous than what these commenters suggest.

Comment: TADA requests that rule language regarding required dealership signage in §215.140 and sanctions in §215.141 be amended to acknowledge that a manufacturer may control the timing of signage removal and delivery, and to clarify that license processing should not be delayed or a dealership sanctioned in these circumstances.

Response: The department disagrees that a rule change in §215.140 or §215.141 is required. Existing language in §215.140 allows a dealer to use temporary signage while waiting for the permanent sign to be installed. The department's enforcement team investigates and considers all relevant facts and circumstances surrounding a potential violation before issuing a violation notice and recommending a penalty.

Comment: TIADA requests the department delete unnecessary "or" connectors in §215.141 and §215.158(b).

Response: The department agrees and deleted the unnecessary connectors in §§215.141(a)(6), 215.141(b)(32), and §215.158(b) at adoption.

Comment: TIADA requests that the department address vehicle transfer notices in rule as dealers are often expected to submit a notice prior to receiving the title from a wholesale auction.

Response: The department disagrees. These changes are not within the scope of this rule package. The department will consider the suggestion for future rulemaking.

Comment: TIADA requests the department delete unnecessary conjunctions between §§215.144(f)(3)(A) and (B).

Response: The department disagrees. The "or" conjunction between §§215.144(f)(3)(A) and (B) is necessary to emphasize that a dealer who sells a vehicle through a dealer-financed transaction has a different title and registration deadline. The conjunction signals a reader to continue to §215.144(f)(3)(B) to discover if that different title and registration deadline applies.

Comment: TIADA requests the department delete unnecessary "and" conjunctions in §215.155(a).

Response: The department agrees and removed the unnecessary conjunctions at adoption.

Comment: TADA requests a rule amendment in §215.150 and §215.151 to allow a dealer's purchase of a temporary registration license plate for a buyer's vehicle to be considered as compliant with all license plate issuance rules.

Response: The department disagrees. The purchase of a temporary registration license provides temporary authorization only. A dealer must also issue a buyer's license plate or temporary out-of-state license plate, as applicable, to be compliant with Transportation Code, §503.063 and department rules.

Comment: TIADA requests a rule amendment in §215.150 to replace the word "must" with "may" to allow the department to allow dealers discretion to issue plates when system failures, department restrictions, or other unforeseen circumstances prevent issuance of a license plate.

Response: The department disagrees. Transportation Code, §503.063 states that a dealer "shall" issue a buyer's license plate unless an exception in §503.063 applies. Additionally, the department's enforcement team investigates and considers relevant facts and circumstances surrounding a potential violation before issuing a violation notice and recommending a penalty.

Comment: TADA requests a rule amendment in §215.151(e)(1) to allow a Texas franchised dealer to complete the delivery, titling, registering, and remitting of motor vehicle sales tax for a vehicle drop-shipped by an out-of-state licensed franchised dealer to the Texas dealer for preparation and delivery to a Texas buyer or lessee.

Response: The department disagrees. This change is outside the scope of this rule package. The department will consider the suggestion for future rulemaking, consistent with the department's statutory authority.

Comment: TADA requests a rule amendment in §215.151(e) to clarify that a delivery method fulfills the requirement that a dealer "securely deliver" a license plate if the method is dependable and recognized, unless the TxDMV determines that additional conditions are necessary.

Response: The department disagrees that it is necessary to further define or limit license plate delivery methods. The department's enforcement team will investigate and consider all relevant facts and circumstances surrounding a potential violation before issuing a violation notice and recommending a penalty.

Comment: TADA requests a rule amendment in §215.151(e) to state that any electronic communication between a buyer and a dealer may serve as an authorization to mail or deliver an assigned license plate.

Response: The department disagrees. The purpose for requiring a buyer's written authorization is to document the buyer's authorization in a way that can be authenticated and kept or stored in the dealer's vehicle sales records. Not all forms of electronic communication can be kept or stored electronically or are able to be authenticated such as an unrecorded telephone call.

Comment: TIADA requests a rule amendment in §215.151 to establish a minimum allocation of five for all "tag types" to ensure dealer access.

Response: The department disagrees. In the license plate system, a dealer may order the specific types of license plates necessary for the dealer's business, including provisional license plates that a dealer may use when the applicable license plate is not in the dealer's inventory. Automatically allocating five of every type of license plate to every dealer would require the department to incur the expense to deliver license plates that are not necessary and require dealers to secure and store license plates that the dealer may never use.

Comment: TADA requests a rule amendment in §215.152(i) that prior to a determination that a dealer is not eligible to receive a quarterly allocation of plates, that the department make reasonable efforts to verify the accuracy of the facts or circumstances the department alleges meet the requirements for denial of plates under §215.152(i).

Response: The department disagrees. Enforcement of this rule will be based on the department's review of licensing status and enforcement case data. Under existing licensing and enforcement rules, a dealer will have direct knowledge or notice from the department of the relevant facts or circumstances before the department denies the dealer a plate allocation under §215.152(i).

Comment: TADA requests a rule amendment in §215.152 to allow a dealer who sells vehicles to a fleet buyer to contact the department regarding the sale so that license plates can be delivered near the same time as the delivery of the vehicles.

Response: The department disagrees. Contacting the department is unnecessary. A dealer may order license plates in the license plate system based on the anticipated fleet delivery date and the shipping time required for the license plates.

Comment: TADA requests an amendment in §215.152 to allow a new dealership during the licensing process to request a specific number of license plates for the first quarter by providing information to substantiate that request, such as a manufacturer's sales estimate for that location.

Response: The department disagrees. A new dealer may already provide information to support a request for additional license plates under existing §215.152(g).

Comment: TADA requests a rule amendment in §215.152 to allow a selling franchised dealer to transfer the existing license plate inventory to the buying franchised dealer at closing, so the buying dealer has a beginning inventory of license plates to use.

Response: The department disagrees. This change is outside the scope of this rule package. However, department agrees that the ability to transfer license plates when a dealer sells a location is helpful. The department will develop and test an administrative process to transfer license plate inventory and will propose rules in a future rule package.

SUBCHAPTER B. LICENSES, GENERALLY

43 TAC §215.83, §215.91

STATUTORY AUTHORITY. The department adopts amendments and a new section to Chapter 215, Subchapter B, under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill 2587, 89th Legislature, Regular Session (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope of practice to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribing the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §§503.0626, 503.0631, and 503.0632,

which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments and a new rule under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble. Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted revisions implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.83. License Applications, Amendments, or Renewals.

(a) An application for a new license, license amendment, or license renewal filed with the department must be:

(1) filed electronically in the department-designated licensing system on a form approved by the department;

(2) completed by the applicant, license holder, or authorized representative who is an employee, a licensed attorney, or a certified public accountant;

(3) accompanied by the required fee, paid by credit card or by electronic funds transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of the applicant's attorney or certified public accountant; and

(4) accompanied by proof of a surety bond, if required.

(b) An authorized representative of the applicant or license holder who files an application with the department on behalf of an applicant or license holder may be required to provide written proof of authority to act on behalf of the applicant or license holder.

(c) The department will not provide information regarding the status of an application, application deficiencies, or pending new license numbers to a person other than a person listed in subsection (a)(2) of this section, unless that person files a written request under Government Code, Chapter 552.

(d) Prior to the expiration of a license, a license holder or authorized representative must electronically file with the department a sufficient license renewal application. Failure to receive notice of license expiration from the department does not relieve the license holder from the responsibility to timely file a sufficient license renewal application. A license renewal application is timely filed if the department receives a sufficient license renewal application on or before the date the license expires.

(e) An application for a new license, license amendment, or license renewal filed with the department must be sufficient. An application is sufficient if the application:

(1) includes all information and documentation required by the department; and

(2) is filed in accordance with subsection (a) of this section.

(f) If an applicant, license holder, or authorized representative does not provide the information or documentation required by the department, the department will issue a written notice of deficiency. The information or documentation requested in the written notice of deficiency must be received by the department within 20 calendar days of the date of the notice of deficiency, unless the department issues a written extension of time. If an applicant, license holder, or authorized representative fails to respond or fully comply with all deficiencies listed in the written notice of deficiency within the time prescribed by this subsection, the application will be deemed withdrawn and will be administratively closed.

(g) The department will evaluate a sufficient application for a new license, license amendment, or license renewal in accordance with applicable rules and statutes to determine whether to approve or deny the application. If the department determines that there are grounds for denial of the application, the department may pursue denial of the application in accordance with Subchapter G of this chapter (relating to Administrative Sanctions).

(h) The department will process an application for a new license, license amendment, or license renewal filed by a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55 and §215.91 of this title (relating to License Processing for Military Service Members, Spouses, and Veterans).

(i) A license holder who timely files a sufficient license renewal application in accordance with subsection (d) of this section may continue to operate under the expired license until the license renewal application is determined in accordance with Government Code §2001.054.

(j) A license holder who fails to timely file a sufficient license renewal application in accordance with subsection (d) of this section is not authorized to continue licensed activities after the date the license expires. A license holder may dispute a decision that a license renewal application was not timely or sufficient by submitting evidence to the department demonstrating that the license renewal application was timely and sufficient. Such evidence must be received by the department within 15 days of the date the department issues notice that a timely or sufficient license renewal application was not received by the department.

(k) The department shall accept a late license renewal application up to 90 days after the date the license expires. In accordance with subsection (j) of this section, the license holder is not authorized to continue licensed activities after the date the license expires until the department approves the late license renewal application. If the department grants a license renewal under this section, the licensing period begins on the date the department issues the renewed license. The license holder may resume licensed activities upon receipt of the department's written verification or upon receipt of the renewed license.

(l) If the department has not received a late license renewal application within 90 days after the date the license expires, the department will close the license. A person must apply for and receive a new license before that person is authorized to resume activities requiring a license.

(m) A dealer's standard license plate issued in accordance with Transportation Code, Chapter 503, Subchapter C expires on the date the associated license expires, is canceled, or when a license renewal application is determined, whichever is later.

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

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Texas Department of Motor Vehicles
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SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

43 TAC §§215.133, 215.140, 215.141, 215.144, 215.150 - 215.152, 215.155, 215.158, 215.163

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments and a new section in Chapter 215, Subchapter D under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble. Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520. Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. The adopted new section and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501 - 504, 520, and 1002.

§215.141. Sanctions.

(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) deny an application;

(2) revoke a license;

(3) suspend a license;

(4) assess a civil penalty;

(5) issue a cease and desist order; or

(6) take other authorized action.

(b) The board or department may take action described in subsection (a) of this section if a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) fails to maintain a good and sufficient bond or post the required bond notice if required under Transportation Code §503.033 (relating to Security Requirement);

(2) fails to meet or maintain the requirements of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements);

(3) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Vehicle Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

(7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(9) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) issues more than one buyer's license plate or buyer's temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary tag for a vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for more than 60 days;

(11) fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) misuses a dealer's license plate, or a temporary tag before July 1, 2025;

(13) fails to display a dealer's license plate, or temporary tag before July 1, 2025, as required by law;

(14) holds open a title or fails to take assignment of a certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

(15) fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN is issued by the department;

(16) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and 1001-1005; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(17) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(18) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(19) has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) files or provides a false or forged:

(A) title document, including an affidavit making application for a certified copy of a title; or

(B) tax document, including a sales tax statement or affidavit;

(21) uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1001 - 1005; or other laws;

(22) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(23) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(24) sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) fails to comply with a dealer responsibility under §215.150 of this title (relating to Dealer Authorization to Issue License Plates);

(26) on or after July 1, 2025, fails to securely store a license plate or fails to destroy a previously issued but currently unassigned license plate within the time prescribed by statute;

(27) fails to maintain a record of dealer license plates as required under §215.138 of this title (relating to Use of Dealer's License Plates);

(28) on or after July 1, 2025, fails to file or enter a vehicle transfer notice;

(29) fails to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time limit prescribed by rule;

(30) violates any state or federal law or regulation relating to the sale of a motor vehicle;

(31) knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular Certificate of Title for Salvage Vehicle);

(32) fails to issue a refund as ordered by the board or department;

(33) fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business;

(34) on or after July 1, 2025, fails to remove a license plate from a vehicle as required by statute or rule; or

(35) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department.

§215.155. Buyer's License Plates.

(a) A dealer may issue and secure a buyer's license plate or a buyer's temporary license plate only on a vehicle:

(1) from the selling dealer's inventory;

(2) that can be legally operated on the public streets and highways;

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A dealer may not issue a buyer's general issue or temporary license plate to the buyer of a vehicle that is to be titled but not registered.

(c) For a wholesale transaction, a dealer may not issue a buyer's license plate; rather the purchasing dealer places on the motor vehicle its own:

(1) dealer's temporary license plate; or

(2) dealer's standard or personalized prestige license plate.

(d) A buyer's temporary license plate is valid until the earlier of:

(1) the date on which the vehicle is registered; or

(2) the 60th day after the date of purchase.

(e) A dealer shall charge a buyer a fee of $10, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county with the title transfer application for deposit to the credit of the Texas Department of Motor Vehicles fund. If the vehicle is sold by a dealer to an out-of-state resident:

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's designated electronic system; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(f) A governmental agency may charge a buyer a fee of $10 unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

§215.158. General Requirements for Buyer's License Plates.

(a) A dealer or governmental agency is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the requirements in §215.150 of this title (relating to Dealer Authorization to Issue License Plates). A dealer or governmental agency shall report any loss, theft, or destruction of a buyer's license plate or buyer's temporary license plate to the department in the system designated by the department within 24 hours of discovering the loss, theft, or destruction.

(b) When a dealer is required to void a previously assigned buyer's license plate or other type of license plate from a vehicle, the dealer shall render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and within 10 days:

(1) destroy the license plate;

(2) recycle the license plate using a metal recycler registered under Occupations Code, Chapter 1956; or

(3) return the license plate to the department or county tax assessor-collector.

(c) A dealer or governmental agency must return all license plates in the dealer's possession to the department within 10 days of closing the associated license or within 10 days of the associated license being revoked, canceled, or closed by the department.

§215.163. License Plate Disposition for Motor Vehicles Sold at Auction or on Consignment.

(a) Wholesale motor vehicle auctions. A wholesale motor vehicle auction GDN holder who receives a consignment and delivery of a motor vehicle from a person who is not a GDN holder for the purpose of sale at auction shall:

(1) remove and mark any license plate as void; and

(2) destroy, recycle, or return any license plate as required in §215.158 of this title (relating to General Requirements for Buyer's License Plates).

(b) Public auctions.

(1) Before offering a consigned vehicle for sale at a public auction, a dealer must remove any license plate and return the license plate to the vehicle's owner or destroy, recycle, or return the license plate in accordance with §215.158 of this title.

(2) If the purchaser at a public auction is a Texas retail buyer, a dealer shall issue a buyer's license plate to the purchaser, unless the buyer has a general issue, specialty, personalized, or other qualifying license plate to transfer, and update the license plate database in accordance with §215.151 of this title (relating to License Plate General Use Requirements).

(3) If the purchaser at the public auction is a dealer, export buyer, or out-of-state buyer, the selling dealer shall not issue a buyer's license plate.

(4) Notwithstanding §215.150(c) of this title (relating to Dealer Authorization to Issue License Plates), if the purchaser at a public auction is an out-of-state buyer, the dealer shall issue a buyer's temporary license plate only if the purchaser requires this license plate to transport the vehicle to another state in which the vehicle will be titled and registered in accordance with the laws of that state.

(c) Other consignment sales.

(1) Before offering for sale a consigned motor vehicle with a license plate owned by a person who is not a GDN holder, the dealer shall remove and return the license plate to the vehicle's owner. The dealer to whom the vehicle is consigned may use its dealer's temporary license plate to demonstrate the consigned motor vehicle to a potential purchaser.

(2) Upon the sale of a consigned motor vehicle owned by a person who is not a GDN holder:

(A) a dealer shall issue a buyer's license plate to a Texas retail buyer who purchases the consigned vehicle, unless the buyer has a general issue, specialty, personalized, or other qualifying license plate to transfer, and update the license plate database in accordance with §215.151 of this title;

(B) a dealer shall not issue a buyer's license plate if the purchaser of the consigned vehicle is a dealer, export buyer, or out-of-state buyer; and

(C) notwithstanding §215.150(c) of this title, if the purchaser of a consigned vehicle is an out-of-state buyer, the dealer shall issue a buyer's temporary license plate only if the purchaser requires this license plate to transport the vehicle to another state in which the vehicle will be titled and registered in accordance with the laws of that state.

(3) An independent motor vehicle dealer who receives consignment and delivery of a salvage vehicle or total loss vehicle (as defined by the applicable insurance contract) for sale from a person who is not a GDN holder shall remove any license plate and destroy, recycle, or return the license plate as required in §215.158 of this title.

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

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CHAPTER 217. VEHICLE TITLES AND REGISTRATION

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter B, Motor Vehicle Registration, §§217.27, 217.52, and 217.53; and Subchapter I, Processing and Handling Fees, §217.185.

The amendments are necessary to implement legislation, to clarify rule language, and to remove a fee discount that is no longer necessary to incentivize online registration transactions. The department adopts amendments to §§217.27, 217.52, and 217.53 without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4378). These amendments will not be republished. The department adopts amendments to §217.185 with changes to the proposed text. The rule will be republished.

The adopted amendments to §217.185 will be effective December 8, 2025. The adopted amendments to §§217.27, 217.52, and 217.53 will be effective on or about October 9, 2025, 20 days after filing with the office of the Secretary of State.

REASONED JUSTIFICATION.

Adopted amendments to §217.27(c)(2)(B) delete references to Transportation Code, §548.102, the language pertaining to an outstanding inspection period, and the language regarding an application for registration in the name of the purchaser. Adopted amendments also insert reference to Transportation Code, §502.044(a-1), which gives the department authority to register certain motor vehicles for a period of 24 consecutive months. These adopted amendments are necessary to implement Senate Bill (SB) 1729, 89th Legislature, Regular Session (2025), which amended Transportation Code, §502.044 to designate a motor vehicle registration period of 24 consecutive months for new passenger cars and light trucks sold in Texas or purchased by a commercial fleet buyer described by Transportation Code, §501.0234(b)(4) for use in Texas. The adopted amendments to §217.27(c)(2)(B) are also necessary to delete references to Transportation Code, §548.102 because House Bill (HB) 3297, 88th Legislature, Regular Session (2023) repealed Transportation Code, §548.102, pertaining to the initial two-year inspection period for passenger cars and light trucks.

Adopted amendments to §217.52(n)(1)(B) clarify that the fee for restyling a multi-year vendor specialty license plate to an embossed license plate is $75, regardless of whether the specialty license plate from which the person is restyling was embossed or non-embossed. This reflects the higher costs of the embossing process on the new plate, which the department's vendor incurs regardless of whether the original plate that the person is seeking to replace was embossed. When current §217.52(n)(1)(B) was originally adopted, embossed plates were new and all restyling to an embossed plate was from a non-embossed plate. As embossed plates become more prevalent, this clarification of the rule is necessary to prevent confusion and accurately reflect the fee for the restyling of an embossed plate to a new style of embossed plate.

Adopted amendments to §217.53 are necessary to implement SB 1902, 89th Legislature, Regular Session (2025), which amended Transportation Code, §504.901 to require a motor vehicle dealer who has purchased a vehicle to remove the assigned general-issue license plates from the vehicle and either transfer the license plates within 10 days to another motor vehicle purchased from their inventory, or destroy the plates. Adopted amendments to §217.53(a) modify the language to require a dealer, upon receiving a motor vehicle in their inventory by sale or transfer, to remove the plates and remove and dispose of the registration insignia from the vehicle. An adopted amendment to §217.53(a) also clarifies that the dealer must either transfer or dispose of the general-issue license plates removed from the motor vehicle in accordance with 43 TAC §215.151(d), relating to License Plate General Use Requirements. In addition, an adopted amendment adds standard language to state that §215.151(d) is contained in Title 43.

SB 1902 amended Transportation Code, §504.901(b) to require a seller, in a transaction where neither party holds a general distinguishing number (GDN), to remove the license plates from the vehicle, and to permit the seller to transfer the removed license plates to another vehicle titled in the seller's name. Adopted amendments to §217.53(b) implement SB 1902 by deleting the requirement for general issue license plates to remain with a motor vehicle following the sale or transfer of the motor vehicle where neither party in the transaction is a dealer and replacing it with language requiring the seller or transferor to remove license plates from the motor vehicle. The adopted amendments to §217.53(b) implement SB 1902 by giving sellers the option of transferring the license plates to a motor vehicle titled in their name as long as the motor vehicle is of the same classification as the motor vehicle the license plates were removed from, and upon acceptance of a request made to a county tax assessor-collector through an application filed under Transportation Code, §501.023 or §502.040.

Adopted amendments to §217.53(c) implement SB 1902 by requiring that the seller of the vehicle render unusable and dispose of any license plates that are not transferred to another vehicle. An additional amendment to §217.53(c) creates consistency and clarity across the department's rules by replacing a vague de-

scription of acceptable plate destruction with specific allowable methods for destroying or disposing of license plates, paralleling the requirements for dealers under §215.158(b) of this title, relating to General Requirements for Buyer's License Plates.

The language in Transportation Code, §504.901(b), as amended by SB 1902, that requires the seller of a motor vehicle, in a transaction where neither party is a dealer, to remove the license plates from the vehicle, is very similar to the language that existed in that statute prior to the amendments of HB 718, 88th Legislature, Regular Session (2023). Adopted amendments to §217.53(d) implement SB 1902 by reverting back to a portion of the language that existed in §217.53(c) prior to the amendments that the department adopted in December 2024 to implement HB 718. The adopted amendments to §217.53(d) inform a purchaser of a motor vehicle, where neither party is a dealer and the seller has removed the license plates, of the option to secure a vehicle transit permit under Transportation Code, §502.492. This permit allows the purchaser to operate the motor vehicle legally on the public roadways from the location where they purchased it to their home or to get it titled and registered.

An adopted amendment to §217.185(a)(3) eliminates the $1 discount on registration transactions processed through Texas by Texas (TxT) or the department's Internet Vehicle Title and Registration Service (IVTRS). The adopted amendment is necessary to address increased costs for processing registration transactions. The current processing and handling fee, and associated online discount, were established in 2016 and implemented in January 2017. The online discount was created to incentivize Texans to use the online system. Subsequently, the department deployed TxT, which is a mobile application through which a registrant may renew their vehicle registration. Since 2017, the fee and online discount amounts have remained the same, while costs for processing registration transactions throughout the state have increased. In accordance with Transportation Code, §502.1911, the processing and handling fee set by rule must be "sufficient to cover the expenses associated with collecting registration fees." The cumulative inflation rate from January 2017 to January 2025 is over 34%, which has translated into increased costs for information technology infrastructure and staffing to support registration transactions statewide. Moreover, the incentive to get Texans to adopt the online system is no longer needed as around 30% of registration renewal transactions went through TxT and IVTRS in the past three years. Eliminating the discount for transactions processed online will help support the increased costs of collecting registration fees. This adoption seeks only to eliminate the online registration discount in the amount of $1 per registered vehicle per year, and the established registration fees would remain the same. At adoption, §217.185(a)(3) was amended to remove a stray comma.

The adopted amendments to §217.185 will be effective December 8, 2025, to allow sufficient time for recoding the IVTRS and TxT systems to remove the $1 discount.

SUMMARY OF COMMENTS.

The department received two written comments on the proposal.

The department received written comments from one individual and the Galveston County Tax Assessor-Collector (TAC).

Comment. The Galveston County TAC commented in opposition to the proposed amendments to §217.185(a)(3). The commenter stated the proposed amendments to eliminate the $1 discount on registration transactions processed through TxT or IVTRS would result in reduced online registration renewals, and challenged the department to prove it costs the department money to have the $1 discount.

Response. The department disagrees. The original reason for the discount created in 2016 was to incentivize online renewals for those customers who otherwise may not renew online. Now, almost 10 years later, conducting business online is significantly more widespread, and many customers are comfortable with the process. Online registration renewals have held steady at approximately 30% of customers for the past three years. The department believes that most people who currently renew online will continue to do so even in the absence of this discount, which amounted to only $1 per person per year. With the adoption of these amendments, it will not be more expensive to renew online than in-person as the cost is the same for both options. However, customers will still be incentivized to renew online by the convenience of online renewals, which allows customers to avoid the time and cost required to drive to an in-person renewal location.

Additionally, as the proposal preamble stated, the department expects to receive up to $6,000,000.00 per year in increased revenue as a result of removing the $1 discount for online transactions. This was calculated based on the recent number of customers who renewed their registration online multiplied by $1 for each of those customers. Thus, the online fee discount costs the department approximately $6,000,000.00 each year that it remains in place.

Comment. An individual commented that all fees charged by the counties should be standardized to better regulate and streamline the process for assessing fees to avoid confusion on the part of dealers.

Response. The department disagrees. This comment is outside the scope of the rule proposal, which is limited to amendments that eliminate a fee discount related to online motor vehicle registration renewals and does not address the standardization of fees or fees in general.

Comment. The individual commenter also commented that the new license plate system hinders motor vehicle dealer operations compared to the replaced temporary tag system that could have been fixed with a watermark feature on the temporary tags to counter the theft and/or misuse of temporary tags.

Response: The department disagrees. This comment is outside the scope of this rule proposal and the department's rulemaking authority. Transportation Code, §503.063 requires dealers to issue buyer's license plates on or after July 1, 2025.

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §§217.27, 217.52, 217.53

STATUTORY AUTHORITY. The department adopts amendments to §§217.27, 217.52, and 217.53 under Transportation Code, §502.0021, which gives the department the authority to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.044, as amended by Senate Bill (SB) 1729, 89th Legislature, Regular Session (2025), which requires the department to designate a registration period of 24 consecutive months for certain passenger cars and light trucks; Transportation Code, §504.0011, which gives the board authority to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code, §504.010, which authorizes the department to adopt rules governing the

issuance and placement of license plates on motor vehicles; Transportation Code, §504.0051, which gives the department authority to issue personalized license plates and forbids the department from issuing replacement personalized license plates unless the vehicle owner pays the statutory fee required under Transportation Code, §504.007; Transportation Code, §504.007, which states that replacement license plates can only be issued if the vehicle owner pays the statutory fee; Transportation Code, §504.6011, which authorizes the sponsor of a specialty license plate to reestablish its specialty license plate under Subchapter J of Transportation Code, Chapter 504, and authorizes the board to establish the fees under Transportation Code, §504.851; Transportation Code, §504.851(a), which allows the department to contract with a private vendor to provide specialty and personalized license plates; Transportation Code, §504.851(b)-(d), which authorize the board to establish fees by rule for the issuance or renewal of personalized license plates that are marketed and sold by the vendor as long as the fees are reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs associated with the procurement, implementation and enforcement of the vendor's contract; Transportation Code, §504.851(i), which requires a contract entered into by the department and a private vendor for the marketing and sale of specialty license plates to allow the vendor to establish a range of premium embossed specialty license plates to be sourced, marketed, and sold by the private vendor; the rulemaking authority provided under Section 3 of SB 1902, 89th Legislature, Regular Session (2025); and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout the this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapters 502, 504, and 1002.

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. PROCESSING AND HANDLING FEES

43 TAC §217.185

STATUTORY AUTHORITY. The department adopts amendments to §217.185 under Transportation Code, §502.0021, which gives the department the authority to adopt rules to administer Transportation Code, Chapter 502; Transportation Code §502.1911, which authorizes the board to adopt rules to set registration processing and handling fees; and Transportation Code §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapters 502 and 1002.

§217.185. Allocation of Processing and Handling Fees.

(a) For registration transactions, except as provided in subsection (b) of this section, the fee amounts established in §217.183 of this title (relating to Fee Amount) shall be allocated as follows:

(1) If the registration transaction was processed in person at the office of the county tax assessor-collector or mailed to an office of the county tax assessor-collector:

(A) the county tax assessor-collector may retain $2.30; and

(B) the remaining amount shall be remitted to the department.

(2) If the registration transaction was processed through the department or the TxFLEET system or is a registration processed under Transportation Code, §§502.0023, 502.091, or 502.255; or §217.46(b)(5) of this title (relating to Commercial Vehicle Registration):

(A) $2.30 will be remitted to the county tax assessor-collector; and

(B) the remaining amount shall be retained by the department.

(3) If the registration transaction was processed through Texas by Texas (TxT) or the department's Internet Vehicle Title and Registration Service (IVTRS):

(A) Texas Online receives the amount set pursuant to Government Code, §2054.2591, Fees;

(B) the county tax assessor-collector may retain $.25; and

(C) the remaining amount shall be remitted to the department.

(4) If the registration transaction was processed by a limited service deputy or full service deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy may retain:

(i) the amount specified in §217.168(c) of this title (relating to Deputy Fee Amounts). The deputy must remit the remainder of the processing and handling fee to the county tax assessor-collector; and

(ii) the convenience fee established in §217.168, if the registration transaction is processed by a full service deputy;

(B) the county tax assessor-collector may retain $1.30; and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(5) If the registration transaction was processed by a dealer deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy must remit the processing and handling fee to the county tax assessor-collector;

(B) the county tax assessor-collector may retain $2.30; and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(b) For transactions under Transportation Code, §§502.093-502.095, the entity receiving the application and processing the transaction collects the $4.75 processing and handling fee established in §217.183:

(1) the entity may retain $4.25;

(2) the entity must remit the remaining amount to the department; and

(3) a full service deputy processing a special registration permit or special registration license plate transaction may not charge a convenience fee for that transaction.

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 220. AUTOMATED MOTOR VEHICLES

The Texas Department of Motor Vehicles (department) adopts new 43 Texas Administrative Code (TAC) Chapter 220, Automated Motor Vehicles; Subchapter A, General Provisions, §220.1 and §220.3; Subchapter B, Authorization to Operate an Automated Motor Vehicle, §§220.20, 220.23, 220.26, 220.28, and 220.30; and Subchapter C, Administrative Sanctions, §220.50, concerning automated motor vehicles.

The department adopts the following new sections without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4386). These rules will not be republished: §§220.1, 220.3, 220.20, 220.28, and 220.50. The department adopts the following new sections with changes at adoption to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4386). These rules will be republished: §§220.23, 220.26 and 220.30. The changes at adoption are described in the Reasoned Justification below.

Adopted new Chapter 220 is necessary to implement Senate Bill (SB) 2807, 89th Legislature, Regular Session (2025), which requires a person to hold an automated motor vehicle authorization to operate one or more automated motor vehicles to transport property or passengers in furtherance of a commercial enterprise on highways and streets in Texas without a human driver (authorization). SB 2807 became effective on September 1, 2025.

A portion of SB 2807 amends Subchapter J (Operation of Automated Motor Vehicles) of Chapter 545 of the Transportation Code. SB 2807 requires the Board of the Texas Department of Motor Vehicles (board) and the Public Safety Commission to adopt rules to implement certain provisions in SB 2807 regarding automated motor vehicles by December 1, 2025. However, Section 12(b) of SB 2807 says that a person is not required to comply with Subchapter J of Chapter 545 of the Transportation Code, as amended by SB 2807, until the 90th day after the effective date of rules adopted by the board (as required by Subchapter J of Chapter 545) and rules adopted by the Public Safety Commission (as required by Transportation Code, §545.455(c)(2)). The effective date of Chapter 220 is February 27, 2026; however, a person is not required to comply with Subchapter J of Chapter 545 of the Transportation Code, as amended by SB 2807, and Chapter 220 until the later of May 28, 2026, or the 90th day after the effective date of the rules adopted by the Public Safety Commission as required by Transportation Code, §545.455(c)(2).

The department considered all written comments that were timely received during the public comment period regarding Chapter 220. The department made one change to §220.26(a) at adoption in response to a public comment from the City of Austin by adding language to provide an example of a material change to information in a document, which triggers the requirement for an authorization holder to provide the department with an update under Transportation Code, §545.456(e).

REASONED JUSTIFICATION.

Subchapter A. General Provisions

Adopted new §220.1 provides the purpose and scope of new Chapter 220. Adopted new §220.3 specifies that the definitions for new Chapter 220 are the definitions contained in Transportation Code, Chapter 545, Subchapter J.

Subchapter B. Authorization to Operate an Automated Motor Vehicle

For clarity and ease of reference, adopted new §220.20 provides the purpose and scope of new Subchapter B regarding the form and manner of an application for authorization, as well as the requirements to update certain documents under Transportation Code, §545.456.

Adopted new §220.23 prescribes the form and manner by which a person may apply to the department for an authorization, as required by Transportation Code, §545.456(a). Adopted new §220.23 also prescribes certain requirements for an authorization application.

The application requirements are similar to the application requirements in the department's rules for other programs, such as operating authority for a motor carrier under 43 TAC Chapter 218. However, the department customized the application requirements under §220.23 to comply with Transportation Code, §545.456 and to obtain information and documents that the department needs to comply with new Chapter 220 and Transportation Code, §545.456 and §545.459.

The requirement for the applicant to provide the applicant's name, contact information, business entity type, and Texas Secretary of State file number, as applicable, will assist the department in identifying the applicant and verifying certain application information as necessary. If the department approves the application and issues an authorization to the applicant under Transportation Code, §545.456, the department will use the authorization holder's application information to send any notices to the authorization holder under Chapter 224 of this title regarding administrative sanctions, including the possible

suspension, revocation, or cancellation of the authorization if the department determines that an automated motor vehicle operating under an authorization is not in safe operational condition and the operation of the vehicle on a highway or street in Texas endangers the public. The department will also use any documents provided by an applicant under §220.23 to enforce the relevant provisions under new Chapter 220 and Transportation Code, §545.456 and §545.459 regarding the authorization holder if the department approves the application and issues an authorization.

The vehicle descriptive information specified in adopted new §220.23(b)(1)(B) is consistent with certain data fields that are included on Form 130-U, which is the department's Application for Texas Title and/or Registration. Transportation Code, §545.456(b)(1)(B) requires the department's rules to require an applicant for an authorization to provide the department with vehicle descriptive information as prescribed by the department. Adopted new §220.23(b)(1)(B) requires the applicant to provide vehicle descriptive information that is generally used by the department to identify vehicles and that is consistent with terminology used in the department's form for an application for Texas title and/or registration for a vehicle. Transportation Code, §545.455(b)(5) prohibits an automated motor vehicle from being operated on a highway or street in Texas with the automated driving system engaged unless the vehicle is registered and titled in accordance with Texas law. Also, Transportation Code, §545.456(b)(2)(E) requires the department's rules to require an applicant for an authorization to provide the department with a written statement by the applicant or the manufacturer of the vehicle or the automated driving system acknowledging that each automated motor vehicle is registered and titled in accordance with Texas law. Law enforcement uses the vehicle registration and title information that the department maintains on vehicles that are titled and registered in Texas. It is therefore important that the vehicle descriptive information in the department's designated system for automated motor vehicles is consistent with the vehicle descriptive information in the department's designated system for vehicle titles and registration.

The information required under new §220.23 will assist law enforcement with determining whether an automated motor vehicle is being operated under an authorization, so law enforcement can determine whether to issue a citation to the owner of the vehicle or the authorization holder for the vehicle. Transportation Code, §545.454(b) states that when an automated driving system that is installed on an automated motor vehicle is engaged, the authorization holder for the automated motor vehicle shall be issued any citation for a violation of traffic or motor vehicle laws related to the vehicle. If the automated motor vehicle is not being operated under an authorization, Transportation Code, §545.454(b) states that the citation shall be issued to the owner of the vehicle.

In addition, the information required under new §220.23 may help law enforcement determine whether a person committed an offense under Transportation Code, §545.455(d). A person commits an offense under Transportation Code, §545.455(d) if the person operates an automated motor vehicle in violation of Transportation Code, §545.455(c), which prohibits a person from operating an automated motor vehicle to transport property or passengers in furtherance of a commercial enterprise on a highway or street in Texas without a human driver unless the person receives and maintains authorization to operate automated motor vehicles from the department under Transportation Code, §545.456 and provides the Texas Department of Public Safety with the prescribed plan specifying how a person who provides firefighting, law enforcement, ambulance, medical, or other emergency services should interact with the automated motor vehicle during the provision of those services.

The department adopts §220.23(c) with a change at adoption to replace the word "with" with the word "to" because an applicant submits an application to the department.

Adopted new §220.26 prescribes the requirements and process regarding an authorized holder's obligation to provide the department with updated documents under Transportation Code, §545.456(e) and §545.456(f)(2). The department needs updated information and documents to enforce the relevant provisions under new Chapter 220 and Transportation Code, §545.456 and §545.459 regarding an authorization holder.

The department adopts §220.26(a) and (b) with changes at adoption to delete the references to paragraphs (1) and (2) in the citation to §220.23(b) because the references are not necessary as §220.23(b) only includes two paragraphs. The department also adopts §220.26(a) with a change at adoption in response to a public comment from the City of Austin regarding whether an authorization holder's addition of an automated motor vehicle to its fleet is a change in material information that triggers the requirement for the authorization holder to provide the department with an update under Transportation Code, §545.456(e). This change at adoption clarifies, but does not limit, the term "material information changes" in §220.26(a) by adding the phrase "including, but not limited to, the addition of another vehicle." The addition of a vehicle to the fleet is a material change because Transportation Code, §545.459(g) specifies that the department is authorized to regulate each individual vehicle by authorizing the department to impose restrictions on the operation of "the" vehicle, rather than a unit of a fleet. This addition will ensure that authorization holders understand the materiality of adding another automated motor vehicle to their fleet, but will not restrict the department's authority to determine materiality beyond this example based on the specific facts of each case.

Adopted new §220.26(b)(3) imposes a five-day deadline for an authorization holder to electronically submit an updated or current document when the department requests the authorization holder for an updated or current document under Transportation Code, §545.456(f)(2). The five-day deadline to respond to a department request under Transportation Code, §545.456(f)(2) is different than the general 30-day deadline under §545.456(e) for an authorization holder to update their documents without a department request. Transportation Code, §545.456(f)(2) addresses situations in which the department needs an updated or current document more quickly than 30 days, such as when the operation of an automated motor vehicle endangers the public, as described in Transportation Code, §545.459(a) and (b). However, adopted new §220.26(b)(3) also authorizes the department to grant an extension on the five-day deadline in response to a written request from the authorization holder. Adopted new §220.26(b)(4) requires the authorization holder to submit any requests for an extension prior to the department's deadline for submission of the updated or current document. A request for an extension after the deadline has passed is not a reasonable request. Adopted new §220.26(b)(4) also requires an extension request to be sent to the designated address listed in the department's request to the authorization holder for an updated or current document. This will allow the department flexibility in

determining how best to staff and monitor communications with authorization holders.

Adopted new §220.26(b)(5) requires the authorization holder's request for an extension to contain an explanation on why five days is not reasonable, why the authorization holder needs more time (including the specific deadline the authorization holder is requesting), and whether the authorization holder's requested deadline is likely to result in harm to the public health, safety, or welfare. Automated motor vehicles are a new and evolving technology. The authorization holder is in the best position to know about the automated motor vehicles that it operates and the automated motor vehicle industry in general. The authorization holder is in the best position to articulate its reasons for requesting an extension of the five-day deadline.

Adopted new §220.28 provides clarity to the automated motor vehicle industry regarding the computation of time under new Chapter 220, as well as under Transportation Code, §545.456 and §545.459, by aligning the computation with Government Code, §311.014 and specifying calendar days rather than business days.

Adopted new §220.30 specifies that the written statement and certification, required by Transportation Code, §545.456, must contain an authorized signature to ensure that the statement and certification are accurate, authorized, and enforceable. An electronic signature is legally acceptable under Business and Commerce Code, §322.007.

The department adopts §220.30 with a change at adoption to clarify that it applies to both an applicant for an authorization and an authorization holder. The written statements and the certification referenced in Transportation Code, §545.456(b) apply both to an application for an authorization and to updates that an authorization holder must provide to the department.

Subchapter C. Administrative Sanctions

Adopted new §220.50 states that the department's rules regarding administrative sanctions for authorization holders are located in Chapter 224 of the department's rules. This new section is consistent with other department rules, which state where to find the department's rules relating to adjudicative practice and procedure as a useful reference for the regulated industries and others.

SUMMARY OF COMMENTS.

The department received nine timely written comments on the proposal. Each of the following submitted a written comment: one individual, the City of Austin, the Alliance for Automotive Innovation (Auto Innovators), Torc Robotics (Torc), Lyft, Stack AV Co. (Stack), the Autonomous Vehicle Industry Association (AVIA), the City of Dallas, and May Mobility, Inc. (May Mobility).

Comment: An individual commenter believes that autonomous vehicles should be heavily regulated and should have to pass a driving test to get a license. Also, the individual commenter believes the automated motor vehicle companies should be heavily taxed by being charged a significant yearly fee to operate each vehicle and an income tax percentage per ride.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority.

Comment: The City of Austin requests clarification on whether municipalities can be parties to the adjudication process for the issuance of an authorization to operate automated motor vehicles.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority. The legislature specified that the department, rather than a political subdivision, has the authority to administer the laws regarding an automated motor vehicle authorization under Transportation Code, §545.456.

Comment: The City of Austin requests clarification on whether automated motor vehicle companies that are new to Texas or have not yet deployed must obtain authorization before testing and mapping on Texas roadways.

Response: The department disagrees. Transportation Code, §545.455(c) and §545.456 address the issue, and it is not necessary to repeat statutory language in rule. Also, the answer depends on the facts. In addition, Section 12(b) of SB 2807 states when a person is required to comply with Transportation Code, Chapter 545, Subchapter J.

Comment: The City of Austin requests that the rules establish a clear process requiring automated motor vehicle authorization holders to coordinate with local emergency responders to provide classroom, hands-on, and simulated incident and cybersecurity training prior to deployment. The City of Austin also recommends that the emergency plans that authorization holders are required to submit to the Texas Department of Public Safety be shared with local public safety departments to ensure operational readiness, training and interoperability. In addition, the City of Austin recommends that automated motor vehicle operators provide a 24-hour emergency contact email and phone number to city public safety personnel to assist with establishing automated motor vehicle exclusion zones in times of emergencies.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority.

Comment: The City of Austin recommends that the proposed rules clarify what data, if any, must be reported to local jurisdictions, including information related to automated motor vehicle routes, collisions under the National Highway Traffic Safety Administration's Standing General Order, incidents, operational design domain (ODD) parameters, fleet size and local counts, and emergency response interactions.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority.

Comment: The City of Austin states that compliance timelines should allow for flexibility, particularly for jurisdictions with existing automated motor vehicle pilot programs. The City of Austin also states that transitional provisions should protect ongoing coordination between local agencies and automated motor vehicle operators.

Response: The department disagrees. The department is required to adopt rules by December 1, 2025, according to Section 12 of SB 2807. Also, the department is making these rules effective as soon as possible to implement SB 2807 as directed by the legislature. In addition, as explained above, the effective date of Chapter 220 is February 27, 2026; however, a person is not required to comply with Subchapter J of Chapter 545 of the Transportation Code, as amended by SB 2807, and Chapter 220 until the later of May 28, 2026, or the 90th day after the effective

date of the rules adopted by the Public Safety Commission as required by Transportation Code, §545.455(c)(2).

Comment: At a high level, Auto Innovators supports the department's proposed rules to implement SB 2807.

Response: The department agrees.

Comment: Torc, Lyft, Stack, and AVIA support the department's proposed rules.

Response: The department agrees.

Comment: The City of Dallas encourages the department to require robust safety documentation, including crash history and proof of community stakeholder coordination, and to make information about approved operators publicly accessible.

Response: The department disagrees. The requested rules are outside the scope of the department's rulemaking authority. Transportation Code, §545.453 and §545.456 do not allow the department to require authorization holders to submit crash history or proof of community stakeholder coordination. Also, whether the department makes information about authorization holders publicly accessible is based on statutory confidentiality requirements in Government Code, Chapter 552 and other statues, and is therefore not a matter that should be included in an administrative rule.

Comment: The City of Dallas recommends effective coordination between automated motor vehicle companies and local first responders, including a standard for First Responder Interaction Plans.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority. The Public Safety Commission, rather than the department, is authorized to adopt rules under Transportation Code, §545.455(c)(2) regarding a plan that specifies how a person who provides firefighting, law enforcement, ambulance, medical, or emergency services should interact with the automated motor vehicle during the provision of those services.

Comment: The City of Dallas believes there must be strong safeguards to quickly suspend or revoke an authorization when safety is compromised.

Response: The department disagrees with this comment to the extent that it is outside of the department's rulemaking authority. Regarding potential safety issues, Transportation Code, §545.456 authorizes the department to immediately suspend, revoke, or cancel an authorization for the authorization holder's failure to update documents that the authorization holder previously provided to the department.

The department is authorized under Transportation Code, §545.456(f)(2) to request the authorization holder to provide an updated or current document described by Transportation Code, §545.456(b), including when the department suspects a potential safety issue. The department drafted §220.26 to require the authorization holder to submit the updated or current documents within five calendar days of the date of the department's request, unless the department grants an extension on the deadline. This requirement to update at the department's request is different than the general requirement under Transportation Code, §545.456(e) for the authorization holder to update documents without a department request within 30 days after the date material information in the document changes.

Regarding the process for a suspension, revocation, or cancellation of an authorization under Transportation Code, §545.456 or §545.459, the statutes provide the framework and the department's revisions to Chapter 224 provide additional detail regarding the process and requirements. The department also responded to this comment in the preamble for the adoption of revisions to Chapter 224, which is published in this issue of the *Texas Register.*

Comment: May Mobility stated that there is a slight discrepancy between the definition of the term "automated driving system" referenced in the proposed rulemaking and the definition referenced in SB 2807, and recommends the definition in SB 2807.

Response: The department disagrees. The term "automated driving system" is not included in the rule text in Chapter 220. Also, adopted new §220.3 states that the definitions contained in Transportation Code, Chapter 545, Subchapter J (includes the definition for "automated driving system" in Transportation Code, §545.451) govern Chapter 220.

Comment: May Mobility recommends that clear protocols be established in circumstances in which the authorized representative identified in an application must be changed. In the alternative, May Mobility requests that the department either provide applicants with the option to designate two authorized representatives at the time of application, or require each applicant to designate at least two authorized representatives for administrative purposes.

Response: The department disagrees with the comment because the requested protocols are not necessary. The adopted rules do not require that the same authorized representative submit the application and provide any updates. Adopted new section 220.23(a)(2) allows any authorized representative to complete an application on behalf of the applicant. If an authorization holder needs to update documents that it previously provided to the department, adopted new §220.26(a) and (b) state that the requirement to update is subject to the requirements specified in §220.23, which does not require the same authorized representative to provide the updated document as the authorized representative who submitted the authorization holder's application.

Comment: May Mobility requested that applicants be provided with at least two authorized representatives from the department for ongoing communication and that a protocol be established for adding or removing vehicles from the fleet originally proposed in the application.

Response: The department disagrees with this comment because it is unnecessary to include contact information in an administrative rule, and the contact information is subject to change. The department will provide contact information on its website for communication with department staff. Also, the process for adding or removing vehicles from the fleet will be programmed into the department's designated system.

Comment: May Mobility recommends that the department make an affirmative statement of intent that the department's administrative provisions are the primary administrative mechanism for autonomous vehicle operations in Texas to reduce the potential of other agencies interposing potentially overlapping or conflicting provisions.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority. Also, the legislature addressed this issue in Transportation Code, Chapter 545, Subchapter J. For example, Transporta-

tion Code, §545.452(b) states that a political subdivision of this state may not impose a franchise or other regulation related to the operation of an automated motor vehicle or automated driving system.

§220.1

Comment: The City of Austin recommends that the department amend §220.1 to clarify whether Chapter 220 applies to vehicles operated by a remote human (teleoperator) by explicitly defining the term "without a human driver" to mean "without a human driver present in the vehicle" to ensure regulatory certainty and enforcement consistency in teleoperation cases.

Response: The department disagrees. This issue is already addressed in the definitions in Transportation Code, §545.451 for the terms "automated driving system," "automated motor vehicle," and "human driver." The definitions in Transportation Code, Chapter 545, Subchapter J (includes Transportation Code, §545.451) govern Chapter 220, according to §220.3.

Transportation Code, §545.451 defines the term "automated driving system" to mean the "hardware and software that, when installed on a motor vehicle and engaged, are collectively capable of operating the vehicle with Level 3 automation, Level 4 automation, or Level 5 automation by performing the entire dynamic driving task for the vehicle on a sustained basis, regardless of whether the system is limited to a specific operational design domain." Transportation Code, §545.451 defines the term "automated motor vehicle" to mean "a motor vehicle on which an automated driving system is installed that is capable of being operated with Level 4 automation or Level 5 automation." According to the definitions for the terms "automated driving system" and "automated motor vehicle," a motor vehicle is not an automated motor vehicle unless the automated driving system (the hardware and software) is capable of operating the vehicle with Level 4 automation or Level 5 automation without human intervention.

Transportation Code, §545.451 defines the term "human driver" to mean "a natural person in an automated motor vehicle who controls all or part of the dynamic driving task." Therefore, a remote operator who is not in the vehicle does not fit within the statutory definition of "human driver."

Comment: The City of Austin recommends requiring applicants for authorization to disclose the Society of Automotive Engineers (SAE) automation level. The City of Austin also recommends that automated vehicle operators disclose when passenger and commercial vehicles do not have driver controls. The City of Austin explained that this information is critical to inform law enforcement, fire, and EMS response protocols and ensure appropriate classification of vehicle capabilities.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority.

§220.23

Comment: The City of Austin recommends requiring an identifier (such as a sticker or placard) to be displayed on each permitted autonomous vehicle. The City of Austin also recommends that the identifier should include the vehicle's permit number, registered agent name and contact information, and a QR code linking to the first responder interaction plan to aid enforcement, enhance accountability, and support public safety during incident response.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority.

§220.23(b)(1)(A)

Comment: The City of Austin recommends requiring the applicant to provide its registered agent's name and address to streamline complaint and citation service by law enforcement.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority.

§220.26(a)

Comment: The City of Austin recommends clarifying whether §220.26(a) requires updates for every added vehicle or only major changes. The City of Austin also recommends specifying reporting for the following: 1) major changes to fleet size; 2) major changes to operational design domain (ODD); 3) removal of human driver controls; 4) addition of new vehicle types (such as large delivery vans or buses); and 5) changes in autonomous vehicle speed capabilities.

Response: The department disagrees. Adopted new section 220.26(a) is written to be as broad as Transportation Code, §545.456(e), which requires an update to a document described by §545.456(b) not later than the 30th day after the date material information in the document changes. Section 545.456(b) includes vehicle descriptive information as prescribed by the department. The department prescribed the following vehicle descriptive information in adopted new §220.23(b)(1)(B): the vehicle identification number, year, make, and model. As stated above regarding the changes to §220.26(a) in response to the City of Austin's comment, the addition of a vehicle to the fleet is a change in material information in the document that an authorization holder provided to the department. The department needs to know which vehicles the authorization holder is operating under its authorization, including the addition of a new vehicle and the descriptive information regarding such vehicle. In response to this comment, the department added the phrase "including, but not limited to, the addition of another vehicle" to new §220.26(a) at adoption.

Transportation Code, §545.456(b) does not expressly require the authorization holder to tell the department that there was a major change to the ODD, that human driver controls were removed, or that there was a change to the speed capabilities of the vehicle. The department does not have the rulemaking authority to require an authorization holder to provide the department with updates that are outside the scope of Transportation Code, §545.456(b).

The authorization holder may be required to provide the department with an updated written statement that acknowledges one or more of the factors listed in Transportation Code, §545.456(b)(2), or an updated certification that acknowledges that the authorization holder provided the Texas Department of Public Safety with the updated plan under Transportation Code, §545.456(b)(3) if a major change to the ODD or a change to the speed of the vehicle impacts one or more of the factors listed in Transportation Code, §545.456(b)(2) or the plan referenced in Transportation Code, §545.455(c)(2).

§220.26(b)

Comment: Auto Innovators encourages the department to replace the five-day deadline in §220.26(b) for an authorization

holder to provide the department with an update in response to the department's request with a default deadline of 10 business days and to give the department the ability to expedite urgent requests to a period of five days. Auto Innovators also strongly recommends that the computation of time under Transportation Code, §545.459(b) be modified to reference "business days" rather than "calendar days."

Response: The department disagrees. The requirement to update documents under Transportation Code, §545.456 is a basic requirement with which the authorization holder must comply. For an authorization holder responsibly operating a safe vehicle, it should not be difficult or time-consuming to specify and certify to the basic information required under Transportation Code, §545.456. As previously stated, the department is authorized to request an authorization holder to update documents, including when the department thinks there may be a potential safety issue. In addition, the rule allows the authorization holder to request an extension on the five-day deadline.

The portion of this comment regarding the "computation of time" under Transportation Code, §545.459(b) appears to be an error because that subsection does not involve the computation of time. To the extent this portion of the comment was intended to apply to §220.28(b), the department disagrees with this comment for the reasons stated above.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §220.1, §220.3

STATUTORY AUTHORITY. The department adopts new sections under Transportation Code, §545.456, as added by Senate Bill (SB) 2807, 89th Legislature, Regular Session (2025), which requires the Board of the Texas Department of Motor Vehicles (board) by rule to prescribe the form and manner by which a person may apply to the department for authorization to operate automated motor vehicles to transport property or passengers in furtherance of a commercial enterprise on highways and streets in this state without a human driver; Transportation Code, §545.453, as added by SB 2807, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Transportation Code, Chapter 545, Subchapter J, and §1002.001; and Government Code, Chapter 2001.

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 September 19, 2025.

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For further information, please call: (512) 465-5665

SUBCHAPTER B. AUTHORIZATION TO OPERATE AN AUTOMATED MOTOR VEHICLE

43 TAC §§220.20, 220.23, 220.28, 220.30

STATUTORY AUTHORITY. The department adopts new sections under Transportation Code, §545.456, as added by SB 2807, which requires the board by rule to prescribe the form and manner by which a person may apply to the department for authorization to operate automated motor vehicles to transport property or passengers in furtherance of a commercial enterprise on highways and streets in this state without a human driver; Transportation Code, §545.453, as added by SB 2807, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §1001.102, which authorizes the board by rule to provide for the filing of a license application and the issuance of a license by electronic means; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Transportation Code, Chapter 545, Subchapter J, §1001.102, and §1002.001; and Government Code, Chapter 2001.

§220.23. Application Requirements.

(a) An application for authorization to operate one or more automated motor vehicles under Transportation Code, §545.456 must be:

(1) submitted electronically in the department's designated system; and

(2) completed by the applicant or an authorized representative of the applicant.

(b) An application for authorization to operate one or more automated motor vehicles under Transportation Code, §545.456 must contain the following:

(1) a written statement by the person that includes the following information:

(A) the applicant's name, business entity type (such as sole proprietor, corporation, or limited liability company), telephone number, email address, mailing address, and Texas Secretary of State file number, as applicable; and

(B) the following information for each automated motor vehicle the applicant intends to operate under its authorization:

(i) the vehicle identification number;

(ii) year;

(iii) make; and

(iv) model; and

(2) the written statement and certification required by Transportation Code, §545.456(b)(2) and (3).

(c) An authorized representative of the applicant who submits an application to the department on behalf of an applicant may be required to provide written proof to the department of authority to act on behalf of the applicant.

§220.26. Updates under Transportation Code, §545.456(e) and §545.456(f)(2).

(a) Under Transportation Code, §545.456(e), an authorization holder shall provide the department with an update to a document described by §220.23(b) of this title (relating to Application Requirements) not later than the 30th day after the date material information changes, including, but not limited to, the addition of another vehicle. The authorization holder shall electronically submit the update in the form and manner, and subject to the requirements specified in §220.23 of this title.

(b) Under Transportation Code, §545.456(f)(2), the department may request the authorization holder to provide the department with an updated or current document described by §220.23(b) of this title. Such requests are subject to the following requirements:

(1) The department shall make such request by email, using the authorization holder's email address on file in the department's electronic system referenced in §220.23 of this title;

(2) The authorization holder shall electronically submit the updated or current document in the form and manner, and subject to the requirements specified in §220.23 of this title; and

(3) The deadline for the authorization holder to electronically submit the updated or current document is five days from the date of the department's request, unless the department grants an extension on the five-day deadline in response to a written request from the authorization holder for an extension that the department determines is reasonable and unlikely to result in harm to the public health, safety, or welfare.

(4) Any request for an extension must be submitted:

(A) prior to the department's deadline for the updated or current document; and

(B) to the designated address listed in the department's request to the authorization holder for an updated or current document.

(5) Any request for an extension must contain an explanation regarding the following:

(A) why five days is not reasonable;

(B) why the authorization holder needs more time and the specific deadline the authorization holder is requesting; and

(C) whether the authorization holder's requested deadline is likely to result in harm to the public health, safety, or welfare.

§220.30. Signature Requirement on Written Statement and Certification.

A written statement and certification required by Transportation Code, §545.456 must be signed by the applicant or authorization holder or its authorized representative.

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 September 19, 2025.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-5665

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SUBCHAPTER C. ADMINISTRATIVE SANCTIONS

43 TAC §220.50

STATUTORY AUTHORITY. The department adopts this new section under Transportation Code, §545.456, as added by SB 2807, which requires the department to prescribe the form and manner by which an authorization holder must update a document described by Transportation Code, §545.456(b); Transportation Code, §545.453, as added by SB 2807, which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new section implements Transportation Code, Chapter 545, Subchapter J, and §1002.001; and Government Code, Chapter 2001.

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 221. SALVAGE VEHICLE DEALERS

SUBCHAPTER B. LICENSING

43 TAC §221.17

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter B, Licensing; §221.17, License Pro-

cessing for Military Service Members, Spouses, and Veterans. These adopted amendments implement House Bill (HB) 5629 and Senate Bill (SB) 1818 from the 89th Legislature, Regular Session (2025), both of which became effective on September 1, 2025. HB 5629 amended Occupations Code, §55.004 and §55.0041 to change the standard for comparing licensing requirements in other states with Texas requirements and to change license request submission requirements, and added new §55.0042, which describes the standards for determining when an applicant is in good standing with a licensing authority in another state. SB 1818 amended Occupations Code, §55.004 and §55.0041 to require the department to issue a provisional license to the applicant while the department is processing an application.

The department adopts amendments to §221.17 without changes to the adopted text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4389). Accordingly, §221.17 will not be republished.

REASONED JUSTIFICATION.

Adopted amendments to §221.17(b)(1)(A) require a military service member or military spouse to submit to the department a complete application for licensure. These adopted amendments implement Occupations Code, §55.0041(b), as amended by HB 5629, which requires a military service member or military spouse to submit an application in a form prescribed by the agency and removes a requirement to provide a notice. An adopted amendment to §221.17(b)(1)(B) deletes an unnecessary conjunction. To implement Occupations Code, §55.0041(b)(2), as amended by HB 5629, adopted amendments to §221.17(b)(1)(C) add a requirement for an applicant who is a military spouse to submit a copy of the marriage license to the department, and delete a requirement for a military service member or military spouse to submit documentation demonstrating that the military service member or military spouse is licensed and in good standing in another jurisdiction for the relevant business or occupation. An adopted amendment adds new §221.17(b)(1)(D) to require a notarized affidavit as required by Occupations Code, §55.0041(b)(3), as amended by HB 5629. Adopted amendments to §221.17(b)(2) substitute "application" for "notice" and update a reference to paragraph (1) consistent with adopted amendments to §221.17(b)(1) to implement Occupations Code, §55.0041, as amended by HB 5629. Adopted amendments to §221.17(b)(2) and §221.17(b)(3) substitute "state" for "jurisdiction" consistent with Occupations Code, §55.0041, as amended by HB 5629. Adopted amendments to §221.17(b)(2)(B) and §221.17(b)(3) implement Occupations Code, §55.0041, as amended by HB 5629, by adding the revised standard for comparing the license requirements in another state with Texas requirements and deleting the former standard. Adopted amendments add new §221.17(b)(2)(C) to require the department to issue a provisional license upon receipt of a license application from a military service member, military veteran, or military spouse. These amendments implement Occupations Code, §55.0041, as amended by SB 1818. Adopted amendments to §221.17(b)(3) add a reference to license eligibility if the applicant was previously licensed in good standing in Texas in the last five years, add language that the department will notify an applicant why the department is currently unable issue a license, and change the time for the department to act on an application submitted by a military service member or military spouse from 30 days to 10 days to implement with Occupations Code, §55.0041, as amended by HB 5629. HB 5629 also changed the documentation required to prove residency; however, residency is not a requirement of any license issued under Occupations Code, Chapters 2301 and 2302, or Transportation Code 503, so no amendments were necessary.

SUMMARY OF COMMENTS.

The department received no comments during the public comment period which ended on August 25, 2025.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 221 under Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department. The department also adopts amendments and under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department to adopt rules to administer Transportation Code, Chapter 503.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 53, 55, and 2302; and Transportation Code, Chapters 501-503, and 1002.

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 224. ADJUDICATIVE PRACTICE AND PROCEDURE

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 224, Adjudicative Practice and Procedure; Subchapter A, General Provisions, §§224.1, 224.5, 224.27, and 224.29; adopts amendments to Subchapter D, Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement, §224.110; adopts amendments to Subchapter E, Contested Cases Referred to SOAH, §§224.150, 224.152, 224.164, and 224.166; adopts amendments to Subchapter F, Board Procedures in Contested Cases, §§224.190, 224.194, 224.198, 224.200, and 224.204; adopts new Subchapter H, Automated Motor Vehicle Authorizations, §§224.290, 224.292, and 224.294; and adopts new Subchapter I, Motor Carrier Division Director Procedures in Contested Cases, §§224.310, 224.312, 224.314, 224.316, 224.318, 224.320, 224.322, 224.324, and 224.326, concerning adjudicative practice and procedure. The department adopts the following sections without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4391) and these rules will not be republished: §§224.1, 224.5, 224.27, 224.110, 224.150, 224.152, 244.190, 224.194, and 224.290. The department adopts the following sections with changes at adoption to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4391) and these rules will be republished: §§224.29, 224.164, 224.166, 224.198, 224.200, 224.204, 224.292, 224.294, 224.310, 224.312, 224.314, 224.316, 224.318, 224.320, 224.322, 224.324, and 224.326. The changes at adoption are described in the Reasoned Justification section below.

Adopted revisions to Chapter 224 are necessary to implement Senate Bill (SB) 2807, 89th Legislature, Regular Session (2025) regarding administrative sanctions against an automated motor vehicle authorization holder; to provide the requirements when the director of the department's Motor Carrier Division is the final order authority; to provide procedures regarding a special public meeting at which the director of the department's Motor Carrier Division is authorized to review a contested case; and to clean up the rule text.

A portion of SB 2807 amends Transportation Code, Chapter 545, Subchapter J regarding the operation of automated motor vehicles. The SB 2807 amendments include a requirement for a person to receive and maintain an authorization from the department to operate an automated motor vehicle to transport property or passengers in furtherance of a commercial enterprise on a highway or street in Texas without a human driver (authorization).

SB 2807 requires the Board of the Texas Department of Motor Vehicles (board) and the Public Safety Commission to adopt rules to implement certain provisions in SB 2807 regarding automated motor vehicles by December 1, 2025. However, Section 12(b) of SB 2807 says that a person is not required to comply with Transportation Code, Chapter 545, Subchapter J, as amended by SB 2807, until the 90th day after the effective date of rules adopted by the board (as required by Subchapter J of Chapter 545) and rules adopted by the Public Safety Commission (as required by Transportation Code, §545.455(c)(2)). The effective date of these revisions to Chapter 224 is February 27, 2026; however, a person is not required to comply with Transportation Code, Chapter 545, Subchapter J, as amended by SB 2807, and these revisions to Chapter 224 until the later of May 28, 2026, or the 90th day after the effective date of the rules adopted by the Public Safety Commission as required by Transportation Code, §545.455(c)(2).

The department considered all written comments that were timely received during the public comment period regarding the proposed revisions to Chapter 224 and did not make changes to the rule text at adoption in response to the comments.

REASONED JUSTIFICATION.

Subchapter A. General Provisions

Adopted amendments to §224.1 implement SB 2807 by expanding the scope of the subchapter to include the adjudication of a contested case arising under Transportation Code, §545.459(k) regarding the suspension, revocation, or cancellation of an authorization under Transportation Code, §545.456; the imposition of a restriction on the operation of the automated motor vehicle under Transportation Code, §545.459(k); and the rescission of a suspension, revocation, or cancellation of an authorization, or the removal of a restriction on the operation of the automated motor vehicle under Transportation Code, §545.459(k). Adopted amendments to §224.1 also modify punctuation and language to address the added reference to Transportation Code, §545.459(k).

Adopted amendments to §224.5 add references to the department's final order authority in subsections (a) and (b) to clarify that §224.5 also applies to the department's Motor Carrier Division Director in contested cases for which this division director's authority does not result from a board delegation. The term "final order authority" is defined in §224.3 as the person with authority under statute or a board rule to issue a final order. Although §224.5(a) and (b) also refer to a board delegate, the authority of the department's Motor Carrier Division Director to issue final orders under Transportation Code, §643.2525 was provided by the department's executive director under Transportation Code, §643.001(2), rather than by delegation of the board. These amendments clarify that Government Code, §2001.061, regarding the prohibition against ex parte communications concerning a contested case, apply to a contested case under Transportation Code, Chapter 643 for which the department's Motor Carrier Division Director has final order authority by a designation from the department's executive director, rather than by delegation from the board.

Under adopted amendments to §224.27 and §224.29, and under adopted new §224.294(j), the final order authority for contested cases under Transportation Code, §545.459(k) is the department's Motor Carrier Division Director or the board, depending on whether the administrative law judge from the State Office of Administrative Hearings (SOAH) issued a proposal for decision and whether the proposal for decision is for a default proceeding under 1 TAC §155.501. If the SOAH administrative law judge issued a proposal for decision that is not based on a default proceeding at SOAH, the board is the final order authority for the contested case. If the proposal for decision is based on a default proceeding at SOAH or if there is not a proposal for decision,

the department's Motor Carrier Division Director is the final order authority for the contested case, including contested cases resolved under 1 TAC §155.503 (Dismissal) or Government Code, §2001.056 (Informal Disposition of Contested Case).

An adopted amendment to §224.27(b) implements SB 2807 by stating that the board has final order authority under a contested case filed under Transportation Code, §545.459(k), except as provided by §224.29. Adopted amendments to §224.27 also modify language and punctuation due to the added reference to Transportation Code, §545.459(k).

An adopted amendment to §224.29(c) deletes a reference to "any power relating to a contested case" because §224.29 is specifically about delegation of final order authority. Other sections in Chapter 224 govern other authority regarding a contested case, such as §224.13, which sets out the authority for certain department staff to issue a subpoena or commission to take a deposition in a contested case. An adopted amendment to §224.29(c) also deletes a comma due to the adopted deletion of language from this subsection.

The department adopts §224.29(c) with changes at adoption to clarify that the board's delegation of final order authority under this subsection in a contested case under Subchapter D of Chapter 224 does not include contested cases for which the department's director, as defined by Transportation Code, §643.001, is expressly authorized to issue the final order under Transportation Code, Chapter 643. The department's executive director previously designated the department's Motor Carrier Division Director as the director under Transportation Code, Chapter 643 who is authorized to issue a final order in a contested case under Transportation Code, §643.2525.

Adopted amendments to §224.29 add new subsection (d) to delegate authority to the department's Motor Carrier Division Director to issue a final order under Transportation Code, §545.459(k) in a contested case in which the administrative law judge at SOAH has not submitted a proposal for decision to the department for consideration by the final order authority, and a contested case in which the administrative law judge at SOAH submitted a proposal for decision regarding a default proceeding to the department for consideration by the final order authority, as explained above. This delegation is authorized by Transportation Code, §1003.005. In addition, adopted amendments to §224.29 re-letter prior subsection (d) to subsection (e), and update references in that subsection due to the adoption of new subsection (d).

Subchapter D. Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement

An adopted amendment to §224.110 regarding the purpose and scope of Subchapter D replaces the reference to Subchapter F with a reference to adopted new Subchapter I of this title (relating to Motor Carrier Division Director Procedures in Contested Cases). Under the adopted revisions to Chapter 224, adopted new Subchapter I governs the procedures in contested cases in which the director of the department's Motor Carrier Division, rather than the board, is the final order authority; Subchapter F is expressly not relevant to such cases.

Subchapter E. Contested Cases Referred to SOAH

An adopted amendment to §224.150(a) adds a reference to adopted new §224.294, relating to suspension, revocation, or cancellation of authorization under Transportation Code, §545.459 to operate one or more automated motor vehicles. The amendments to §224.150(a) modify the scope of Subchapter E of Chapter 224 to include contested cases involving authorizations to operate automated motor vehicles. This change is necessary to implement SB 2807 because Transportation Code, §545.459(k) states that an authorization holder who is aggrieved by an action of the department under Transportation Code, §545.459(h) may submit a written request for a hearing at SOAH. Also, Transportation Code, §545.459(l) states that the contested case provisions of Government Code, Chapter 2001 apply to a proceeding under Transportation Code, §545.459(k).

An adopted amendment to §224.150(c) adds a reference to new Subchapter I of Chapter 224, regarding procedures in contested cases for which the Motor Carrier Division Director is the final order authority, rather than the board. The language in Subchapter F regarding board procedures in contested cases includes certain terms, such as "board chair," as well as certain references, such as a reference to a board meeting under 43 TAC §206.22, that do not apply to the Motor Carrier Division Director under Chapter 224 or Transportation Code, Chapter 643. Adopted new Subchapter I includes modified language from current Subchapter F to address the procedures in contested cases when the board is not the final order authority, so it is necessary to adopt amendments to §224.150(c) to reference adopted new Subchapter I of Chapter 224.

An adopted amendment to §224.152(a) implements SB 2807 by adding a reference to Transportation Code, §545.459(k) regarding the department's requirement to refer contested cases to SOAH when an authorization holder timely submits a written request for a hearing.

Adopted amendments to §224.164(d) authorize a party to a contested case to raise an issue regarding a final proposal for decision before the department's Motor Carrier Division Director during oral presentation at a special public meeting, if any, under adopted new Subchapter I of Chapter 224. These amendments allow parties in contested cases that are decided by the Motor Carrier Division Director the same right to raise issues with a final proposal for decision as parties in a case decided by the board if a special public meeting is held. For clarity, the department adopts §224.164(d) with a change at adoption to replace the term "final order authority" with "Motor Carrier Division Director."

The adopted amendment to §224.166(b) adds "or other final order authority" to include contested cases for which the department's Motor Carrier Division Director is authorized as the "director" to issue a final order under Transportation Code, §643.2525. "Director" is defined under Transportation Code, §643.001 to include a department employee designated by the department's executive director to decide motor carrier cases; the department's executive director has designated the department's Motor Carrier Division Director as the "director" for this purpose. While the word "board" in §224.166(b) is defined under §224.3 to include department staff to whom the board delegated final order authority under §224.29, it does not include a department employee whom the department's executive director designated as the "director." The adopted amendment to §224.166(b) therefore clarifies that its provisions apply both to cases decided by the board, and cases decided by the Motor Carrier Division Director. For these same reasons, the department adopts §224.166(c) with a change at adoption to delete the words "board delegate with" and to replace those words with the word "other," to refer to "other final order authority."

An adopted amendment to §224.166(d) refers to new Subchapter I of Chapter 224 regarding the transfer of jurisdiction from SOAH to the Motor Carrier Division Director. These changes are necessary to create similar processes for contested cases decided by the Motor Carrier Division Director as already exist for cases decided by the board.

The department adopts §224.166(d) with a change at adoption to replace the proposed reference to "the department's director of the Motor Carrier Division" with a reference to "the Motor Carrier Division Director" for consistency with the terminology in the other adopted amendments in §224.166(b) and (c).

Subchapter F. Board Procedures in Contested Cases

An adopted amendment to §224.190 clarifies that Subchapter F does not apply to a contested case in which a SOAH administrative law judge has submitted a final proposal for decision for consideration by the department in a case in which the department's Motor Carrier Division Director is the final order authority as provided in adopted new §224.310. Although the Motor Carrier Division Director is a board delegate under Chapter 224 for certain contested cases, Subchapter I of this title (relating to Motor Carrier Division Director Procedures in Contested Cases) governs the procedures for certain contested cases in which the Motor Carrier Division Director is the final order authority.

An adopted amendment to §224.194 removes prior subsection (b) because the department's executive director, rather than the board, designated the Motor Carrier Division Director as the director under Transportation Code, §643.001 to issue the final order in certain contested cases under Transportation Code, Chapter 643. Also, adopted new Subchapter I includes language regarding a special public meeting during which the Motor Carrier Division Director may review a contested case for which that director is the final order authority, so removing subsection (b) prevents confusion and redundancy. An adopted amendment to §224.194 also removes the subsection letter for prior subsection (a) due to the adopted deletion of prior subsection (b).

Adopted amendments to §§224.198, 224.200, and 224.204 implement SB 2807 by adding a reference to the scope of the board's authority to act under Transportation Code, §545.459(k). Adopted amendments to §§224.198, 224.200, and 224.204 also modify language and punctuation due to the adopted reference to Transportation Code, §545.459(k). In addition, an adopted amendment to §224.200(a) corrects a grammatical error by changing the word "Chapter" to "Chapters."

The department adopts §§224.198(b), 224.200(a), and 224.204(a) through (c) with changes at adoption to delete references to Transportation Code, Chapters 502, 621 through 623, 643, and 645 because the contested cases under these statutes now fall under adopted new Subchapter I of Chapter 224, rather than Subchapter F of Chapter 224.

Subchapter H. Automated Motor Vehicle Authorizations

Adopted revisions to Chapter 224 implement SB 2807 by adding new Subchapter H regarding automated motor vehicle authorizations under Transportation Code, §545.456 and §545.459. Adopted new §224.290 provides the purpose and scope of adopted new Subchapter H for clarity.

Adopted new §224.292 provides the procedures, authority, and requirements regarding the suspension, revocation, or cancellation of an authorization under Transportation Code, §545.456(f), as well as the rescission of a suspension, revocation, or cancellation under Transportation Code, §545.456(g). A determination under Transportation Code, §545.456(f) is not a contested case under Government Code, Chapter 2001, according to Transportation Code, §545.456(h), so adopted new §224.292(a) states that no other section in Chapter 224 applies to this section, other than §224.290 regarding the purpose and scope of Subchapter H. Adopted new §224.292(b) and (c) require the department to notify the authorization holder of certain actions by email because the word "immediately" in Transportation Code, §545.456(f) and the word "promptly" in Transportation Code, §545.456(g) require these processes to be done quickly. Adopted new §224.292(b) and (c) also state that the action or the recission, respectively, is effective when the notice is emailed by the department to avoid any delay to the process that mail might cause. Adopted new §224.292(d) requires the department to also mail the notification to the authorization holder by first-class mail to ensure that the authorization holder receives notice. Adopted new §224.292(e) grants the department's Motor Carrier Division Director the authority to decide suspensions, revocations and cancellations under Transportation Code, §545.456(f) and the recissions of those same decisions under Transportation Code, §545.456(g).

The department adopts §224.292 with changes at adoption by deleting the unnecessary subsections (f) and (g) as published in the rule proposal regarding the computation of time under Government Code, §311.014 and the use of calendar days rather than business days in the computation. Although adopted new §224.292 incudes the words "immediately" and "promptly," §224.292 does not require the computation of a period of days as specified in Government Code, §311.014. Also, the department adopted new §220.28, which includes language regarding the computation of any time period prescribed or allowed by adopted new §220.26 regarding the deadline to provide the department with any updates under Transportation Code, §545.456. The department adopted new §220.26 and §220.28 to implement SB 2807; that adoption is also published in this issue of the *Texas Register*. If an authorization holder violates new §220.26 regarding the deadline to provide the department with any updates under Transportation Code, §545.456, the procedures and requirements regarding the suspension, revocation, or cancellation of the authorization are provided under §224.292.

The department also adopts §224.292 with changes at adoption by re-lettering subsection (h) as published in the rule proposal to subsection (f) due to the deletions of proposed subsections (f) and (g). In addition, the department adopts §224.292(f) and §224.294(l) with changes at adoption to reword portions of the language for clarity regarding a reference to an "authorization holder." Adopted new §224.292(f) and §224.294(l) clarify that a reference in a department rule or communication to an "authorization holder," when the authorization is currently suspended, revoked, or cancelled, does not rescind or invalidate the suspension, revocation, or cancellation of the authorization. Transportation Code, §545.456(d) states that an authorization does not expire, and it remains active unless suspended, revoked, or canceled by the department. Also, Transportation Code, §545.459(k) refers to an "authorization holder," even though the authorization has been suspended, revoked, or cancelled under §545.459(h). In addition, the suspension, revocation, or cancellation of an authorization may be rescinded under Transportation Code, §545.456(g) and §545.459(j).

Adopted new §224.294 implements SB 2807 by providing the procedures, authority, and requirements regarding the suspen-

sion, revocation, or cancellation of an authorization under Transportation Code, §545.459, as well as the imposition of one or more restrictions on the operation of the automated motor vehicle under Transportation Code, §545.459. For clarity and ease of reference, adopted new §224.294(a) states which Chapter 224 subchapters apply to contested cases before SOAH and the board or the department's Motor Carrier Division Director under Transportation Code, §545.459.

Adopted new §224.294(b) specifies that the notice of intent to sanction, required by Transportation Code, §545.459, shall be sent by certified mail, return receipt requested so that it can also serve as the notice to an authorization holder of an intended suspension, revocation, or cancellation required by Government Code, §2001.054. Adopted new §224.294(b) also requires the department to send the notice of intent by email to the authorization holder's email address on file in the department's designated system, so the authorization holder receives notice as quickly as possible due to public safety concerns as described in Transportation Code, §545.459(a) and (b).

The department adopts §224.294(b) with a change at adoption to delete the citations to subsections (a) and (c) in the citation to Transportation Code, §545.459 regarding the notice of intent. It is not necessary to cite the specific subsections of this statute. By deleting the citations to these subsections, this will eliminate any requirement to amend §224.294 in the future if the Legislature amends Transportation Code, §545.459 in a way that changes the lettering of current §545.459(a) or (c). Adopted new §224.294(c) requires the authorization holder to submit any request for an extension of the department's deadline for corrective action and certification under Transportation Code, §545.459(c)(2) and (e) prior to the department's deadline listed in the department's notice of intent. Adopted new §224.294(c) also requires the authorization holder's request for an extension to include an explanation regarding why the department's deadline is not reasonable, why the authorization holder needs more time (including the specific deadline the authorization holder is requesting), and whether the authorization holder's requested deadline is likely to result in harm to the public health, safety, or welfare. This information will allow the department to analyze the authorization holder's request and determine whether the request is reasonable and whether it is appropriate under the circumstances to grant the extension. When determining whether an authorization holder's request for an extension is reasonable, the department must consider the public health, safety, and welfare. The department will only send a notice of intent if the department determines that an authorization holder's automated motor vehicle is not in safe operational condition and the operation of the vehicle on a highway or street in Texas endangers the public--and under these circumstances, time will be of the essence to get the issue resolved. Although the department will consider the nature of the issues the authorization holder must correct, it is incumbent on the authorization holder to timely request an extension. A request for an extension after the deadline has passed is not a reasonable request under Transportation Code, §545.459(e).

Adopted new §224.294(d) requires the department to send notice to the authorization holder of a department decision that suspended, revoked, or cancelled the authorization or imposed a restriction on the operation of the automated motor vehicle by both email and first-class mail, to ensure that the authorization holder is as likely as possible to actually receive the notice. The date of the decision issuance is the date the department sends the email, to avoid any delay or uncertainty that might arise from waiting for the arrival of the regular mail. Adopted new §224.294(e) specifies that the department will designate the address for the authorization holder to submit requests under Transportation Code, §545.459 to extend the compliance period, for review of the decision, for removal or recission of a sanction, or for a hearing. This will allow the department flexibility in determining how best to staff and monitor communications with authorization holders.

Adopted new §224.294(f) allows the department to request proof that a representative has authority to represent the authorization holder, to prevent confusion, miscommunication, or fraud. Adopted new §224.294(g) requires authorization holders to electronically file certifications under Transportation Code, §545.459(d) by following the requirements of §224.11, relating to Filing and Service of Documents, to ensure uniform evidence of when and what was filed, as well as service to all parties involved.

Adopted new §224.294(h) makes the department's Motor Carrier Division Director the decision authority for determinations under Transportation Code, §545.459(g). Adopted new §224.294(i) also makes the Motor Carrier Division Director the decision authority for final determinations under Transportation Code, §545.459(h) following a timely request to review the decision, similar to the exceptions process under Government Code, §2001.062 and SOAH rules. Adopted new §224.294(j) makes the department's board the final order authority for contested cases under Transportation Code, §545.459(k) when the SOAH administrative law judge issued a proposal for decision, but empowers the Motor Carrier Division Director to make decisions regarding the recission of a sanction or the removal of a restriction under Transportation Code, §545.459(j) to allow for faster decision-making in those situations without the need to call a public meeting of the board.

Adopted new §224.294(k) sets the process the department shall follow to dismiss the case and notify the authorization holder if the SOAH hearing is not held within 60 days of the Motor Carrier Division Director's final determination under Transportation Code, §545.459(h). Notice will be sent by email for expediency in that situation. Adopted new §224.294(m) exempts certifications or communications regarding a recission or removal of a sanction under Transportation Code, §545.459(j) from the filing requirements of §224.11(a) through (g), relating to Filing and Service of Documents, so that the authorization holder can simply send the documents and request to the designated email address, as prescribed by adopted new §224.294(e), to make the process as efficient and expedited as possible without unnecessary formal requirements.

Subchapter I. Motor Carrier Division Director Procedures in Contested Cases

Adopted amendments add new Subchapter I regarding contested cases for which the department's Motor Carrier Division Director is the final order authority, rather than the board. Adopted new Subchapter I includes modified language from current Subchapter F, which addresses board procedures in contested cases. Adopted new §224.310 provides the purpose and scope of adopted new Subchapter I. The department adopts §224.310 with changes at adoption to indicate that the department's director of the Motor Carrier Division will be referred to as the Motor Carrier Division Director throughout Subchapter I.

For clarity, the department adopts the following sections with changes at adoption to replace the term "final order authority"

with the term "Motor Carrier Division Director" in the rule text: §§224.312, 224.314, 224.316, 224.318, 224.320, 224.322, 224.324, and 224.326. The department also adopts the following sections with changes at adoption to replace the term "Final Order Authority" with the term "Motor Carrier Division Director" in the title to the rule: §224.320 and §224.322. In addition, the department adopts §224.314(c) with changes at adoption to replace the reference to the term "Final Order Authority" with the term "Motor Carrier Division Director" in the cross-reference to the title of §224.320.

Adopted new §224.312 provides an overview of the process for the contested case review by the Motor Carrier Division Director, including the Motor Carrier Division Director's discretion to schedule a special public meeting to review the contested case. Public meetings may be appropriate in matters of great public interest that do not require expedited decisions, but they will be inappropriate when a decision is routine or must be made quickly to protect public health or safety.

Adopted sections throughout adopted new Subchapter I regarding a special public meeting only apply if the Motor Carrier Division Director schedules a special public meeting. Adopted new §224.314 provides the procedure and deadlines regarding a request for oral presentation, if there is a special public meeting. Adopted new §224.314(a) requires the department to provide notice by email to the parties 20 days before a special public meeting, to allow the parties time to prepare any oral presentations and written materials for the special public meeting. Adopted new §224.314(b) requires a party to notify the department and all other parties of its intent to make an oral presentation at least seven days in advance of the special public meeting, to allow both the parties and the department time to prepare accordingly. Adopted new §224.314(c) allows parties that are not affected by the proposal for decision to have flexibility to agree to the order of their presentations, but sets the order of presentations in adopted new §224.320, relating to Order of Oral Presentations to the Motor Carrier Division Director, as the default order if the parties do not file their agreed order of presentations at the same time they file their intent to make oral presentation under adopted new §224.314(b). Adopted new §224.314(d) clarifies that a party that fails to make a timely written request for oral presentation under adopted new §224.314(b) will not be allowed to make an oral presentation at the special public meeting, to ensure predictability in procedure during the meeting and an opportunity for all parties to prepare in advance of the meeting. Adopted new §224.314(e) specifies that non-parties are not allowed to give an oral presentation or provide public comment to the Motor Carrier Division Director at a special public meeting. This will help to prevent extraneous information that is not in the SOAH record from influencing the Motor Carrier Division Director in violation of Government Code, Chapter 2001, and will allow for more efficient meetings.

Adopted new §224.316 provides the procedure and deadline for the provision of written materials for a special public meeting. Adopted new §224.316(a) requires a party that wants to provide written materials to the Motor Carrier Division Director at a special public meeting to file the written materials with the department at least 14 days prior to the meeting and provide copies to the other parties. This requirement allows both the parties and the department adequate time to prepare in advance of the special meeting.

The department adopts §224.316(a) with a change at adoption to delete the last sentence in proposed §224.316(a) that said non-parties are not authorized to provide written materials to the final order authority because the substance of this sentence also appears in adopted new §224.316(e). Also, §224.316(e) is a more appropriate location for this sentence because subsection (a) focuses on requirements for a party to the contested case.

Adopted new §224.316(b) specifies that written materials can only contain information from the SOAH record. This requirement will help to prevent the Motor Carrier Division Director from being exposed to information that is not in the SOAH record, which information could influence the Motor Carrier Division Director in violation of Government Code, Chapter 2001. Similarly, adopted new §224.316(e) specifies that non-parties are not authorized to provide written materials to the Motor Carrier Division Director at a special public meeting, to prevent extraneous information that is outside the SOAH record from influencing the Motor Carrier Division Director. Adopted new §224.316(c) requires the parties to provide citations to the SOAH record for all written materials, so that the parties and the department can verify that the written materials are all within the SOAH record. Adopted new §224.316(d) sets size, font, and page count limitations for the written materials, to require parties to streamline their documentary presentations so that the presentations during the special public meeting are both efficient and effective.

Adopted new §224.318 provides the requirements for an oral presentation at a special public meeting. Adopted new §224.318(a) limits oral presentations to information within the SOAH record and to the scope of the Motor Carrier Division Director's powers under Government Code, §2001.058(e), so as to prevent the Motor Carrier Division Director from violating Government Code, Chapter 2001 by relying on evidence that is not in the record or taking action that is not within the department's jurisdiction. Adopted new §224.318(b) allows a party during oral presentation to recommend that the Motor Carrier Division Director remand the case to SOAH, to the extent allowed under the SOAH rules in 1 TAC Chapter 155 and Government Code, Chapter 2001. Remand to SOAH can be necessary when the administrative law judge failed to make findings regarding specific allegations. Adopted new §224.318(c) requires the parties to object when another party goes outside the SOAH record, so that the Motor Carrier Division Director will be able to identify and disregard information that is outside the record. Adopted new §224.318(d) sets a 15-minute time limit for each party's oral presentation, clarifies that additional rebuttal statements or a closing statement are not allowed, and clarifies that time spent responding to questions or making objections does not count against the 15 minutes. These guidelines help to ensure that oral presentations in special public meetings proceed efficiently and fairly.

Adopted new §224.320 provides the order of presentation for an oral presentation at a special public meeting. Adopted new §224.320(a) requires the department to provide a presentation of the procedural history and summary of the contested case. Adopted new §224.320(b) requires that the adversely affected party present first, but allows the Motor Carrier Division Director to determine the order of presentations if it is not clear which party is adversely affected or if it appears that there is more than one adversely affected party. This language parallels the current order of presentation for parties making an oral presentation at board meetings under §224.202, regarding Order of Oral Presentations to the Board. Adopted new §224.320(c) requires the parties that are not adversely affected to present in alphabetical order, assuming they had not previously agreed to an order under adopted new §224.314.

Adopted new §224.322 describes the Motor Carrier Division Director's conduct and the limits on any discussions when reviewing a contested case. Adopted new §224.322(a) specifies the legal limitations of the Motor Carrier Division Director's review. Adopted new §224.322(b) allows the Motor Carrier Division Director to ask the parties questions, but only within the relevant legal limitations.

The department adopts §224.322(a) with a change at adoption to replace the word "its" with the word "the." The department adopts §224.322(b) with a change at adoption to replace the reference to "board" with a reference to the "Motor Carrier Division Director" because Subchapter I of Chapter 224 does not apply to contested cases for which the board is the final order authority. New Subchapter I applies to the contested cases for which the Motor Carrier Division Director is the final order authority. Subchapter F of Chapter 224 applies when the board is the final order authority for the contested case. The department adopts §224.322 with a change at adoption to delete proposed subsection (c) because it is not relevant to the Motor Carrier Division Director. The language in proposed §224.322 (c) was based on the language in current §224.204(c), which only applies to board members and does not apply to department staff with delegated authority. The language in current §224.204(c) is required by Occupations Code, §2301.709(d), which requires the board to adopt rules and policies that establish standards for the board to review a contested case under Subchapter O of Chapter 2301 of the Occupations Code. Occupations Code, §2301.709(d)(5) requires the board's rules to distinguish between using industry expertise and representing or advocating for an industry when the board reviews a contested case under Subchapter O of Chapter 2301 of the Occupations Code. Because certain board member positions are appointed based on specific industries or occupations under Transportation Code, §1001.021(b) and because of certain issues raised by the Sunset Advisory Commission in its *Staff Report with Final Results* in 2019, the Legislature amended Occupations Code, §2301.709 to add the rulemaking requirement in current subsection (d)(5). This requirement is not relevant to the Motor Carrier Division Director, who is hired by the department to work as a full-time employee. Also, the Motor Carrier Division Director is not required by statute to work in a specific industry or occupation prior to being hired by the department or as a continuing requirement for employment as the Motor Carrier Division Director.

Adopted new §224.324 provides the requirements regarding a final order issued by the department's Motor Carrier Division Director under adopted new Subchapter I. Adopted new §224.324(a) requires that the Motor Carrier Division Director sign a written final order, in keeping with the requirements of Government Code, §2001.141(a). The department adopts §224.324(a) with changes at adoption to reword the sentence for clarity and to delete the reference to a decision because subsections (b) and (c) refer to a final order. Adopted new §224.324(b) requires the department to send the final order to the parties in the contested case by email and certified mail, return receipt requested, to maximize the opportunities for the parties to receive notice of the final order and allow the department to ascertain whether and on what date an impacted party received the final order for purposes of Government Code, §2001.142(c). Adopted new §224.324(c) and (d) clarify that the Government Code governs the issuance of a final order by the Motor Carrier Division Director, the parties' motions for rehearing, and when the decision becomes final. The department adopts §224.324(d) with changes at adoption to delete the reference to a decision because subsections (b) and (c) refer to a final order.

Adopted new §224.326 addresses public access to a special public meeting. Adopted new §224.326 contains modified versions of portions of 43 TAC §206.22, regarding Public Access to Board Meetings, which only applies to board meetings. Adopted new §224.326(a) requires persons in need of special accommodations who plan to attend the special public meeting to send a request to the department two days in advance, to allow the department time to arrange the accommodation. Adopted new §224.326(b) specifies that members of the public may not question parties or the Motor Carrier Division Director in a contested case, to maintain decorum in the meeting and to avoid exposing the Motor Carrier Division Director to information that is outside the SOAH record. Adopted new §224.326(c) requires a person who disrupts a special public meeting to leave the premises, to maintain decorum and safety in the meeting.

SUMMARY OF COMMENTS.

The department received eight timely written comments on the proposal. Each of the following submitted a written comment: the City of Austin, the Alliance for Automotive Innovation (Auto Innovators), Torc Robotics (Torc), Lyft, Stack AV Co. (Stack), the Autonomous Vehicle Industry Association (AVIA), the City of Dallas, and May Mobility, Inc. (May Mobility).

Comment: The City of Austin requests clarification on whether municipalities can be parties to the adjudication process for the suspension or cancellation of an authorization to operate automated motor vehicles.

Response: The department disagrees with this comment because it is outside the scope of the department's rulemaking authority. The legislature specified that the department, rather than a political subdivision, has the authority to administer the laws regarding an automated motor vehicle authorization under Transportation Code, §545.456 and §545.459.

Comment: Auto Innovators stated that they appreciate the additional guidance to the industry on the administrative sanctions.

Response: The department agrees with this comment.

Comment: Torc, Lyft, Stack, and AVIA support the department's proposed rules.

Response: The department agrees with these comments.

Comment: The City of Dallas believes there must be strong safeguards to quickly suspend or revoke an authorization when safety is compromised. The City of Dallas expects clear triggers, such as repeated incidents or failure to comply with safety obligations to be identified, enabling the state to act swiftly.

Response: The department disagrees with this comment to the extent that it is outside of the scope of the department's rulemaking authority, that the issue is already addressed in statute, and that the department needs to maintain flexibility to take the appropriate action to address different scenarios. The department also disagrees with this comment because it is premature for the department to adopt an administrative rule to define certain triggers until the department gains experience with enforcement actions under Transportation Code, §545.459.

Transportation Code, §545.459 provides the framework, including many of the deadlines, for the suspension, revocation, or cancellation when the department determines that an automated motor vehicle operating under an authorization is not in safe op-

erational condition and the operation of the vehicle on a highway or street in Texas endangers the public. Transportation Code, §545.459 also states that the operation of an automated motor vehicle endangers the public when the operation has resulted in or is likely to result in serious bodily injury as defined by Penal Code, §1.07.

There could be many different scenarios in which an automated motor vehicle operating under an authorization is not in safe operational condition. The department needs to maintain flexibility to take the appropriate action under different scenarios that may arise under adopted new §224.294 and Transportation Code, §545.459. Once the department gains experience with enforcement actions under Transportation Code, §545.459, the department may propose revisions to these rules. The department also responded to this comment in the preamble for the adoption of new Chapter 220, which is published in this issue of the *Texas Register,* regarding the timeline for an authorization holder to submit the updated or current documents to the department under §220.26 and Transportation Code, §545.456(b).

Comment: The City of Dallas recommends that the public should be notified whenever a suspension or revocation occurs to ensure transparency and maintain community trust.

Response: The department disagrees to the extent that it is outside of the scope of the department's rulemaking authority. Also, it is not necessary to make an administrative rule regarding the department's procedures for public communications.

Comment: The City of Dallas stated that operators should be required to present corrective action plans before authorization is restored.

Response: The department disagrees. The restoration of authorization is specifically addressed in statute, and it is not necessary to repeat statutory language in rule. Transportation Code, §545.459(j) requires the department to rescind a suspension, revocation, or cancellation or to remove a restriction after the authorization holder fulfills the conditions of Transportation Code, §545.459(d), by ensuring the issues identified by the department in the notice of intent are corrected, and providing the department with a certification acknowledging that the issues identified by the department in the notice of intent have been corrected.

Comment: May Mobility recommends that specific protocols be established for circumstances in which a company's authorization to operate autonomous vehicles is suspended, revoked, cancelled, or otherwise restricted.

Response: The department disagrees. The department provided the relevant protocols in these revisions to Chapter 224, which flesh out the protocols established by the legislature under Transportation Code, §545.456 and §545.459.

Comment: May Mobility recommends that any hearing and adjudication process be completed within 30 days, absent extenuating circumstances, to ensure timely resolution and minimize disruption. May Mobility also recommends that any administrative process be subject to a right of timely rehearing and appeal.

Response: The department disagrees with this comment to the extent that it is outside the scope of the department's rulemaking authority, that the issue is already addressed in statute, and that the department must maintain flexibility because certain matters may take longer than others based on the facts. Transportation Code, §545.459 includes some of the relevant timelines, including the requirement for an expedited hearing at SOAH to be held not later than the 60th day after the date of the department's final determination under Transportation Code, §545.459(h) if the authorization holder submits a written request to the department for a hearing at SOAH. Once a contested case is docketed at SOAH, the process is governed by the following: 1) SOAH's procedures and staff; and 2) other laws, including SOAH's administrative rules (1 TAC Chapter 155) and Government Code, Chapter 2001. Transportation Code, §545.459(l) states that the contested case provisions of Government Code, Chapter 2001, including the right to judicial review, apply to a proceeding under Transportation Code, §545.459(k). Government Code, §2001.146 addresses the procedures for a motion for rehearing, and Subchapter G of Government Code, Chapter 2001 provides for judicial review of a final decision.

Comment: May Mobility recommends that appropriate procedures should be included to protect the confidentiality of both submitted evidence and administrative outcomes.

Response: The department disagrees with this comment to the extent that it is outside the scope of the department's rulemaking authority and that the issue is already addressed in law. Government Code, Chapter 552 governs the disclosure of information that is held by a governmental body to the public. If the contested case is docketed with SOAH, SOAH's administrative rules (1 TAC Chapter 155) also govern this issue, including sections such as §155.103 regarding confidential information.

§224.292(a)

Comment: The City of Austin recommends that the department clarify how the director makes determinations and if local input is considered. The City of Austin also recommends a process for exigent circumstances that would immediately cease an automated motor vehicle company's operations, as opposed to going through the notice of intent and adjudication process.

Response: The department disagrees. For a suspension, revocation, or cancellation under adopted new §224.292, the department's Motor Carrier Division Director will make the decision based on the facts and the law, including §224.292 and Transportation Code, §545.456. There is no need to further clarify how the Motor Carrier Division Director will make determinations or whether local input is considered. The department needs to maintain flexibility to take the appropriate action under different scenarios that may arise under adopted new §224.292 and Transportation Code, §545.456. The Motor Carrier Division Director may consider local input, depending on the situation.

The process under adopted new §224.292 and Transportation Code, §545.456 does not include a notice of intent and is not governed by Government Code, Chapter 2001. Also, Transportation Code, §545.456(f) authorizes the department to immediately suspend, revoke, or cancel the authorization if the authorization holder fails to comply with the requirements. The process under Transportation Code, §545.456 is different than the process under Transportation Code, §545.459.

§224.294

Comment: The City of Austin recommends that the department clarify expedited case criteria for public health/safety, outline how law enforcement complaints are prioritized and handled, and clarify whether officer testimony is required.

Response: The department disagrees. Every case that falls within the scope of adopted new §224.294 and Transportation Code, §545.459 involves a department determination that an automated motor vehicle operating under an authorization issued by the department is not in safe operational condition and the

operation of the vehicle on a highway or street in Texas endangers the public. Transportation Code, §545.459 states that the operation of an automated motor vehicle endangers the public when the operation has resulted in or is likely to result in serious bodily injury as defined by Penal Code, §1.07. Also, the timelines under Transportation Code, §545.459(c)(2) and (e) will be based on the facts of each case.

The department needs to maintain flexibility to take the appropriate action under different scenarios that may arise under adopted new §224.294 and Transportation Code, §545.459. Depending on the facts, the department may prioritize law enforcement complaints. Also, the facts may dictate how a law enforcement complaint is handled. Depending on the facts, it is possible that officer testimony is required if the authorization holder submits a written request for a hearing at SOAH under Transportation Code, §545.459(k). Once the department gains experience with enforcement actions under Transportation Code, §545.459, the department may propose revisions to these rules.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §§224.1, 224.5, 224.27, 224.29

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §545.453 (as added by Senate Bill (SB) 2807, 89th Legislature, Regular Session (2025)), which authorizes the Board of the Texas Department of Motor Vehicles (board) to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapter 545, Subchapter J; §1002.001, and §1003.005; and Government Code, Chapter 2001.

§224.29. Delegation of Final Order Authority.

(a) In accordance with Occupations Code, §2301.154(c) and Transportation Code, §1003.005(b), except as provided by subsection (b) of this section, the director of the division that regulates the distribution and sale of motor vehicles is authorized to issue, where there has not been a decision on the merits, a final order in a contested case under Subchapters B and C, including, but not limited to a contested case resolved:

(1) by settlement;

(2) by agreed order;

(3) by withdrawal of the complaint;

(4) by withdrawal of a protest;

(5) by dismissal for want of prosecution including:

(A) failure of a complaining or protesting party to participate in scheduling mediation or to appear at mediation as required under Subchapter C of this chapter (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants);

(B) failure of a complaining or protesting party to respond to department requests for information or scheduling matters;

(C) failure of a complaining or protesting party to dismiss a contested case that has been resolved by the parties;

(6) by dismissal for want of jurisdiction;

(7) by summary judgment or summary disposition;

(8) by default judgment; or

(9) when a party waives opportunity for a contested case hearing.

(b) In accordance with Occupations Code, §2301.704 and §2301.711, a hearings examiner is authorized to issue a final order in a contested case brought under Occupations Code, §2301.204 or §§2301.601-2301.613.

(c) In accordance with Transportation Code, §1003.005, the director of the department's Motor Carrier Division is delegated the authority to issue a final order in contested cases under Subchapter D of this chapter excluding contested cases for which the department's director, as defined by Transportation Code, §643.001, is expressly authorized to issue the final order under Transportation Code, Chapter 643.

(d) In accordance with Transportation Code, §1003.005, the director of the department's Motor Carrier Division is authorized to issue a final order in a contested case under §224.294 of this title (relating to Suspension, Revocation, or Cancellation of Automated Motor Vehicle Authorization under Transportation Code, §545.459) when:

(1) a SOAH ALJ has not submitted a proposal for decision to the department for consideration by the final order authority; or

(2) a SOAH ALJ submits a proposal for decision regarding a default proceeding to the department for consideration by the final order authority.

(e) In a contested case in which the board has delegated final order authority under subsection (a), (c) or (d) of this section, a motion for rehearing shall be filed with and decided by the final order authority delegate.

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

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SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT

43 TAC §224.110

STATUTORY AUTHORITY. The department adopts amendments under Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out the International Registration Plan (IRP); Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643, and which authorizes a motor carrier to appeal the revocation or suspension of a registration or placement on probation of the motor carrier as requested by the Texas Department of Public Safety under Transportation Code, §643.252(b); Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapter 2001; and Transportation Code, Chapters 502, 621, 622, 623, 643, and 645; Transportation Code, §§1002.001, 1003.001, and 1003.005.

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

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SUBCHAPTER E. CONTESTED CASES REFERRED TO SOAH

43 TAC §§224.150, 224.152, 224.164, 224.166

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §545.453 (as added by SB 2807), which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623; Transportation Code, §623.271, which states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty or the revocation of a permit under §623.271; Transportation Code, §623.272, which states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty under §623.272; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.2525, which provides the process for an administrative hearing under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643, and which authorizes a motor carrier to appeal the revocation or suspension of a registration or placement on probation of the motor carrier as requested by the Texas Department of Public Safety under Transportation Code, §643.252(b); Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapter 545, Subchapter J; Transportation Code, Chapters 621, 622, 623, 643, and 645; Transportation Code, §§502.091(b), 1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

§224.164. Issuance of a Proposal for Decision.

(a) After a hearing on the merits, the ALJ shall submit a proposal for decision in a contested case to the department and all parties.

(b) The parties may submit to the ALJ exceptions to the proposal for decision and replies to exceptions to the proposal for decision in accordance with the SOAH rules.

(c) The ALJ will review all exceptions and replies and notify the department and parties whether the ALJ recommends any changes to the proposal for decision.

(d) The parties are not entitled to file exceptions or briefs in response to a final proposal for decision but may raise an issue regarding the final proposal for decision before the following:

(1) the board as allowed at the time of oral presentation under Subchapter F of this chapter; or

(2) the Motor Carrier Division Director as allowed at the time of an oral presentation at a special public meeting, if any, under Subchapter I of this chapter (relating to Motor Carrier Division Director Procedures in Contested Cases).

§224.166. Transfer of Jurisdiction for Final Decision.

(a) A party may appeal an interlocutory order issued under Occupations Code, Chapter 2301 to the board under §224.192 of this title (relating to Appeal of an Interlocutory Order). SOAH retains jurisdiction on all other pending matters in the contested case, except as provided otherwise in this chapter.

(b) If a contested case includes a hearing on the merits, SOAH's jurisdiction transfers to the board or other final order authority when the ALJ confirms that the proposal for decision is final.

(c) Once jurisdiction transfers, no new testimony, witnesses, or information may be considered by the board or other final order authority.

(d) After SOAH transfers the SOAH administrative record to the department, the board or the Motor Carrier Division Director will consider the contested case under the provisions of Subchapter F of this chapter (relating to Board Procedures in Contested Cases) or Subchapter I of this chapter (relating to Motor Carrier Division Director Procedures in Contested Cases).

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. BOARD PROCEDURES IN CONTESTED CASES

43 TAC §§224.190, 224.194, 224.198, 224.200, 224.204

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §545.453 (as added by SB 2807), which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapter 545, Subchapter J; Transportation Code, §§1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

§224.198. Written Materials and Evidence.

(a) If a party wants to provide written materials at the board meeting, the party must provide the written materials to the department and all other parties in accordance with §224.11 of this title (relating to Filing and Service of Documents) at least 21 days prior to the date of the board meeting. If a party fails to timely provide written materials to the department or any other party, the department shall not provide the written materials to the board and the party shall not provide the written materials to the board at the board meeting. Non-parties are not authorized to provide written materials to the board.

(b) For the purposes of this section, written materials are defined as language or images including photographs or diagrams, that are contained in the SOAH administrative record and recorded in paper form except as stated otherwise in this subsection. The language or images in the written materials must be taken without changes from the SOAH administrative record; however, proposed final orders and draft motions for possible board action are allowed to be included in a party's written materials even if they contain arguments or requests that are not contained in the SOAH administrative record. Written materials shall be limited to evidence contained in the SOAH administrative record and consistent with the scope of the board's authority to act under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; Transportation Code, Chapters 503 or 1001-1005; and Transportation Code, §545.459(k), as applicable.

(c) All information in the written materials shall include a citation to the SOAH administrative record on all points to specifically identify where the information is located. The citations may be provided in an addendum to the written materials that is not counted against the 15-page limit under subsection (d) of this section; however, the addendum must not include any information other than a heading that lists the name of the party, the caption for the contested case, and text that lists the citations and page numbers.

(d) Written materials shall be 8.5 inches by 11 inches and single-sided. Written materials must be double-spaced and at least 12-point type if in text form. Written materials are limited to 15 pages per party. If a party provides the department with written materials that contain more pages than the maximum allowed, the department shall not provide the written materials to the board and a party shall not provide the written materials to the board at the board meeting.

§224.200. Oral Presentation Limitations and Responsibilities.

(a) A party to a contested case under review by the board shall limit oral presentation and discussion to evidence in the SOAH administrative record. Also, oral presentation and discussion shall be

consistent with the scope of the board's authority to act under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; Transportation Code Chapters 503 or 1001-1005; and Transportation Code, §545.459(k), as applicable.

(b) A party may argue that the board should remand the contested case to SOAH.

(c) Each party is responsible for objecting when another party attempts to make arguments or engage in discussion regarding evidence that is not contained in the SOAH administrative record.

(d) A party's presentation to the board is subject to the following limitations and conditions:

(1) Each party shall be allowed a maximum of 15 minutes for their oral presentation. The board chair may increase this time.

(2) No party is allowed to provide a rebuttal or a closing statement.

(3) An intervenor of record from the SOAH proceeding supporting another party shall share that party's time.

(4) Time spent by a party responding to a board question is not counted against their presentation time.

(5) During an oral presentation, a party to the contested case before the board may object that a party presented material or argument that is not in the SOAH administrative record. Time spent discussing such objections is not counted against the objecting party's time.

§224.204. Board Conduct and Discussion When Reviewing a Contested Case or Interlocutory Order.

(a) The board shall conduct its contested case review in compliance with Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; Transportation Code Chapters 503 or 1001-1005; and Transportation Code, §545.459(k), as applicable, including the limitations on changing a finding of fact or conclusion of law made by a SOAH ALJ, and the prohibition on considering evidence outside of the SOAH administrative record.

(b) A board member may question a party or the department on any matter that is relevant to the proposal for decision; however, a question shall be consistent with the scope of the board's authority to take action under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; Transportation Code, Chapters 503 or 1001-1005; and Transportation Code, §545.459(k), as applicable; a question must be limited to evidence contained in the SOAH administrative record; and the communication must comply with §224.5 of this title (relating to Prohibited Communication). In considering a contested case, a board member is authorized to ask a question regarding a request to remand the case to SOAH, including a remand to SOAH for further consideration of the evidence.

(c) A board member may use personal expertise in the industry to understand a contested case and make effective decisions, consistent with the scope of the board's authority to act under Government Code, §2001.058(e); Occupations Code, Chapters 2301 and 2302; Transportation Code Chapters 503 or 1001-1005; and Transportation Code, §545.459(k), as applicable. However, a board member is not an advocate for a particular industry. A board member is an impartial public servant who takes an oath to preserve, protect, and defend the Constitution and laws of the United States and Texas.

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. AUTOMATED MOTOR VEHICLE AUTHORIZATIONS

43 TAC §§224.290, 224.292, 224.294

STATUTORY AUTHORITY. The department adopts new sections under Transportation Code, §545.453 (as added by SB 2807), which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Transportation Code, Chapter 545, Subchapter J; Transportation Code, §§1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

§224.292. Immediate Suspension, Revocation, or Cancellation of an Automated Motor Vehicle Authorization under Transportation Code, §545.456(f).

(a) No other section in this chapter applies to a suspension, revocation, or cancellation of an automated motor vehicle authorization under Transportation Code, §545.456(f), except for §224.290 of this title (relating to Purpose and Scope).

(b) The department may immediately suspend, revoke, or cancel an automated motor vehicle authorization under Transportation Code, §545.456(f) by sending notice to the authorization holder's email address on file in the department's designated system referenced in §220.23 of this title (relating to Application Requirements). The action described in the notice is effective when the notice is emailed by the department.

(c) The department shall promptly notify the authorization holder of a rescission of a suspension, revocation, or cancellation of an automated motor vehicle authorization under Transportation Code, §545.456(g) by sending notice to the authorization holder's email address on file in the department's designated system referenced in

§220.23 of this title. The recission described in the notice is effective when the notice is emailed by the department.

(d) In addition to emailing a notice to the authorization holder under this section, the department shall also mail a notice to an authorization holder by first-class mail using the authorization holder's mailing address on file in the department's designated system referenced in §220.23 of this title.

(e) The director of the department's Motor Carrier Division is authorized to make the decisions under this section regarding a suspension, revocation, cancellation, or rescission.

(f) A reference in a department rule or communication to an "authorization holder" whose authorization is currently suspended, revoked, or cancelled does not rescind or invalidate the suspension, revocation or cancellation of the authorization.

§224.294. Suspension, Revocation, or Cancellation of Automated Motor Vehicle Authorization under Transportation Code, §545.459.

(a) Subchapters A, E, F, and I of this chapter apply to a suspension, revocation, or cancellation of an authorization under Transportation Code, §545.459, and the imposition of one or more restrictions on the operation of the automated motor vehicle under Transportation Code, §545.459.

(b) The department shall send the notice of intent required under Transportation Code, §545.459 to the authorization holder by certified mail, return receipt requested consistent with Government Code, §2001.054. The department shall also send the notice of intent to the authorization holder's email address on file in the department's designated system referenced in §220.23 of this title (relating to Application Requirements).

(c) Any request for an extension on the department's deadline for corrective action and certification under Transportation Code, §545.459(c)(2) and (e) must be submitted prior to the department's deadline listed in the department's notice of intent and must contain an explanation regarding the following:

(1) why the department's deadline is not reasonable;

(2) why the authorization holder needs more time, and the specific deadline the authorization holder is requesting; and

(3) whether the authorization holder's requested deadline is likely to result in harm to the public health, safety, or welfare.

(d) The department shall promptly provide notice to the authorization holder of the department's action under this section and Transportation Code, §545.459, using the authorization holder's email address on file in the department's designated system referenced in §220.23 of this title, except as otherwise provided by statute or rule, including §224.154 of this title (relating to Notice of Hearing) and §224.206 of this title (relating to Final Orders). The department shall also promptly mail such notice by first-class mail to an authorization holder using the authorization holder's mailing address on file in the department's designated system referenced in §220.23. The date the department emails a decision or final determination is the date the department issues a decision or final determination for the purposes of Transportation Code, §545.459(g), (h), and (i), as applicable.

(e) The authorization holder shall submit any requests to the department under Transportation Code, §545.459 to the designated address listed in the department's notice to the authorization holder.

(f) A representative of an authorization holder may be required to provide written proof to the department of authority to act on behalf of the authorization holder.

(g) An authorization holder shall electronically file any certification under Transportation Code, §545.459(d) in the department's designated system and include an authorized signature on the certification, in accordance with §224.11 of this title (relating to Filing and Service of Documents).

(h) The director of the department's Motor Carrier Division is authorized to issue a decision under Transportation Code, §545.459(g).

(i) The director of the department's Motor Carrier Division shall review the decision and issue a final determination under Transportation Code, §545.459(h) if the authorization holder timely submits a written request to the department for review.

(j) Except as otherwise provided under §224.29 of this title (relating to Delegation of Final Order Authority), the board has final order authority in a contested case under Transportation Code, §545.459(k). However, the director of the department's Motor Carrier Division shall take the actions required under Transportation Code, §545.459(j) regarding the rescission of a suspension, revocation, or cancellation, or the removal of a restriction, regardless of whether the board issued the final order.

(k) If a hearing is not timely held as required by Transportation Code, §545.459(k), the department shall take the following actions:

(1) request the State Office of Administrative Hearings to dismiss the contested case; and

(2) promptly notify the authorization holder that the authorization is automatically reinstated and that any restriction is automatically removed, using the authorization holder's email address on file in the department's designated system referenced in §220.23 of this title.

(l) A reference in a department rule or communication to an "authorization holder" whose authorization is currently suspended, revoked, or cancelled does not rescind or invalidate the suspension, revocation, or cancellation of the authorization.

(m) Unless otherwise requested by the department in writing, §224.11(a) through (g) of this title do not apply to a certification or communication from the authorization holder to the department regarding the following under Transportation Code, §545.459(j):

(1) a potential rescission of a suspension, revocation, or cancellation; or

(2) a potential removal of a restriction.

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. MOTOR CARRIER DIVISION DIRECTOR PROCEDURES IN CONTESTED CASES

43 TAC §§224.310, 224.312, 224.314, 224.316, 224.318, 224.320, 224.322, 224.324, 224.326

STATUTORY AUTHORITY. The department adopts new sections under Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §545.453 (as added by SB 2807), which authorizes the board to adopt rules that are necessary to administer Subchapter J of Chapter 545 of the Transportation Code; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622; Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.2525, which addresses the final order issued by the department for a contested case under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.001, which states that the department is subject to Government Code, Chapter 2001, except as specifically provided by law; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Transportation Code, Chapters 621, 622, 623, 643, and 645; Transportation Code, §§502.091(b), 1002.001, 1003.001, and 1003.005; and Government Code, Chapter 2001.

§224.310. Purpose and Scope.

This subchapter describes the procedures for the department's director of the Motor Carrier Division (Motor Carrier Division Director) to review and issue a final order in a contested case in which the following conditions are met:

(1) the Motor Carrier Division Director is the final order authority pursuant to a delegation under this chapter or as designated under Transportation Code, §643.001(2); and

(2) a SOAH ALJ has submitted a final proposal for decision for consideration by a person with such final order authority.

§224.312. Contested Case Review.

(a) After SOAH submits a final proposal for decision and transfers SOAH's administrative record to the department, the Motor Carrier Division Director has jurisdiction and the record required to issue a final order and will review the contested case in accordance with the APA.

(b) The Motor Carrier Division Director may schedule a special public meeting to review the contested case, as specified under this subchapter; however, the Motor Carrier Division Director may also review SOAH's administrative record in a contested case and issue a final order without holding a special public meeting. The provisions in this subchapter regarding a special public meeting only apply if the Motor Carrier Division Director schedules a special public meeting.

§224.314. Request for Oral Presentation.

(a) At least 20 days prior to the scheduled date of a special public meeting, the department shall notify the parties regarding the opportunity to attend and provide an oral presentation concerning a proposal for decision before the Motor Carrier Division Director. The department will deliver notice electronically to the last known email address provided to the department by the party or party's authorized representative in accordance with §224.11 of this title (relating to Filing and Service of Documents).

(b) If a party intends to make an oral presentation at the special public meeting, a party must submit a written request for an oral presentation to the department's contact listed in the notice provided under subsection (a) of this section and copy all other parties in accordance with §224.11 of this title at least seven days prior to the date of the special public meeting at which the party's contested case will be reviewed.

(c) If more than one party was not adversely affected by the proposal for decision, such parties may agree on the order of their presentations in lieu of the order prescribed under §224.320 of this title (relating to Order of Oral Presentations to the Motor Carrier Division Director). These parties must submit the agreed order of their presentations along with their requests to make an oral presentation under subsection (b) of this section. The order of presentations will be determined under §224.320 of this title if the parties who were not adversely affected by the proposal for decision do not timely provide the department and the other parties with notice regarding their agreed order of presentation.

(d) If a party timely submits a written request for an oral presentation, that party may make an oral presentation before the Motor Carrier Division Director at the special public meeting. If a party fails to submit a written request for an oral presentation timely, that party shall not make an oral presentation at the special public meeting.

(e) Non-parties are not authorized to provide an oral presentation or public comment to the Motor Carrier Division Director at a special public meeting.

§224.316. Written Materials and Evidence.

(a) If a party wants to provide written materials at the special public meeting, the party must provide the written materials to the department and all other parties in accordance with §224.11 of this title (relating to Filing and Service of Documents) at least 14 days prior to the date of the special public meeting. If a party fails to timely provide written materials to the department or any other party, the department shall not provide the written materials to the Motor Carrier Division Director and the party shall not provide the written materials to the Motor Carrier Division Director at the special public meeting.

(b) For the purposes of this section, written materials are defined as language or images including photographs or diagrams, that are contained in the SOAH administrative record and recorded in paper form except as stated otherwise in this subsection. The language or images in the written materials must be taken without changes from the SOAH administrative record; however, proposed final orders are allowed to be included in a party's written materials even if they contain arguments or requests that are not contained in the SOAH administrative record. Written materials shall be limited to evidence contained in the SOAH administrative record and consistent with the scope of the Motor Carrier Division Director's authority to act under Government Code, §2001.058(e) and the applicable law that governs the subject matter of the contested case, such as Transportation Code, Chapters 621-623, 643, or 645.

(c) All information in the written materials shall include a citation to the SOAH administrative record on all points to specifically identify where the information is located. The citations may be provided in an addendum to the written materials that is not counted against the 15-page limit under subsection (d) of this section; however, the addendum must not include any information other than a heading that lists the name of the party, the caption for the contested case, and text that lists the citations and page numbers.

(d) Written materials shall be 8.5 inches by 11 inches and single-sided. Written materials must be double-spaced and at least 12-point type if in text form. Written materials are limited to 15 pages per party. If a party provides the department with written materials that contain more pages than the maximum allowed, the department shall not provide the written materials to the Motor Carrier Division Director and a party shall not provide the written materials to the Motor Carrier Division Director at the special public meeting.

(e) Non-parties are not authorized to provide written materials to the Motor Carrier Division Director at a special public meeting.

§224.318. Oral Presentation Limitations and Responsibilities.

(a) A party to a contested case under review by the Motor Carrier Division Director shall limit oral presentation and discussion to evidence in the SOAH administrative record. Also, oral presentation and discussion shall be consistent with the scope of the Motor Carrier Division Director's authority to act under Government Code, §2001.058(e) and the applicable law that governs the subject matter of the contested case, such as Transportation Code, Chapters 621-623, 643, or 645.

(b) A party may argue that the Motor Carrier Division Director should remand the contested case to SOAH.

(c) Each party is responsible for objecting when another party attempts to make arguments or engage in discussion regarding evidence that is not contained in the SOAH administrative record.

(d) A party's presentation to the Motor Carrier Division Director is subject to the following limitations and conditions:

(1) Each party shall be allowed a maximum of 15 minutes for their oral presentation. The Motor Carrier Division Director may increase this time.

(2) No party is allowed to provide a rebuttal or a closing statement.

(3) An intervenor of record from the SOAH proceeding supporting another party shall share that party's time.

(4) Time spent by a party responding to a question from the Motor Carrier Division Director is not counted against such party's presentation time.

(5) During an oral presentation, a party to the contested case before the Motor Carrier Division Director may object that a party presented material or argument that is not in the SOAH administrative record. Time spent discussing such objections is not counted against the objecting party's time.

§224.320. Order of Oral Presentation to the Motor Carrier Division Director.

(a) The department will present the procedural history and summary of the contested case.

(b) The party that is adversely affected may present first. However, the Motor Carrier Division Director is authorized to determine the order of each party's presentation if:

(1) it is not clear which party is adversely affected;

(2) it appears that more than one party is adversely affected; or

(3) different parties are adversely affected by different portions of the contested case under review.

(c) The other party or parties not adversely affected will then have an opportunity to make a presentation. If more than one party is not adversely affected, each party will have an opportunity to respond in alphabetical order based on the name of the party in the pleadings in the SOAH administrative record, except as stated otherwise in §224.314 of this title (relating to Request for Oral Presentation).

§224.322. Motor Carrier Division Director Conduct and Discussion When Reviewing a Contested Case.

(a) The Motor Carrier Division Director shall conduct the contested case review in compliance with Government Code, Chapter 2001; and the applicable law that governs the subject matter of the contested case, such as Transportation Code, Chapters 621-623, 643, or 645, including the limitations on changing a finding of fact or conclusion of law made by a SOAH ALJ, and the prohibition on considering evidence outside of the SOAH administrative record.

(b) The Motor Carrier Division Director may question a party or the department on any matter that is relevant to the proposal for decision; however, a question shall be consistent with the scope of the Motor Carrier Division Director's authority to take action under Government Code, §2001.058(e) and the applicable law that governs the subject matter of the contested case, such as Transportation Code, Chapters 621-623, 643, or 645; a question must be limited to evidence contained in the SOAH administrative record; and the communication must comply with §224.5 of this title (relating to Prohibited Communication). In considering a contested case, the Motor Carrier Division Director is authorized to ask a question regarding a request to remand the case to SOAH, including a remand to SOAH for further consideration of the evidence.

§224.324. Final Orders.

(a) The Motor Carrier Division Director shall sign a written final order in a contested case under this subchapter.

(b) The department shall email a copy of the final order to the parties in the contested case and send a copy of the final order by certified mail, return receipt requested.

(c) The provisions of Government Code, Chapter 2001, Subchapter F govern:

(1) the issuance of a final order issued under this subchapter; and

(2) motions for rehearing filed in response to a final order.

(d) An order in a contested case is final in accordance with Government Code, §2001.144.

§224.326. Public Access to Special Public Meetings.

(a) Persons who have special communication or accommodation needs and who plan to attend a special public meeting may contact the department's contact listed in the posted meeting agenda for the purpose of requesting auxiliary aids or services. Requests shall be made at least two days before a special public meeting. The department shall make every reasonable effort to accommodate these needs.

(b) Members of the public are not authorized to question the parties to the contested case or the Motor Carrier Division Director regarding the contested case.

(c) A person who disrupts a special public meeting shall leave the meeting room and the premises if ordered to do so by the Motor Carrier Division Director.

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. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT

43 TAC §224.58

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter B, Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement, §224.58, regarding Denial of Dealer Access to the License Plate System. These amendments implement Senate Bill (SB) 1902, 89th Legislature, Regular Session (2025), which became effective July 1, 2025. In SB 1902, Section 3, the legislature directed the department to adopt implementing rules by October 1, 2025. Transportation Code, §503.0633(f), as amended by SB 1902, allows the department to deny access to the license plate database if a dealer has been denied access to the temporary tag database under former Transportation Code, §503.0632(f).

The department adopts amendments to §224.58 without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4404). Accordingly, the text of §224.58 will not be republished.

REASONED JUSTIFICATION.

As the department transitioned from paper temporary tags to metal license plates on July 1, 2025, in accordance with House Bill 718, 88th Legislature, Regular Session (2023), the temporary tag database has been replaced with the license plate database. Under Transportation Code §503.0633(f), as amended by SB 1902, the department may deny a dealer access to the license plate system if the department determines that the dealer has acted fraudulently. An adopted amendment to §224.58(b) would add denial of access to the temporary tag system as a basis for the department to deny a dealer access to the license plate system. This amendment implements SB 1902, which added this basis as one the department could consider in denying access to the license plate database under Transportation Code, §503.0633(f). The adopted amendment would allow the department to deny access to the license plate system if the dealer had been denied access to temporary tag database prior to July 1, 2025, after providing notice to the dealer.

SUMMARY OF COMMENTS.

The department received no comments during the public comment period which ended on August 25, 2025.

STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to §224.58 under Transportation Code, §§503.002, 503.0631, and 1002.001. Transportation Code, §503.002 authorizes the department to adopt rules to administer Transportation Code Chapter 503. Transportation Code, §503.0631(e) authorizes the department to adopt rules and prescribe procedures as necessary to implement §503.0631. Transportation Code, §1002.001 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also adopts amendments under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; and Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

CROSS REFERENCE TO STATUTE. These adopted revisions implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 501-504, and 1002.

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

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SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT

43 TAC §§224.116, 224.121, 224.124

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 224, Subchapter D, Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement, §224.116 and §224.124, and adopts new §224.121, regarding the requirements and procedures under Transportation Code, §643.2526.

The department adopts the following rules without changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4406), and these rules will not be republished: §224.116 and §224.124. The department adopts §224.121 with a change to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4406). This rule will be republished. The change at adoption to §224.121 is described in the Reasoned Justification section below.

REASONED JUSTIFICATION.

The amendments and new section are necessary to implement House Bill (HB) 1672, 89th Legislature, Regular Session (2025), which requires that the department adopt rules to create the requirements and procedures for the following, in part, under Transportation Code, §643.2526: 1) the revocation or suspension of a motor carrier's registration; 2) the placement of a motor carrier on probation whose registration is suspended; and 3) the motor carrier's appeal of the revocation, suspension, or probation. Adopted amendments are also necessary to clean up the rule text.

As stated above, the department published a proposal to revise Chapter 224 to implement HB 1672 in the July 25, 2025, issue of the *Texas Register*. Because HB 1672 became effective on May 24, 2025, the department also adopted similar amendments to revise Chapter 224 through emergency rules with an immediate effective date of July 10, 2025, as stated in the Emergency Rules section of the July 25, 2025, issue of the *Texas Register* (50 TexReg 4139). However, emergency rules may not be effective for longer than 120 days and may not be renewed for longer than 60 days according to Government Code, §2001.034. In the Withdrawn Rules section of this issue of the *Texas Register*, the department published a notice to withdraw the emergency rules on the date that the adopted revisions to Chapter 224 that are referenced in this adoption order become effective, so there will only be one version of these revisions to Chapter 224 in effect at the same time.

Adopted amendments to §224.116 implement HB 1672 by modifying the title of the section and adding new subsection (h) to clarify that these administrative procedures do not apply to a proceeding under Transportation Code, §643.2526. Section 224.116 provides the administrative procedures for a proceeding under laws that require the department to provide written notice to the person and an opportunity for the person to request a hearing before the department takes an administrative action against the person. Because Transportation Code, §643.2526 states that a department action under §643.2526 is not required to be preceded by notice and an opportunity for hearing, the adopted amendments to §224.116 clarify that this section does not apply to a proceeding under §643.2526. Adopted amendments to §224.116(a) also clean up the rule text by adding a hyphen to the term "first class mail" to read "first-class mail."

Adopted new §224.121 and adopted amendments to §224.124 are necessary to implement amendments made by HB 1672 to Transportation Code, §643.2526. These revisions to Chapter 224 govern the requirements and procedures under Transportation Code, §643.2526, which authorizes the department to deny an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643 (Motor Carrier Registration) prior to providing the person with notice and an opportunity for hearing. Upon request by the Texas Department of Public Safety (DPS) under Transportation Code, §643.252(b) and prior to providing the person with notice and an opportunity for hearing, the department is also authorized under Transportation Code, §643.2526 to revoke or suspend the registration of a motor carrier or to place a motor carrier on probation whose registration is suspended, if either of the following occur: 1) the motor carrier has an unsatisfactory safety rating under 49 C.F.R. Part 385 (Safety Fitness Procedures), which is determined by the Federal Motor Carrier Safety Administration (FMCSA); or 2) the motor carrier committed multiple violations under Transportation Code, Chapter 644 (Commercial Motor Vehicle Safety Standards), a rule adopted under Chapter 644, or Subtitle C (Rules of the Road) of Transportation Code, Title 7 (Vehicles and Traffic), which is determined by DPS. The references to registration under Transportation Code, Chapter 643 are references to operating authority to operate as a motor carrier, rather than vehicle registration under Transportation Code, Chapter 502.

Adopted new §224.121 provides the requirements and procedures regarding the department's action under Transportation Code, §643.2526. Adopted new §224.121(a) states that the department will only revoke a motor carrier's registration under Transportation Code, §643.2526 pursuant to a request from DPS under Transportation Code, §643.252(b). Although Transportation Code, §643.252(b) authorizes DPS to request the department to suspend or revoke a registration issued to a motor carrier under Transportation Code, Chapter 643, or to place on probation a motor carrier whose registration is suspended, the department will only revoke the registration of a motor carrier under Transportation Code, §643.252(b). The department's current system is not programmed to suspend a motor carrier's registration, so revocation is the only option at this time.

Also, the DPS administrative rule regarding DPS's request to the department under Transportation Code, §643.252(b) only refers to a revocation of the motor carrier's registration. *See* 37 TAC §4.19(a). Transportation Code, §644.051(b) states that a DPS rule adopted under Transportation Code, Chapter 644 must be consistent with federal regulations. Section 4.19(a), which was adopted under the DPS rulemaking authority in Transportation Code, §644.051, is consistent with 49 C.F.R. §385.13(e), which states that if an interstate motor carrier has a final unsatisfactory safety rating, FMCSA will provide notice to the motor carrier and issue an order revoking the motor carrier's interstate registration, which is also known as operating authority to operate as a motor carrier in interstate transportation. Because DPS does not administer Transportation Code, Chapter 643, DPS must request the department to revoke a motor carrier's registration for intrastate transportation.

Adopted new §224.121(a) also states that the department will not take action under Transportation Code, §643.252(b) until FMCSA or DPS, as applicable, issues an order regarding the laws referenced in §643.252(b). This requirement is necessary to help protect the person's due process rights because Transportation Code, §643.2526 authorizes the department to take action against the person prior to providing notice and an opportunity for a hearing. FMCSA and DPS are required to comply with the due process requirements under the laws that govern their actions when issuing an order under the laws referenced in Transportation Code, §643.252(b). The process set out in new §224.121(a) ensures that while a motor carrier may not receive notice and an opportunity for a hearing from the department before the department revokes the motor carrier's registration, the motor carrier should have received full due process on the same factual and legal allegations from either FMCSA or DPS.

The FMCSA order under 49 C.F.R. §385.13(d)(1) is called an out-of-service order, which prohibits the motor carrier from engaging in interstate transportation. *See* 49 U.S.C. §31144(c) and 49 C.F.R. §385.1(a) and §385.13(d)(1). The FMCSA procedures and proceedings regarding an out-of-service order are governed by 49 U.S.C. §31144, 49 C.F.R. Part 385 (Safety Fitness Procedures), and 49 C.F.R. Part 386 (Rules of Practice for FMCSA Proceedings).

The DPS order under Transportation Code, §644.155 and 37 TAC §4.15 is called an order to cease, which prohibits the motor carrier from operating a commercial motor vehicle in intrastate transportation. The DPS proceedings regarding an order to cease are governed by 37 TAC §4.15 and §4.18. The DPS order to cease tells the motor carrier that it must immediately cease all intrastate transportation until such time as DPS determines the motor carrier's safety rating is no longer unsatisfactory.

Adopted new §224.121(b) states that the department will issue notice of the department's action under Transportation Code, §643.2526 to the person by email and first-class mail using the person's last known address in the department's records. The notice requirements under Government Code, §2001.054(c) do not apply to the department's notice regarding the department's action under Transportation Code, §643.2526 because Transportation Code, §643.2526(a) says that the department's action under Transportation Code, §643.252(b) is not required to be preceded by notice and an opportunity for hearing, notwithstanding other law. Also, the motor carrier should have already received due process under the DPS or FMCSA proceeding that resulted in an order to cease or out-of-service order, respectively.

The department adopts §224.121(b) with a change at adoption to include a hyphen between the words "first" and "class" because the word "first-class" is a compound modifier for the word "mail."

Adopted amendments to §224.124 implement HB 1672 by expanding the scope of the rule to be consistent with the expanded scope of Transportation Code, §643.2526 as amended by HB 1672. An adopted amendment to §224.124 modifies the title of the section to refer to an appeal of a department action under Transportation Code, §643.2526 because §643.2526 is no longer limited to an appeal of a denial of an application for registration, renewal of registration, or reregistration. An adopted amendment to §224.124 also deletes prior subsection (a) because it unnecessarily repeated language in Transportation Code, §643.2526 and did not cover the expanded scope of §643.2526 as amended by HB 1672. In addition, adopted amendments to §224.124 re-letter prior subsections (b), (c), and (d) due to the deletion of prior subsection (a).

An adopted amendment to re-lettered §224.124(a) clarifies that Subchapter E of Chapter 224 of this title is not the only subchapter in Chapter 224 that applies to an appeal to the department under Transportation Code, §643.2526. Adopted amendments to re-lettered §224.124(b) expand the scope of the rule to be consistent with the expanded scope of Transportation Code, §643.2526 as amended by HB 1672.

Adopted new §224.124(d) states that on appeal under Transportation Code, §643.2526, the department will not rescind a revocation under Transportation Code, §643.252(b) based on the motor carrier taking corrective action that results in an upgrade to its unsatisfactory safety rating after the department has issued notice to the motor carrier that the department revoked the motor carrier's registration. DPS wants the department to immediately revoke a motor carrier's registration under Transportation Code, Chapter 643 once DPS requests the department to revoke under Transportation Code, §643.252(b). The department will not wait to see if the motor carrier takes either of the following actions prior to revoking the motor carrier's registration: 1) requests DPS or FMCSA, as applicable, to change the final safety rating or to conduct a review regarding the final safety rating; or 2) appeals their final safety rating to a court under the laws that govern the DPS or FMCSA order, as applicable.

FMCSA's regulation states that a motor carrier that has taken action to correct the deficiencies that resulted in a final rating of "unsatisfactory" may request a rating change at any time. *See* 49 C.F.R. §385.17(a). Another FMCSA regulation states as follows: 1) that a motor carrier may request FMCSA to conduct an administrative review if it believes that FMCSA committed an error in assigning the final safety rating; 2) that FMCSA's decision under the administrative review constitutes the final agency action; and 3) that a motor carrier may request a rating change under the provisions of 49 C.F.R. §385.17. *See* 49 C.F.R. §385.15. In addition, federal law authorizes the motor carrier to appeal FMCSA's final order to the applicable United States Court of Appeals under 49 U.S.C. §521(b)(9) and 49 C.F.R. §386.67. Therefore, it is possible that FMCSA could change a motor carrier's safety rating from unsatisfactory to satisfactory or conditional after FMCSA issued the out-of-service order to the motor carrier and after the department revoked the motor carrier's registration pursuant to DPS's request under Transportation Code, §643.252(b).

The DPS administrative rule states that a motor carrier that has taken action to correct the deficiencies that resulted in a final rating of "unsatisfactory" may request a rating change at any time. *See* 37 TAC §4.15(b)(3)(G). The DPS rule also states that the motor carrier may request DPS to conduct a departmental review if the motor carrier believes that DPS has committed error in assigning the final safety rating, that the final safety rating under the DPS departmental review constitutes a final agency decision, and that any judicial review of the DPS final agency decision is subject to Government Code, Chapter 2001. *See* 37 TAC §4.15(b)(3)(H) and (I). Therefore, it is possible that DPS could change a motor carrier's safety rating from unsatisfactory to satisfactory or conditional after DPS issued the order to cease to the motor carrier and after the department revoked the motor carrier's registration pursuant to DPS's request under Transportation Code, §643.252(b).

Once the department issues a revocation under Transportation Code, §643.2526, the revocation is effective and cannot be rescinded unless the motor carrier submits a timely appeal under §643.2526. If the motor carrier timely submits an appeal under Transportation Code, §643.2526, if the underlying order from DPS or FMCSA was issued to the correct motor carrier in compliance with the motor carrier's due process rights, and if the applicable requirements under Transportation Code, §643.252(b) were met at the time DPS requested the department to revoke the motor carrier's registration, the department's revocation will not be rescinded on appeal to the department. If the motor carrier resolves its unsatisfactory safety rating and is no longer subject to the order to cease or out-of-service order after the department revokes the motor carrier's registration, the evidence on appeal will not show any error regarding the department's revocation. However, an appeal of a revocation under Transportation Code, §643.2526 may result in a rescission of the revocation if the underlying order from DPS or FMCSA, as applicable, was issued in violation of the motor carrier's due process rights or was issued to the motor carrier in error.

When determining whether to request the department to revoke the motor carrier's registration under Transportation Code, §643.252(b), it is within DPS's discretion to consider whether the motor carrier's unsatisfactory safety rating might change to a satisfactory or conditional safety rating after the issuance of an order to cease or an out-of-service order. Once the department receives the request from DPS to revoke the motor carrier's registration under Transportation Code, §643.252(b), the department will immediately revoke the registration if the applicable requirements under §643.252(b) were met. If the department revoked a motor carrier's registration pursuant to DPS's request under Transportation Code, §643.252(b), and the motor carrier later improves its safety rating and is no longer subject to an out-of-service order or an order to cease, the department will consider this fact when reviewing the motor carrier's application for reregistration under Transportation Code, §643.0585 or the motor carrier's application for registration under Transportation Code, §643.052.

Adopted new §224.124(e) requires the person who submits an appeal to the department under Transportation Code, §643.2526 to state why the person claims the department's action is erroneous, as well as the legal and factual basis for the claimed error. This information is necessary to enable the department to comply with a requirement to docket the contested case with the State Office of Administrative Hearings under 1 TAC §155.53(a)(1), which requires the Request to Docket Case form to be submitted together with the complaint or other pertinent documents describing the agency action giving rise to the contested case.

SUMMARY OF COMMENTS.

No comments on the proposed revisions were received.

STATUTORY AUTHORITY. The department adopts amendments under Transportation Code, §643.2526(d), as amended by House Bill (HB) 1672, 89th Legislature, Regular Session (2025), which requires the department to adopt rules as necessary to implement §643.2526, including rules governing the requirements and procedures under §643.2526; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapter 2001; and Transportation Code, §§643.252(b), 643.2526, and 1002.001.

§224.121. Administrative Proceedings under Transportation Code, §643.2526.

(a) The department will only revoke the registration of a motor carrier under Transportation Code, §643.2526 pursuant to a request from the Texas Department of Public Safety under Transportation Code, §643.252(b) after the issuance of an order by the following, as applicable:

(1) the Federal Motor Carrier Safety Administration regarding an unsatisfactory safety rating under 49 C.F.R. Part 385; or

(2) the Texas Department of Public Safety regarding multiple violations of the following:

(A) Transportation Code, Chapter 644;

(B) a rule adopted under Transportation Code, Chapter 644; or

(C) Subtitle C of Title 7 of the Transportation Code.

(b) The department will issue notice of the department's action under Transportation Code, §643.2526 to the person by email and first-class mail using the person's last known address in the department's records.

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 September 19, 2025.

TRD-202503329
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: October 9, 2025
Proposal publication date: July 25, 2025
For further information, please call: (512) 465-5665

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Texas

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

Office of Consumer Credit Commissioner

Title 7, Part 5

On behalf of the Finance Commission of Texas (commission), the Office of Consumer Credit Commissioner files this notice of intention to review and consider for readoption, revision, or repeal, Texas Administrative Code, Title 7, Part 5, Chapter 88, concerning Consumer Debt Management Services.

This rule review will be conducted pursuant to Texas Government Code, §2001.039. The commission will accept written comments received on or before the 30th day after the date this notice is published in the *Texas Register* as to whether the reasons for adopting these rules continue to exist.

The Office of Consumer Credit Commissioner, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705, or by email to rule.comments@occc.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional public comment period prior to final adoption or repeal by the commission.

TRD-202503398
Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Filed: September 23, 2025

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Texas Council for Developmental Disabilities

Title 40, Part 21

In accordance with Texas Government Code §2001.039, the Texas Council for Developmental Disabilities (TCDD) submits notice of its intention to review its rules. These rules appear under Texas Administrative Code Title 40, Part 21. TCDD will consider, among other things, whether the reasons for readoption of these rules continue to exist and following the assessment will readopt, readopt with amendments, or repeal the rules. Comments will be accepted from any interested persons or groups.

Chapter 876. General Provisions

Chapter 877. Grant Awards

All comments and/or questions should be directed to Koren Vogel, Council Business Director, Texas Council for Developmental Disabilities, 6201 E. Oltorf, Suite 600, Austin, Texas 78741; or email *koren.vogel@tcdd.texas.gov.* Comments must be received in the office no later than Tuesday, November 4, 2025, at 5:00 p.m.

TRD-202503399
Beth Stalvey
Executive Director
Texas Council for Developmental Disabilities
Filed: September 23, 2025

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Adopted Rule Reviews

Texas Alcoholic Beverage Commission

Title 16, Part 3

The Texas Alcoholic Beverage Commission (TABC) has completed its review of its rules in Texas Administrative Code, Title 16, Chapter 41 (16 TAC §§41.1 - 41.65), relating to Auditing. This review was done pursuant to Texas Government Code §2001.039, which directs state agencies to review and consider for readoption each of their rules. The proposed rule review was published in the July 4, 2025, issue of the *Texas Register* (50 TexReg 3921).

SUMMARY OF COMMENTS. TABC did not receive any comments on this rule review.

READOPTION OF RULES. After review, TABC finds that the reasons for adopting 16 TAC §§41.1 - 41.65 continue to exist. Therefore, TABC readopts the rules.

TRD-202503406
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Filed: September 23, 2025

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The Texas Alcoholic Beverage Commission (TABC) has completed its review of its rules in Texas Administrative Code, Title 16, Chapter 45, Subchapter F (16 TAC §§45.101 - 45.127), relating to Advertising and Promotion, and Subchapter G (16 TAC §45.130 and §45.131), relating to Regulation of Cash and Credit Transactions. This review was done pursuant to Texas Government Code §2001.039, which directs state agencies to review and consider for readoption each of their rules. The proposed rule review was published in the July 4, 2025, issue of the *Texas Register* (50 TexReg 3921).

SUMMARY OF COMMENTS. TABC received comments from the Wine Institute suggesting amendments to 16 TAC §§45.105 and 45.117. TABC also received comments from Griffith & Hughes, PLLC suggesting amendments to §§45.130 and 45.131.

1. Comment on §45.105

COMMENT: The commenter suggests changes to §45.105(d) to allow wineries "to use social media and other digital platforms to post about events held at Texas licensed retailers," and "to explicitly address a winery's reasonable use of third-party services for advertising online, including at online points of purchase, both generally and on retail licensee websites."

AGENCY RESPONSE: TABC appreciates the comment but declines to act at this time. Alcoholic Beverage Code §102.07(g) already allows wineries to "preannounce" authorized promotional activities conducted at a retailer's premises. Such preannouncements may be made via the internet, including through the winery's social media or other digital platforms. Additionally, amending the rule to allow wineries to advertise or promote general events taking place at a retailer's premises, that are not part of an authorized promotional activity the winery is conducting on the premises, would likely run afoul of Alcoholic Beverage Code §102.07(a). And these statutory prohibitions cannot be mitigated by using a third-party service acting on behalf of or at the direction of a winery. However, TABC will consider adding rules clarifying the permissible forms of digital advertising (*i.e.* product or brand signage) wineries may provide to retailers, similar to the authorization in §45.117(d) for interior signs, in a future rulemaking proposal.

2. Comment on §45.117

COMMENT: The commenter suggests amending §45.117(b)(1) to increase the maximum cost of consumer novelty gifts from the current amount of $1.00 to account for inflation since the amount was first established.

AGENCY RESPONSE: TABC recognizes that the $1.00 limit has remained stagnant since its inception. However, the amount is set by statute in Alcoholic Beverage Code §102.07(d) and may not be changed through an agency rule.

3. Comment on §45.130(d)(1) and (d)(4)

COMMENT: The commenter states that the two referenced rule paragraphs do not appear to track the statutory text in Alcoholic Beverage Code §102.32(c), which creates confusion. The commenter suggests that the rule be amended to clarify that the reference to "four days" refers to business days.

AGENCY RESPONSE: TABC does not believe the rule conflicts with Alcoholic Beverage Code §102.32(c), nor does it believe the rule causes confusion. The rule directly cites the payment deadline in Alcoholic Beverage Code §102.32(c), which specifically states that the four-day period is calculated using business days. Nevertheless, TABC will consider clarifying the rule in a future rulemaking.

4. Comment on §45.130(d)(5)

COMMENT: The commentor asserts that the rule is problematic because it gives the appearance that credit law delinquencies under the Alcoholic Beverage Code are enforceable against certain persons in a manner contrary to other law, specifically provisions in the Business and Commerce Code and federal bankruptcy law. The commenter also believes enforcement of the rule leads to absurd results.

AGENCY RESPONSE: TABC disagrees that the rule's provision is contrary to other law. The rule implements Alcoholic Beverage Code §102.32(d-1), which states that "a person whose permit is canceled by the commission or whose permit has expired is not eligible to hold any other permit or license under this code until the person has cured any delinquency of the person." The Business and Commerce Code and federal bankruptcy provisions raised by the commentor generally relate to liability for debt payments (*i.e.* who may legally be required to pay off the debt). The rule does not dictate who is liable to pay the delinquent amount. Rather, it prohibits issuance of additional licenses or permits to a person who is connected to a retailer with an unpaid delinquency. In other words, the rule contains a restriction on license or permit issuance due to a violation of the Alcoholic Beverage Code that has not been cured. Thus, the rule does not conflict with the statutory provisions cited by the commenter.

The commenter also claims that by clarifying that the licensing prohibition in §102.32(d-1) applies to the owners, officers, directors, and shareholders of a delinquent retailer, the rule could exclude new entrants to the market for having "some connection" to a delinquent retailer. The commenter believes this would be an absurd outcome. TABC disagrees. The rule simply implements §102.32(d-1) by applying the statutory licensing prohibition to those individuals responsible for the retailer's conduct. To do otherwise would undercut the very law passed by the legislature. And if TABC were presented with a unique circumstance where applying the statutory licensing prohibition would truly lead to an absurd result, the agency could consider invoking its enforcement discretion. As such, TABC does not believe any change to the rule is warranted.

5. Comment on §45.130(e)(1)

COMMENT: The commenter states that the rule should be revised to ensure that claims of a retailer's delinquency are substantiated by the agency before the retailer is placed on the delinquent list to avoid erroneous claims.

AGENCY RESPONSE: TABC declines to make the suggested changes. Alcoholic Beverage Code §102.32 establishes when a retailer becomes delinquent, requires delinquencies to be reported "immediately" after their occurrence, and prohibits wholesalers from selling liquor to a delinquent retailer. Timely reporting of delinquencies by wholesale dealers to the agency and, in turn, by the agency to all other wholesale dealers is key to the proper implementation of the statutory prohibition on selling liquor to delinquent retailers. The commenter's suggested changes would result in the delayed implementation of the statute, all while diverting agency resources from potentially more pressing matters. Additionally, the delinquent list has been operated in a similar manner for several decades and the industry is familiar with its operation. The agency is not aware of any major issues with the list's operation (the commenter provides no such details), and to fundamentally change its operation as the commenter suggests would needlessly disrupt the industry. Lastly, §45.130(h) already provides retailers with a method to dispute inclusion on the delinquent list. And if a wholesale dealer reports a retailer in bad faith, the commission may take appropriate action against the wholesaler. For these reasons, TABC does not believe any change to the rule is warranted.

6. Comment on §§45.130(d), (f), (g), (h), and (i) and 45.131(f)

COMMENT: The commenter states that §§45.103 and 45.131 do not take into account the automatic stay and discharge provisions of federal bankruptcy law.

AGENCY RESPONSE: The agency agrees that the automatic stay provisions may impact the delinquent list in certain circumstances. However, no amendments to the rules are necessary since, as identified by the commenter, the delinquent list already contains an explicit disclaimer relating to retailers who have notified the agency of their bankruptcy status. This prevents assessing a violation against the retailer and allows wholesale dealers to continue to sell to the retailer—in line with the automatic stay and discharge provisions in federal law.

READOPTION OF RULES. After review, TABC finds that the reasons for adopting 16 TAC §§45.101 - 45.127 and 16 TAC §§45.130 - 45.131 continue to exist. Therefore, TABC readopts the rules.

TRD-202503407
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Filed: September 23, 2025

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Texas Board of Professional Geoscientists

Title 22, Part 39

In accordance with Government Code §2001.039, the Texas Board of Professional Geoscientists adopts its review for 22 TAC Chapters 850 and 851, as follows:

Chapter 850

Subchapter A (Authority and Definitions)

Subchapter B (Organization and Responsibilities)

Subchapter C (Fees)

Subchapter D (Advisory Opinions)

Chapter 851

Subchapter A (Definitions)

Subchapter B (P.G. Licensing, Firm Registration, and GIT Certification)

Subchapter C (Code of Professional Conduct)

Subchapter D (Compliance and Enforcement)

Subchapter E (Hearings--Contested Cases and Judicial Review)

The notice of proposed review was published in the May 30, 2025, of the *Texas Register* (50 TexReg 3257). TBPG received no comments regarding the review.

The Texas Board of Professional Geoscientists (TBPG) has determined that the reasons for initially adopting these chapters continue to exist. TBPG readopts these rules in their entirety, with the exception of 22 TAC §851.154 and subject to any proposed amendments, repeals, and new rules which will be proposed separately in a future edition of the *Texas Register*.

These rules are adopted pursuant to the authority of Occupations Code, section 1002.151, which authorizes the board to adopt and enforce rules consistent with the Texas Geoscience Practice Act (Act), and necessary for the performance of its duties.

This concludes the TBPG's review of Chapters 850 and 851.

The rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

TRD-202503392
Katie L. Colby
Licensing Specialist
Texas Board of Professional Geoscientists
Filed: September 22, 2025

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Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), in its own capacity and 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 99, Occupational Diseases

Notice of the review of this chapter was published in the August 8, 2025, issue of the *Texas Register* (50 TexReg 5235). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 99 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 99. Any amendments, if applicable, to Chapter 99 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 99 as required by Texas Government Code §2001.039.

TRD-202503388
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: September 22, 2025

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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 967, Client Care of Individuals Receiving Services at State Supported Living Centers

Notice of the review of this chapter was published in the August 8, 2025, issue of the *Texas Register* (50 TexReg 5235). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 967 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 967. Any amendments, if applicable, to Chapter 967 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 967 as required by Texas Government Code §2001.039.

TRD-202503386
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: September 22, 2025

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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 985, Human Immunodeficiency Virus Prevention And Treatment In State Supported Living Centers

Notice of the review of this chapter was published in the August 8, 2025, issue of the *Texas Register* (50 TexReg 5235). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 985 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 985. Any amendments, if applicable, to Chapter 985 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 985 as required by Texas Government Code §2001.039.

TRD-202503387
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: September 22, 2025

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Texas Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) files this notice of readoption of Title 43 Texas Administrative Code (TAC), Chapter 206, Management; Chapter 211, Criminal History Offense and Action on License; and Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.27, relating to Vehicle Registration Insignia, that were published in the *Texas Register*. The reviews were conducted pursuant to Government Code, §2001.039.

Notice of the department's intention to review was published in the July 25, 2025, issue of the *Texas Register* (50 TexReg 4977). The department did not receive any comments on the rule reviews.

As a result of the reviews, the department readopts Chapters 206 and 211, and §217.27 in accordance with the requirements of Government Code, §2001.039, with amendments, new sections, and repeals to Chapter 211, and amendments to §217.27. The department readopts Chapter 206 without amendment. The department has determined that the reasons for initially adopting the readopted rules continue to exist.

This concludes the review of Chapter 206, Management; Chapter 211, Criminal History Offense and Action on License; and Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.27, relating to Vehicle Registration Insignia.

TRD-202503354
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Filed: September 19, 2025

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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.

Texas Department of Agriculture

Cotton Jassid Emergency Quarantine AB (002)

The Texas Department of Agriculture (TDA) adopts an establishment of emergency quarantine pursuant to Texas Agriculture Code, Chapter 71, Subchapter B (Quarantines Against Out-of-State Diseases and Pests), Section 71.004, which authorizes the TDA to establish an emergency quarantine without notice and public hearing when a public emergency exists involving the likelihood of introduction or dissemination of a dangerous insect pest threatening horticulture and agriculture in the state. This action is taken in response to the recent detection and spread of the two-spotted cotton leafhopper (also known as cotton jassid), *Amrasca biguttula* (Hemiptera: Cicadellidae: Typhlocybinae), an invasive pest causing significant damage to cotton crops and several other related crops in the southeastern U.S. states. This insect is native to Asia and has been recently identified in the U.S.

2023 April: First detection in Puerto Rico on cotton ***first *official* record in the Western Hemisphere***. First detection at a private nursery in Juana Díaz, Rio Cañas Abajo, PR, on different types of cotton lines.

2023 May: Detection on eggplant and wild cotton in Santa Isabel, Boca Velázquez, Puerto Rico.

2024 November: First detection in Florida (Miami-Dade County on okra) ***first record in continental United States***. Subsequent positive finds in Florida reported in more than 40 counties by September 2025.

2025 July: First detection in Georgia (Seminole County on okra). As of August 29, 2025, positives reported in 57 Georgia counties.

2025 July: First detection in Alabama (Henry County on cotton). As of August 28, 2025, positive detections in 17 Alabama counties.

2025 August: First detection in South Carolina (Charleston County, across multiple farms on okra, eggplant, sunflower, pigweed, and smartweed). As of August 12, 2025 Clemson University reported this insect now appears to be widely distributed and established throughout (at least) the lower half of South Carolina.

August 26, 2025: Texas A&M AgriLife Extension reported detection on hibiscus at Home Depot and Lowe's retail stores in North and South Louisiana.

August 28, 2025: Texas A&M AgriLife Extension reported detection on retail hibiscus in the following Texas locations: College Station, McAllen, Weslaco, Harlingen, Victoria, Cedar Park, Waco, El Paso, and Longview.

August 28, 2025: TDA began conducting market blitz inspections of retail box stores throughout the state.

August 29, 2025: Texas Nursery and Landscape Association (TNLA) posted an industry update reporting that "*…Amrasca biguttula has recently been detected in Texas, traced to hibiscus shipments from out-of-state. This pest is already appearing in retail environments and poses a serious risk to ornamental plants and crops.*"

September 8, 2025: TDA announced in a press release immediate action in response to the detection of two-spotted leafhopper (*Amrasca biguttula*), on hibiscus plants shipped into Texas from Costa Farms and its subsidiaries in Florida.

As of September 22, 2025, TDA has conducted more than 400 inspections at nurseries in the state. Approximately 26 suspected samples have been collected during these inspections and were submitted to the U.S. Department of Agriculture (USDA) for identification. Two samples have been reported positive, one negative and one inconclusive due to shipment damage to the specimen. TDA is continuing routine nursery floral and quarantine inspections with special vigilance for the concerned pest.

Infested hibiscus plants have been found at big box retail outlets and nurseries in Florida, Louisiana, Alabama, Mississippi, Georgia, South Carolina, North Carolina, and Texas, raising concerns about spread through commercial plant movement. The pest poses an imminent threat to Texas cotton production, a critical agricultural sector valued at over $1.5 billion annually, due to its rapid reproduction and potential for "hopperburn" damage leading to yield losses up to 50% in infested fields.

The department believes it is necessary to take immediate action to prevent the artificial spread of the two-spotted leafhopper into Texas. The establishment of quarantine areas on a temporary basis is both necessary and appropriate in order to effectively contain, combat and eradicate all infestations of two-spotted leafhopper. The Texas nursery floral and cotton industry producers' chances of becoming infested increase significantly without this emergency quarantine. Once infested, producers would have to bear the treatment expense to ship regulated articles to non-infested areas of Texas and other states.

Effective Date: This quarantine takes effect immediately upon the date of publication of emergency quarantine, and remains in force until rescinded or modified by TDA following assessment of pest distribution and control measures.

Pest Description:

The two-spotted cotton leafhopper (*Amrasca biguttula*) is a small (3-4 mm), pale green insect with yellowish-green wings marked by two distinct black spots on the head and forewings (spots may fade in older adults). Nymphs are wingless, pale green, and highly mobile. Adults and nymphs feed on plant sap from the undersides of leaves, injecting toxins that cause "hopperburn"--initial yellowing at leaf tips and margins, upward curling/cupping of leaves, followed by rapid reddening, browning, and necrosis. Severe infestations lead to defoliation, stunted growth, and reduced boll set in cotton, mimicking nutrient deficiencies or spider mite damage. The pest has multiple generations per year (up to 20-30 in warm climates), with eggs laid in leaf tissues and a life cycle of 7-14 days under Texas summer conditions.

Regulated Articles: All living hostable nursery plants and articles capable of harboring or disseminating the two-spotted cotton leafhopper are regulated, such as any container, equipment, or container media or soil associated with the hostable plants.

Quarantined Areas:

All counties in Texas with confirmed detections of the two-spotted cotton leafhopper as of September 1, 2025 based on current inspections and surveys. TDA will maintain an updated list of quarantined areas on the TDA Plant Quality website (texasagriculture.gov/Regulatory-Programs/Plant-Quality/Quarantines).

Movement into Texas from infested areas outside the state; southeastern states like Florida, Georgia, Alabama, Mississippi, North Carolina, and South Carolina is prohibited unless the following conditions for movement are met:

Conditions for Movement:

Certification: Accompanied by a phytosanitary certificate issued by an authorized official from the state/country of origin, confirming the articles are free of the pest based on visual inspection or treatment. Certificate must include origin, destination, commodity, and pest-free declaration.

Treatment: Articles must be treated in accordance with TDA-approved methods or USDA approved treatments, such as:

Insecticidal dip or spray using EPA-registered products effective against leafhoppers.

Exemption: Shipments for scientific, research, or immediate processing purposes may be allowed with prior TDA and/or USDA approval and under containment protocols.

Movement violations are subject to Texas Agriculture Code penalties, including fines up to $4,000 per violation, seizure, destruction of articles at owner's expense, and potential criminal charges.

TRD-202503416
Susan Maldonado
General Counsel
Texas Department of Agriculture
Filed: September 24, 2025

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Coastal Bend Workforce Development Board

Request for Statement of Qualifications for Program Compliance & Monitoring Services RFQ 25-05

Workforce Solutions Coastal Bend (WFSCB) is soliciting proposals from entities or individuals qualified to perform independent program monitoring services including development of a risk assessment and monitoring plan, an annual and a follow-up review of WFSCB's subrecipients. Monitoring services should satisfy WFSCB's obligations under its contract with the Texas Workforce Commission and the U.S. Department of Labor to ensure compliance. The total contract term may be up to four years consisting of an initial period and three one-year renewals.

The RFQ will be available on Monday, October 6, 2025 at 2:00 p.m. Central Time and can be accessed on our website at: https://www.workforcesolutionscb.org/about-us/procurement-opportunities/ or by contacting Nelda Rios at: Nelda.Rios@workforcesolutionscb.org or (361) 885-3020.

Interested parties are encouraged to attend a **Pre-Proposal meeting** at WFSCB's Administrative Offices located at 400 Mann Street, Suite 800, Corpus Christi, Texas 78401, Main Conference Room on **Wednesday, October 8, 2025 at 10:00 a.m. Central Time**. The purpose of the meeting is to review the RFQ requirements and answer any questions related to the RFQ. While this meeting is not mandatory, attendance is strongly recommended. Parties unable to attend in person may participate virtually from a computer, tablet, or smart phone via Zoom:

Join Zoom Meeting

https://us02web.zoom.us/j/83813508479?pwd=aTqfCKI-jZS1pbQE0kQ8Fxzl4bm5gVT.1

U.S. Toll-Free Call In: (888) 475-4499

Meeting ID: 838 1350 8479

Passcode: 949730

Proposals are due by Friday, October 24, 2025 at 4:00 p.m. Central Time and may be submitted via email to Nelda.Rios@workforcesolutionscb.org or hand delivered or mailed to: Workforce Solutions Coastal Bend, 400 Mann Street, Suite 800, Corpus Christi, Texas 78401.

Workforce Solutions Coastal Bend is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: (800) 735-2989 (TDD) and (800) 735-2988 or 711 (Voice). Historically Underutilized Businesses (HUBs) are encouraged to apply.

Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud.

Nelda Rios

Contracts & Procurement Specialist

Workforce Solutions Coastal Bend

TRD-202503426
Alba Silvas
Chief Operating Officer
Coastal Bend Workforce Development Board
Filed: September 24, 2025

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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 09/29/25 - 10/05/25 is 18.00% for consumer[1] credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/29/25 - 10/05/25 is 18.00% for commercial[2] credit.

[1] Credit for personal, family, or household use.

[2] Credit for business, commercial, investment, or other similar purpose.

TRD-202503397
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: September 23, 2025

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public com-

ment 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 **November 3, 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 physical copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at Enforcement Division, MC 128, P.O. Box 13087, Austin, Texas 78711-3087 and must be postmarked by 5:00 p.m. on **November 3, 2025**. Written comments may also be sent to the enforcement coordinator by email to ENFCOMNT@tceq.texas.gov or by facsimile machine at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed contact information; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: 3301 E Berry St LLC; DOCKET NUMBER: 2024-1881-PST-E; IDENTIFIER: RN101542702; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: underground storage tank; PENALTY: $17,184; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 05 - TYLER.

(2) COMPANY: 3G Water Supply Corporation; DOCKET NUMBER: 2025-0394-PWS-E; IDENTIFIER: RN102977147; LOCATION: Buchanan Dam, Llano County; TYPE OF FACILITY: public water supply; PENALTY: $3,000; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(3) COMPANY: Aqua Texas, Inc.; DOCKET NUMBER: 2025-0381-MLM-E; IDENTIFIER: RN102693934; LOCATION: Montgomery, Montgomery County; TYPE OF FACILITY: public water supply; PENALTY: $9,550; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(4) COMPANY: Austin Wood Recycling, Inc.; DOCKET NUMBER: 2022-1642-MSW-E; IDENTIFIER: RN111356283; LOCATION: Hutto, Williamson County; TYPE OF FACILITY: mulching facility; PENALTY: $8,399; ENFORCEMENT COORDINATOR: Lauren Little, (817) 588-5888; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, REGION 04- DALLAS/FORT WORTH.

(5) COMPANY: Bell County Water Control & Improvement District 5; DOCKET NUMBER: 2025-0430-PWS-E; IDENTIFIER: RN102691466; LOCATION: Temple, Bell County; TYPE OF FACILITY: public water supply; PENALTY: $893; ENFORCEMENT COORDINATOR: Emerson Rinewalt, (512) 239-1131; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(6) COMPANY: Blue Creek Builders LLC; DOCKET NUMBER: 2025-0431-PWS-E; IDENTIFIER: RN108806019; LOCATION: Tomball, Harris County; TYPE OF FACILITY: public water supply; PENALTY: $570; ENFORCEMENT COORDINATOR: Obianuju Iyasele, (512) 239-5280; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(7) COMPANY: Brazos Presbyterian Homes, Inc.; DOCKET NUMBER: 2024-1884-PST-E; IDENTIFIER: RN106914633; LOCATION: Houston, Harris County; TYPE OF FACILITY: senior living facility; PENALTY: $3,375; ENFORCEMENT COORDINATOR: Amy Lane, (512) 239-2614; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(8) COMPANY: CASTANEDA, JUAN B; DOCKET NUMBER: 2023-1012-PWS-E; IDENTIFIER: RN110927035; LOCATION: Seminole, Gaines County; TYPE OF FACILITY: public water supply; PENALTY: $1,554; ENFORCEMENT COORDINATOR: Ilia Perez Ramirez, (512) 239-2556; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, REGION 12 - HOUSTON.

(9) COMPANY: COWBOY STAR INC.; DOCKET NUMBER: 2024-1618-PST-E; IDENTIFIER: RN102057411; LOCATION: Brady, McCulloch County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $8,358; ENFORCEMENT COORDINATOR: Lauren Little, (817) 588-5888; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, REGION 04- DALLAS/FORT WORTH.

(10) COMPANY: Camp Eagle; DOCKET NUMBER: 2024-1787-PWS-E; IDENTIFIER: RN103203063; LOCATION: Rocksprings, Real County; TYPE OF FACILITY: public water supply; PENALTY: $6,450; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(11) COMPANY: City of Angus; DOCKET NUMBER: 2022-0251-MWD-E; IDENTIFIER: RN102806734; LOCATION: Corsicana, Navarro County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $15,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $12,000; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(12) COMPANY: City of Clarksville City; DOCKET NUMBER: 2022-0504-MWD-E; IDENTIFIER: RN104517743; LOCATION: Clarksville City, Gregg County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $9,563; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $7,651; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(13) COMPANY: City of Lone Oak; DOCKET NUMBER: 2025-0419-PWS-E; IDENTIFIER: RN101459766; LOCATION: Lone Oak, Hunt County; TYPE OF FACILITY: public water supply; PENALTY: $52; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(14) COMPANY: City of Mobeetie; DOCKET NUMBER: 2025-0352-PWS-E; IDENTIFIER: RN101211407; LOCATION: Mobeetie, Wheeler County; TYPE OF FACILITY: public water supply; PENALTY: $50; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(15) COMPANY: City of Rockport; DOCKET NUMBER: 2022-0466-MLM-E; IDENTIFIER: RN101916575; LOCATION: Rockport, Aransas County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $35,315; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $28,252; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(16) COMPANY: City of Savoy; DOCKET NUMBER: 2023-0813-MWD-E; IDENTIFIER: RN102921988; LOCATION: Savoy, Fannin County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $23,000; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(17) COMPANY: City of Streetman; DOCKET NUMBER: 2025-0486-PWS-E; IDENTIFIER: RN101424323; LOCATION: Streetman, Freestone County; TYPE OF FACILITY: public water supply; PENALTY: $362; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (512) 239-2510; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(18) COMPANY: Corsicana Tiger Investment Inc; DOCKET NUMBER: 2023-0789-PST-E; IDENTIFIER: RN105072417; LOCATION: Corsicana, Navarro County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $4,401; ENFORCEMENT COORDINATOR: Bryce Huck, 512-239-4655; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(19) COMPANY: Darling Ingredients Inc.; DOCKET NUMBER: 2025-0572-PST-E; IDENTIFIER: RN102119864; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: fleet refueling facility; PENALTY: $2,250; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(20) COMPANY: Forest Glen Inc; DOCKET NUMBER: 2024-0057-MWD-E; IDENTIFIER: RN103015376; LOCATION: Huntsville, Walker County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $18,687; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $18,687; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(21) COMPANY: Harris County Municipal Utility District 358; DOCKET NUMBER: 2025-0984-MWD-E; IDENTIFIER: RN102844776; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $29,000; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(22) COMPANY: Higher Source LLC; DOCKET NUMBER: 2025-0464-PWS-E; IDENTIFIER: RN112144878; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; PENALTY: $2,350; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(23) COMPANY: Houston Fruitland Inc.; DOCKET NUMBER: 2025-0395-PWS-E; IDENTIFIER: RN101253359; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: public water supply; PENALTY: $3,055; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(24) COMPANY: J Perez Investments, LLC; DOCKET NUMBER: 2025-0188-WQ-E; IDENTIFIER: RN112118286; LOCATION: Cleveland, Liberty County; TYPE OF FACILITY: aggregate production operation; PENALTY: $11,000; ENFORCEMENT COORDINATOR: Mistie Gonzales, (254) 761-3056; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, REGION 09 - WACO.

(25) COMPANY: JET AERATION OF TEXAS LLC; DOCKET NUMBER: 2024-0776-SLG-E; IDENTIFIER: RN105229843; LOCATION: Vidor, Jasper County; TYPE OF FACILITY: registered sludge transported business; PENALTY: $20,125; ENFORCEMENT COORDINATOR: Mistie Gonzales, (254) 761-3056; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, REGION 09 - WACO.

(26) COMPANY: Luce Bayou Public Utility District; DOCKET NUMBER: 2025-0944-MWD-E; IDENTIFIER: RN102739661; LOCATION: Huffman, Harris County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $4,012; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(27) COMPANY: Luckys Happy Kampers Inc; DOCKET NUMBER: 2025-0731-PST-E; IDENTIFIER: RN102892056; LOCATION: Bonham, Fannin County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $36,000; ENFORCEMENT COORDINATOR: Amy Lane, (512) 239-2614; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(28) COMPANY: Manshack & Sons, Inc.; DOCKET NUMBER: 2024-1136-MSW-E; IDENTIFIER: RN105125736; LOCATION: Orange, Orange County; TYPE OF FACILITY: municipal solid waste processing and recycling site; PENALTY: $14,625; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 05 - TYLER.

(29) COMPANY: Murphy Oil USA, Inc.; DOCKET NUMBER: 2024-1246-PST-E; IDENTIFIER: RN104073002; LOCATION: Lewisville, Denton County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $13,500; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 05 - TYLER.

(30) COMPANY: New Horizon Resources LLC; DOCKET NUMBER: 2024-0691-AIR-E; IDENTIFIER: RN111925244; LOCATION: Larue, Henderson County; TYPE OF FACILITY: natural gas production facility; PENALTY: $7,500; ENFORCEMENT COORDINATOR: Michael Wilkins, (325) 698-6134; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, REGION 03 - ABILENE.

(31) COMPANY: PARSH INVESTMENT, INC.; DOCKET NUMBER: 2025-0582-PST-E; IDENTIFIER: RN106032097; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $29,328; ENFORCEMENT COORDINATOR: Bryce Huck, (512) 239-2545; REGIONAL OF-

FICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(32) COMPANY: Petra Firma Development Group, Inc.; DOCKET NUMBER: 2025-0397-PWS-E; IDENTIFIER: RN109875062; LOCATION: Christoval, Tom Green County; TYPE OF FACILITY: public water supply; PENALTY: $80; ENFORCEMENT COORDINATOR: Katherine McKinney, (512) 239-2545; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(33) COMPANY: THOMAS K RAWLS and DANASA RAWLS dba Lakeside Water Supply 1; DOCKET NUMBER: 2025-0396-PWS-E; IDENTIFIER: RN102688058; LOCATION: Colmesneil, Tyler County; TYPE OF FACILITY: public water supply; PENALTY: $65; ENFORCEMENT COORDINATOR: Hilda Iyasele, (512) 239-5280; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(34) COMPANY: ROUGH CANYON CONDOS OWNERS ASSOCIATION; DOCKET NUMBER: 2025-0703-PWS-E; IDENTIFIER: RN101452266; LOCATION: Del Rio, Val Verde County; TYPE OF FACILITY: public water supply; PENALTY: $57; ENFORCEMENT COORDINATOR: Ilia Perez Ramirez, (512) 239-2556; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(35) COMPANY: WILLIAM DONALD SMITH dba Kingmont Mobile Home Park; DOCKET NUMBER: 2025-0868-PWS-E; IDENTIFIER: RN101283331; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; PENALTY: $990; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(36) COMPANY: Sajida Corporation; DOCKET NUMBER: 2023-0380-PST-E; IDENTIFIER: RN100535863; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $24,136; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(37) COMPANY: Trent Water Works, Inc.; DOCKET NUMBER: 2025-0401-PWS-E; IDENTIFIER: RN101204568; LOCATION: Jonas Creek, Brazoria County; TYPE OF FACILITY: public water supply; PENALTY: $750; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(38) COMPANY: Tri-Con, Inc.; DOCKET NUMBER: 2023-1687-PST-E; IDENTIFIER: RN102246006; LOCATION: Lumberton, Hardin County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $10,327; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, REGION 05 - TYLER.

(39) COMPANY: Twin Buttes Water Systems, Inc.; DOCKET NUMBER: 2025-0484-PWS-E; IDENTIFIER: RN102317492; LOCATION: San Angelo, Tom Green County; TYPE OF FACILITY: public water supply; PENALTY: $2,075; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (512) 239-2510; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(40) COMPANY: Welderxp Ltd.; DOCKET NUMBER: 2025-0970-PST-E; IDENTIFIER: RN102831492; LOCATION: Beeville, Bee County; TYPE OF FACILITY: temporarily 0ut-of-service underground storage tank system; PENALTY: $7917; ENFORCEMENT COORDINATOR: Eunice Adegelu, (512) 239-5082; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1486, REGION 12 - HOUSTON.

(41) COMPANY: Wise A Materials, LLC; DOCKET NUMBER: 2024-0863-WQ-E; IDENTIFIER: RN111756508; LOCATION: Santo, Palo Pinto County; TYPE OF FACILITY: aggregate production operation; PENALTY: $5,000; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-2545; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401-0318, REGION 14 - CORPUS CHRISTI.

(42) COMPANY: Yellow Rock Business Park LLC; DOCKET NUMBER: 2025-0499-PWS-E; IDENTIFIER: RN101272581; LOCATION: San Marcos, Hays County; TYPE OF FACILITY: public water supply; PENALTY: $131; ENFORCEMENT COORDINATOR: Ilia Perez Ramirez, (512) 239-2556; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(43) COMPANY: B&BR Investments, LLC and Youngblood Automotive & Tire, LLC; DOCKET NUMBER: 2024-1717-MSW-E; IDENTIFIER: RN112047204; LOCATION: Brady, McCulloch County; TYPE OF FACILITY: unauthorized municipal solid waste disposal site; PENALTY: $12,253; ENFORCEMENT COORDINATOR: Rachel Murray, (903) 535-5149; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, REGION 05 - TYLER.

TRD-202503396
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: September 23, 2025

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Enforcement Orders

An agreed order was adopted regarding Atmos Energy Corporation, Docket No. 2022-0687-AIR-E on September 9, 2025 assessing $8,550 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Pioneer Natural Resources USA Inc, Docket No. 2023-0217-AIR-E on September 9, 2025 assessing $9,375 in administrative penalties with $1,875 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-0669-MWD-E on September 9, 2025 assessing $10,500 in administrative penalties with $2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-1181-PWS-E on September 9, 2025 assessing $7,934 in administrative penalties with $1,586 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding West Texas Rock Resources, LLC, Docket No. 2023-1401-AIR-E on September 9, 2025 assess-

ing $2,500 in administrative penalties with $500 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Juiel's Auto Clinic, LLC, Docket No. 2023-1432-AIR-E on September 9, 2025 assessing $5,000 in administrative penalties with $1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Amy Cox, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Great Western Drilling Ltd., Docket No. 2023-1453-AIR-E on September 9, 2025 assessing $3,750 in administrative penalties with $750 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sovereign Pharmaceuticals, LLC, Docket No. 2023-1767-IHW-E on September 9, 2025 assessing $7,500 in administrative penalties with $1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Juno Operating Company III, LLC, Docket No. 2024-0146-AIR-E on September 9, 2025 assessing $5,625 in administrative penalties with $1,125 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Targa Midstream Services LLC, Docket No. 2024-0244-AIR-E on September 9, 2025 assessing $3,563 in administrative penalties with $712 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DEER PARK REFINING LIMITED PARTNERSHIP, Docket No. 2024-0984-AIR-E on September 9, 2025 assessing $9,525 in administrative penalties with $1,905 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Occidental Permian Ltd., Docket No. 2024-1111-AIR-E on September 9, 2025 assessing $5,850 in administrative penalties with $1,170 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NEW MUBIN, LLC dba Star Stop 6, Docket No. 2024-1273-PST-E on September 9, 2025 assessing $10,938 in administrative penalties with $2,187 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS OLIGOMERS USA LLC, Docket No. 2024-1433-AIR-E on September 9, 2025 assessing $10,575 in administrative penalties with $2,115 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Gerard R. Harris and Elizabeth Harris, Docket No. 2024-1865-OSS-E on September 9, 2025 assessing $225 in administrative penalties with $45 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding West Memorial Municipal Utility District, Docket No. 2024-1921-PWS-E on September 9, 2025 assessing $53 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2024-1922-PWS-E on September 9, 2025 assessing $50 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Lone Oak, Docket No. 2025-0047-PWS-E on September 9, 2025 assessing $52 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Obianuju Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2025-0123-PWS-E on September 9, 2025 assessing $1,750 in administrative penalties with $350 deferred in administrative penalties. Information concerning any aspect of this order may be obtained by contacting De'Shaune Blake, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding San Diego Municipal Utility District No. 1, Docket No. 2025-0125-PWS-E on September 9, 2025 assessing $765 in administrative penalties with $153 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Gordon, Docket No. 2025-0129-PWS-E on September 9, 2025 assessing $2,865 in administrative penalties with $573 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Wink Amine Treater, LLC, Docket No. 2025-0159-AIR-E on September 9, 2025 assessing $5,563 in administrative penalties with $1,112 deferred. Information concerning any aspect of this order may be obtained by contacting Trenton White, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SA Tejas RV Park, LLC, Docket No. 2025-0169-PWS-E on September 9, 2025 assessing $3,375 in administrative penalties with $675 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hog Creek Water Supply Corporation, Docket No. 2025-0175-PWS-E on September 9, 2025 assessing $127 in administrative penalties with $25 deferred. Information concerning any aspect of this order may be obtained by contacting Hilda Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lakewood on Lake Conroe Property Owners Association, Inc. Docket No. 2025-0195-PWS-E on September 9, 2025 assessing $50 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Savannah Jackson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MANVEL TERRACE UTILITIES, INC., Docket No. 2025-0197-PWS-E on September 9, 2025 assessing $50 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Savannah Jackson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Cuney, Docket No. 2025-0199-PWS-E on September 9, 2025 assessing $51 in administrative penalties with $10 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Prairie View, Docket No. 2025-0243-PWS-E on September 9, 2025 assessing $700 in administrative penalties with $140 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ROCKSPRINGS 380 RVP LLC, Docket No. 2025-0357-PWS-E on September 9, 2025 assessing $600 in administrative penalties with $120 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2025-0603-PWS-E on September 9, 2025 assessing $675 in administrative penalties with $135 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202503427
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

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Enforcement Orders

An agreed order was adopted regarding FORMOSA UTILITY VENTURE, LTD. and FORMOSA PLASTICS CORPORATION, TEXAS, Docket No. 2019-0623-IWD-E on September 24, 2025 assessing $274,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding SHENANDOAH ESTATES WATER CO., INC., Docket No. 2021-0652-PWS-E on September 24, 2025 assessing $4,392 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Pence, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Realty Income Properties 22, LLC, Docket No. 2021-1244-PWS-E on September 24, 2025 assessing $1,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Pence, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cinco Municipal Utility District No. 1, Docket No. 2021-1570-MWD-E on September 24, 2025 assessing $15,750 in administrative penalties with $3,150 deferred. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Allen Christian dba Christian Parts, Docket No. 2022-0222-MLM-E on September 24, 2025 assessing $21,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, 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 Mary Richbourg, Docket No. 2022-0739-MLM-E on September 24, 2025 assessing $24,945 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Casey Kurnath, 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 Phillips 66 Company, Docket No. 2023-0210-AIR-E on September 24, 2025 assessing $13,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Odfjell Terminals (Houston) Inc., Docket No. 2023-0367-AIR-E on September 24, 2025 assessing $41,063 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Thomas K. Rawls dba Lakeside Water Supply 3 and Danasa Rawls dba Lakeside Water Supply 3, Docket No. 2023-0659-PWS-E on September 24, 2025 assessing $6,299 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Motiva Enterprises LLC f/k/a Motiva Chemicals LLC, Docket No. 2023-1303-AIR-E on September 24, 2025 assessing $56,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Jolly's Development Group LLC, Docket No. 2023-1429-MLM-E on September 24, 2025 assessing $15,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SALIMA, INC. dba Dairy Way, Docket No. 2023-1495-PST-E on September 24, 2025 assessing $14,839 in administrative penalties with $2,967 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hays Commons Municipal Utility District, Docket No. 2023-1588-DIS on September 24, 2025 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kayla Murray, 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 JAMES LAKE MIDSTREAM LLC, Docket No. 2023-1648-AIR-E on September 24, 2025 assessing $13,650 in administrative penalties with $2,730 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Travis Lynn Bishop and SAN JO UTILITIES INC., Docket No. 2024-0058-MWD-E on September 24, 2025 assessing $35,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jun Zhang, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PAXTON Water Supply Corporation, Docket No. 2024-0601-PWS-E on September 24, 2025 assessing $10,886 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Enterprise Products Operating LLC, Docket No. 2024-1310-AIR-E on September 24, 2025 assessing $75,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Trenton White, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding COMMUNITY WATER SUPPLY CORPORATION, Docket No. 2024-1380-WQ-E on September 24, 2025 assessing $20,000 in administrative penalties with $4,000 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ridley USA Inc., Docket No. 2024-1577-IWD-E on September 24, 2025 assessing $26,326 in administrative penalties with $5,265 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Eden Farms Ltd, Docket No. 2024-1700-EAQ-E on September 24, 2025 assessing $20,000 in administrative penalties with $4,000 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Yantis, Docket No. 2024-1860-MWD-E on September 24, 2025 assessing $16,500 in administrative penalties with $3,300 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS Calabrian Corporation, Docket No. 2024-1869-IWD-E on September 24, 2025 assessing $21,875 in administrative penalties with $4,375 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PRINCESS, INC., Docket No. 2024-1874-PWS-E on September 24, 2025 assessing $1,518 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Anjali Talpallikar, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City Water Supply Corporation, Docket No. 2024-1960-PWS-E on September 24, 2025 assessing $1,300 in administrative penalties with $1,300 deferred. Information concerning any aspect of this order may be obtained by contacting Deshaune Blake, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lake Livingston Water Supply Corporation, Docket No. 2025-0094-PWS-E on September 24, 2025 assessing $2,625 in administrative penalties with $2,625 deferred. Information concerning any aspect of this order may be obtained by contacting Hilda Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Countryside Acres Homeowners Association, Inc., Docket No. 2025-0190-PWS-E on September 24, 2025 assessing $12,337 in administrative penalties with $3,625 deferred. Information concerning any aspect of this order may be obtained by contacting Hilda Iyasele, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas

An agreed order was adopted regarding INV Polypropylene, LLC, Docket No. 2025-0310-AIR-E on September 24, 2025 assessing $22,200 in administrative penalties with $4,400 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2025-0556-PWS-E on September 24, 2025 assessing $2,925 in admin-

istrative penalties. Information concerning any aspect of this order may be obtained by contacting Ashley Adams, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Parks and Wildlife Department, Docket No. 2025-0600-PWS-E on September 24, 2025 assessing $11,000 in administrative penalties with $11,000 deferred. Information concerning any aspect of this order may be obtained by contacting Katherine Argueta, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Buffalo Hills Development Llc, Docket No. 2025-0830-MWD on September 24, 2025 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Aubrey Pawelka, 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 J7 Ready Mix Llc, Docket No. 2025-0905-AIR on September 24, 2025 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Black, 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 Terrell Timmermann Farms Lp, Docket No. 2025-1159-MWD on September 24, 2025 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harrison Malley, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202503428
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

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Notice of District Petition - D-07162025-034

Notice issued September 19, 2025

TCEQ Internal Control No. D-07162025-034: Cooke 585 Land LP, a Texas limited partnership (Petitioner) filed a petition for the creation of Eastridge Municipal Utility District of Cooke County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 and Article III, § 52 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is no lienholder on the property; (3) the proposed District will contain approximately 454 acres of land, more or less, located wholly within Cooke County, Texas; and (4) the District is not within the corporate limits or extraterritorial jurisdiction (ETJ) of any city, town, or village. The petition further states: the general nature of the work proposed to be done by the District at the present time is to purchase, construct, acquire, provide, operate, maintain, repair, 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, industrial, or commercial purposes; to collect, transport, process, dispose of and control domestic, industrial, or 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, from the information available at this time, that the cost of said project will be approximately $95,345,000 ($69,255,000 for water, wastewater, and drainage facilities and $26,090,000 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 or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202503417
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

♦ ♦ ♦

Notice of District Petition - D-08132025-035

Notice issued September 19, 2025

TCEQ Internal Control No. D-08132025-035: Patrick Road Investors LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Grove Creek Municipal Utility District of Ellis 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 hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, TLJCA Holdings, LLC, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 66.45 acres located within Ellis 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) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a wastewater collection, treatment, and disposal system for domestic and commercial purposes; (3) construct, install, maintain, purchase, operate a drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant 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 Petitioner that the cost of said project will be approximately $14,140,000 ($9,540,000 for water, wastewater, and drainage plus $4,600,000 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 or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202503418

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

♦ ♦ ♦

Notice of District Petition - D-08142025-031

Notice issued September 19, 2025

TCEQ Internal Control No. D-08142025-031: Victoria Ventures Group LLC, (Petitioners) filed a petition for the creation of Willow Creek Municipal Utility District of Victoria 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 Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Capital Farm Credit, ACA, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 157.66 acres located within Victoria County, Texas; and (4) the land within the proposed District is located within the extraterritorial jurisdiction of the City of Victoria, Texas (City). By Resolution No. 2024-178, passed and approved on October 15, 2024, the City gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundary any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of waters; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises, 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 $25,110,000 ($18,755,000 for water, wastewater, and drainage and $6,355,000 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 or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at

the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202503419
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

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Notice of Public Meeting for Municipal Solid Waste Permit Proposed Permit No. 2421

Application. Chisholm Trail Disposal LLC has applied to the Texas Commission on Environmental Quality (TCEQ) for a Type IV Municipal Solid Waste Permit to authorize construction of a Type IV Municipal Solid Waste Landfill. The proposed facility will receive construction and demolition wastes, brush, and rubbish from Wise and surrounding counties. The facility is located at 291 Private Road 4674, Aurora, Texas 76078 in Wise County. The TCEQ received Parts I and II of the application on February 26, 2024, declared administratively complete on April 15, 2024. The TCEQ received Parts III and IV, the site development plan and site operating plan portion of the application, on December 20, 2024. The following 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: https://arcg.is/15mjiP1. For exact location, refer to application.

Additional Notice. TCEQ's Executive Director has determined the application is technically complete. The Executive Director has prepared a draft permit and issued a preliminary decision on the application. **Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.**

Public Comment/Public Meeting. A public meeting is not a contested case hearing under the Administrative Procedure Act. The public meeting will be held at 7:00 p.m. on Thursday October 30, 2025, at the Decatur Conference Center, located at 2010 W. HWY US 380, Decatur, Texas 76234. The applicant and TCEQ staff will be available before the public meeting to answer individual questions from 6:30 p.m. to 7:00 p.m..

The Public Meeting is to be held:

Thursday, October 30 at 7:00 p.m.

Question and Answer Time from 6:30 p.m. to 7:00 p.m.

Decatur Conference Center

2010 W. Hwy US 380

Decatur, Texas 76234

Any comments or questions asked during the question-and-answer period before the start of the public meeting will not be considered before a decision is reached on the permit application and no formal response will be made. At 7:00 p.m. the formal comment period will begin, and members of the public may state their formal comments orally into the official record. A written response to all formal 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.

Information. Citizens are encouraged to submit written comments anytime during the public 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 https://www14.tceq.texas.gov/epic/eComment/. 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. General information can be found at our website at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

This application is available for viewing and copying at the Rhome Community Library, 265 West B.C. Rhome Avenue, Rhome, Texas 76078. The application, including any updates and notices, is available electronically at the following webpage: www.tceq.texas.gov/goto/wasteapps. Further information may also be obtained from Chisholm Trail Disposal, LLC at the mailing address 225 Reformation Parkway, Suite 200, Canton, Georgia 30114 or by calling Mr. Thad Owings at (770) 720-2717.

People with disabilities who need special accommodation at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or 1-800-RELAY-TX (TDD) at least five business days prior to the meeting.

Issued Date: September 23, 2025

TRD-202503420
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

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Notice of Public Meeting New Permit No. WQ0016596001

APPLICATION. Clayton Properties Group, Inc., 6720 Vaught Ranch Road, Suite 200, Austin, Texas 78730, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, TCEQ Permit No. WQ0016596001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 50,500 gallons per day via public access subsurface area drip dispersal system with a minimum area of 11.60 acres. This permit will not authorize a discharge of pollutants into waters in the State. TCEQ received this application on August 9, 2024.

The wastewater treatment facility and disposal site will be located approximately 3,360 feet northwest from the intersection of Circle Drive and U.S. Highway 290, near the City of Austin, Travis County, Texas 78736. The wastewater treatment facility and disposal site will be located in the drainage basin of Barton Creek in Segment No. 1430 of the Colorado River Basin. This link to an electronic map of the site or

facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application.

https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.95877,30.231666&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.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

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:

Monday, November 3, 2025 at 7:00 p.m.

Bowie High School (Cafeteria)

4103 W. Slaughter Lane

Austin, Texas 78749

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. 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 Dripping Springs Community Library, circulation desk, 501 Sportsplex Drive, Dripping Springs, Texas. The application, including any updates, and associated notices are available electronically at the following webpage:

https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tlap-applications. Further information may also be obtained from Clayton Properties Group, Inc. at the address stated above or by calling Mr. Ashraya Upadhyaya, E.I.T., Project Engineer, JA Wastewater at (903) 414-0307.

Persons with disabilities who need special accommodations 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: September 19, 2025

TRD-202503421
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 24, 2025

♦ ♦ ♦

TCEQ Seeks Stakeholder Input on Upcoming Rulemaking Related to Occupational Licensing

The Texas Commission on Environmental Quality (TCEQ or commission) will conduct a virtual stakeholder meeting on October 20, 2025, to solicit informal comments on rulemaking for 30 Texas Administrative Code (TAC) Chapter 30, Occupational Licenses and Registrations.

This rulemaking is the result of two related petitions approved at the November 20, 2024 (Non-Rule Project Number 2025-005-PET-NR) Commissioner's Agenda, legislative updates from the 89th legislative session, and staff recommended changes. The petitions seek to require continuing education (CE) ethics training for renewal of all levels of public water system and wastewater operator licenses. The petitioners requested that four hours of ethics training be required in each renewal cycle, which is every three years, and be counted towards the 30 CE credits already required to renew a license. The rulemaking will also implement Senate Bills (SB) 1080 and 1818 and House Bills (HB) 5629 and 1237 from the Texas 89th Legislative Session. SB 1080 amends the automatic revocation of licenses following a felony conviction. SB 1818 and HB 5629 amend the process for military service members, veterans, and military spouses applying for a reciprocal license. HB 1237 allows licensees to renew their license up to 180 days past expiration.

Virtual Stakeholder Meetings

Stakeholder meetings are an opportunity for the public to provide informal comments to staff prior to the start of formal rulemaking. While staff will review all comments received, the TCEQ will not formally respond to any informal comments.

The stakeholder meeting will be virtual, held on **Monday October 20, 2025, at 10:00 a.m.** For members of the public who do not wish to provide informal comments but would like to view the meeting, they may do so at the link provided below, at no cost:

https://events.teams.microsoft.com/event/a09134d6-d706-4fa7-9454-12c5b1da0a75@871a83a4-a1ce-4b7a-8156-3bcd93a08fba

Registration

The meetings will be conducted remotely using an internet meeting service. Individuals who plan to attend the scheduled meetings and want to provide informal oral comments **must register by October 16, 2025**. To register for a meeting and provide informal comments during the meeting, please email *Rules@tceq.texas.gov* and provide the following information: date of meeting you plan to attend, your name, your affiliation, your email address, and your phone number. Instructions for participating in the meeting will be sent out October 17, 2025, to those who have registered to provide informal oral comments.

Persons who have special communication or other accommodation needs who are planning to register to provide informal comments 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 in order to allow adequate time to set up accommodations.

Written Stakeholder Comments

Written stakeholder comments may be submitted to Ms. 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*. Electronic comments may be submitted at: *https://tceq.commentinput.com/*. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. **All comments should reference Rule Project Number 2025-027-030-WS. The comment period closes November 3, 2025.** Please choose one form of submittal when submitting *written* stakeholder comments.

Additional Information

Additional information about this rulemaking, including a copy of the petition, can be found on the Occupational Licensing webpage page on the TCEQ's website at: *https://www.tceq.texas.gov/licensing/amendments-to-30-texas-administrative-code-chapter-30-occupational-licenses-and-registrations*.

For additional information please contact Ms. Rebecca Morigan, Occupational Licensing and Registration Division, at (512) 239-2463 or the Occupational Licensing Main Line at (512) 239-6133.

TRD-202503390
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: September 22, 2025

♦ ♦ ♦

Department of Family and Protective Services

Correction of Error

The Department of Family and Protective Services proposed amendments to 40 TAC §705.901 and §705.903 in the September 26, 2025, issue of the *Texas Register* (50 TexReg 6307). Due to an error by the Texas Register, the date of filing was incorrect. The proposed rulemaking was filed with the Texas Register on September 12, 2025.

TRD-202503430

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General Land Office

Coastal Boundary Survey

Surveying Services

Coastal Boundary Survey

Project: Oyster Creek-I.C.W.W.- K Doyle

Project No: Project Number: GLO LC20250006

Project Manager: Amy Nunez, Dianna Ramirez, Jason Zeplin, Coastal Field Operations.

Surveyor: Kim Thomas Doyle, Licensed State Land Surveyor

Description: Coastal Boundary Survey along the line of Mean Higher High Water (MHHW) and the littoral boundary of the northwest shoreline of Oyster Creek within the Frederick J. Calvit League, Abstract 51 in Brazoria County, Texas, in connection with GLO Project No. LC 20250006. Centroid coordinates 28.966140° N, -95.287662° W, WGS84. A copy of the survey has been Recorded in Official Public Records, Brazoria County Instrument No. 2025015987, Brazoria County Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted by Surveying Services; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the Tex. Nat. Res. Code §33.136.

by:

Signed: David Klotz, Staff Surveyor

Date: September 8, 2025

Pursuant to Tex. Nat. Res. Code §33.136, the herein described Coastal Boundary Survey is approved by Dawn Buckingham, M.D., Commissioner of the Texas General Land Office.

by:

Signed: Jennifer Jones, Chief Clerk and Deputy Land Commissioner

Date: September 15, 2025

Filed as: Brazoria County, NRC Article 33.136 Sketch No. 24

Tex. Nat. Res. Code §33.136

TRD-202503306
Jennifer Jones
Chief Clerk and Deputy Land Commissioner
General Land Office
Filed: September 18, 2025

♦ ♦ ♦

Texas Department of Licensing and Regulation

Scratch Ticket Game Number 2696 "WHITE ELEPHANT"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2696 is "WHITE ELEPHANT". The play style is "match 3 of x".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2696 shall be $1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2696.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: $1.00, $2.00, $4.00, $5.00, $10.00, $20.00, $40.00, $50.00, $100, $500 and ELEPHANT SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2696 - 1.2D

PLAY SYMBOL	CAPTION
$1.00	ONE$
$2.00	TWO$
$4.00	FOR$
$5.00	FIV$
$10.00	TEN$
$20.00	TWY$
$40.00	FRTY$
$50.00	FFTY$
$100	ONHN
$500	FVHN
ELEPHANT SYMBOL	DBL

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2696), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2696-0000001-001.

H. Pack - A Pack of the "WHITE ELEPHANT" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Ticket 001 to 005 will be on the top page; Tickets 006 to 010 on the next page etc.; and Tickets 146 to 150 will be on the last page. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "WHITE ELEPHANT" Scratch Ticket Game No. 2696.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "WHITE ELEPHANT" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose nine (9) Play Symbols. A player scratches the entire play area to reveal 9 prize amounts. If the player reveals 3 matching prize amounts, the player wins that amount. If the player reveals 2 matching prize amounts and an "ELEPHANT" Play Symbol, the player wins DOUBLE that amount. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly nine (9) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly nine (9) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the nine (9) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the nine (9) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can only win one (1) time.

D. A Prize Symbol will not appear more than three (3) times on a Ticket.

E. A Ticket will not contain two (2) or more sets of three (3) matching Prize Symbols.

F. Winning Tickets will contain three (3) matching Prize Symbols or two (2) matching Prize Symbols and an "ELEPHANT" (DBL) Play Symbol.

G. On winning Tickets, all non-winning Prize Symbols will be different from the winning Prize Symbols.

H. Non-Winning Tickets will never have more than two (2) matching Prize Symbols.

I. The "ELEPHANT" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

J. The "ELEPHANT" (DBL) Play Symbol will never appear more than one (1) time on a Ticket.

K. The "ELEPHANT" (DBL) Play Symbol will never appear on a Ticket that wins with three (3) matching Prize Symbols.

L. The "ELEPHANT" (DBL) Play Symbol will never appear on a Ticket that has more than one (1) pair of matching Prize Symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "WHITE ELEPHANT" Scratch Ticket Game prize of $1.00, $2.00, $4.00, $5.00, $10.00, $20.00, $40.00, $50.00, $100 or $500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a $40.00, $50.00, $100 or $500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. As an alternative method of claiming a "WHITE ELEPHANT" Scratch Ticket Game prize, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is $1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

D. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under $600 from the "WHITE ELEPHANT" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of $600 or more from the "WHITE ELEPHANT" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 9,000,000 Scratch Tickets in Scratch Ticket Game No. 2696. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2696 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$1.00	1,020,000	8.82
$2.00	540,000	16.67
$4.00	250,000	36.00
$5.00	80,000	112.50
$10.00	70,000	128.57
$20.00	40,000	225.00
$40.00	2,750	3,272.73
$50.00	750	12,000.00
$100	2,250	4,000.00
$500	57	157,894.74

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.49. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2696 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2696, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202503429
Deanne Rienstra
Interim General Counsel Lottery and Charitable Bingo
Texas Department of Licensing and Regulation
Filed: September 24, 2025

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Texas Parks and Wildlife Department

Notice of Proposed Real Estate Transactions

Land Acquisition - Caldwell County

Approximately 200 Acres at Lockhart State Park

In a meeting on November 6, 2025, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 200 acres at Lockhart State Park. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at 1 Civic Center Plaza, El Paso, Texas 79901. Prior to the meeting, public comment may be submitted to Trey Vick, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Kinney and Edwards Counties

Approximately 54,000 Acres

In a meeting on November 6, 2025, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 54000 acres. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at 1 Civic Center Plaza, El Paso, Texas 79901. Prior to the meeting, public comment

may be submitted to Stan David, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

Land Acquisition - Briscoe County

Approximately 1120 Acres at Caprock Canyons State Park

In a meeting on November 6, 2025, the Texas Parks and Wildlife Commission (the Commission) will consider approving an acquisition of land of approximately 1120 acres at Caprock Canyons State Park. The public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at 1 Civic Center Plaza, El Paso, Texas 79901. Prior to the meeting, public comment may be submitted to Stan David, Executive Office, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, or by email to real.estate.comment@tpwd.texas.gov, or via the department's website at www.tpwd.texas.gov. Visit the TPWD website at tpwd.texas.gov for the latest information regarding the Commission.

TRD-202503413
James Murphy
General Counsel
Texas Parks and Wildlife Department
Filed: September 23, 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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