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 4. AGRICULTURE

PART 2. TEXAS ANIMAL HEALTH COMMISSION

CHAPTER 38. TRICHOMONIASIS

4 TAC §§38.1 - 38.3, 38.8

The Texas Animal Health Commission (Commission) in a duly noticed meeting on November 18, 2025, adopted changes to Title 4, Texas Administrative Code, Chapter 38 titled "Trichomoniasis." Specifically, the Commission adopted amendments to §§38.1, 38.2, 38.3, and 38.8 without changes to the proposed text published in the September 19, 2025 issue of the *Texas Register* (50 TexReg 6086) and will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission adopts amendments to Chapter 38 to correct and update test result language and certain testing requirements regarding the Trichomoniasis program.

Bovine Trichomoniasis is a sexually transmitted disease of cattle caused by the organism *Trichomonas foetus*. The trichomoniasis organism is found on the surface of an infected bull's penis and on the inside of the prepuce. Once a bull is infected, it is infected for life and is a reservoir for the organism. An infected bull will not show symptoms but will physically transmit the organism to female cattle during the breeding process. Clinical indications of the presence of trichomoniasis in female cattle include reduced pregnancy rates, changes in pregnancy pattern, pyometras and higher rates of abortion throughout the pregnancy.

Unlike bulls, trichomoniasis infected females will show an immune response to the presence of the *Trichomonas foetus* organism in their reproductive tract. Antibodies are produced both within the reproductive tract and blood which helps in the clearance of the infection in many exposed females. The immunity is short-lived and cattle that have previously cleared the infection can become re-infected if exposed to the organism during a following breeding. Infected female cattle can remain infected throughout their pregnancy, deliver a live calf and be a potential threat in spreading the disease in the next breeding season.

The Bovine Trichomoniasis Working Group (TWG) met on July 10, 2025, to review the effectiveness of the current program. The TWG discussed the program overview to date and the need for updated rule language and possible revisions to the program's assurance testing requirements.

The TWG recommended updating rule language that referenced "negative" test result to "not detected" results. This change reflects the most correct way to report results from a test that does not find a target pathogen because pathogens may not be present or there may merely be insufficient genetic material from the target pathogen such that it was not found above the detection limit of the test.

The second recommendation was to eliminate the assurance testing requirements for bulls that are part of a herd one year after the date the hold order or quarantine on the herd was released. This requirement was originally put in place to address repeat infections. The TWG's evaluation of this requirement found that the testing has not served that purpose, there is not a need for additional surveillance at this time, and the requirement is administratively burdensome.

As a result of the TWG's review, the Commission adopts amendments to Chapter 38 to update "negative" test result to "not detected," and to remove the official testing requirement for bulls that are part of an infected one year after the release of a hold or quarantine order

HOW THE RULES WILL FUNCTION

Section 38.1 includes definitions for the Trichomoniasis program. The amendments change "negative" test result to "not detected."

Section 38.2 outlines the general requirements of the Trichomoniasis program. The amendments update "negative" test result to "not detected."

Section 38.3 concerns infected herds. The amendments update "negative" test result to "not detected." Additionally, the amendments eliminate the assurance test requirement for bulls in herds one year after a hold order or quarantine was released. The amendments also adjust numbering.

Section 38.8 includes the Herd Certification Program for breeding bulls. The amendments update "negative" test result to "not detected." The amendments correct formatting to italicize scientific names.

SUMMARY OF COMMENTS RECEIVED AND COMMISSION RESPONSE

The 30-day comment period ended October 19, 2025.

During this period, the Commission received no comments regarding the changes to this rule.

STATUTORY AUTHORITY

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

Pursuant to §161.005, entitled "Commission Written Instruments", the Commission may authorize the executive director or another employee to sign written instruments on behalf of

the Commission. A written instrument, including a quarantine or written notice signed under that authority, has the same force and effect as if signed by the entire Commission.

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

Pursuant to §161.0417, entitled "Authorized Personnel for Disease Control", a person, including a veterinarian, must be authorized by the Commission in order to engage in an activity that is part of a state or federal disease control or eradication program for animals.

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

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

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

Pursuant to §161.056(a), titled "Animal Identification Program", the Commission, to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the Commission to adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.061, titled "Establishment", if the Commission may establish a quarantine against all or the portion of a state, territory, or country in which a disease listed in rules adopted under Section 161.041. Section 161.061(b), a quarantine established may extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen. Section 161.061(c), the Commission may establish a quarantine to prohibit or regulate the movement of infected animals and the movement of animals into an affected area. Section 161.061(d) allows the Commission to delegate its authority to establish a quarantine to the executive director.

Pursuant to §161.065, titled "Movement from Quarantined Area; Movement of Quarantined Animals", the Commission may provide a written certificate or written permit authorizing the movement of animals from quarantined places. If the Commission finds animals have been moved in violation of an established quarantine or in violation of any other livestock sanitary law, the Commission shall quarantine the animals until they have been properly treated, vaccinated, tested, dipped, or disposed of in accordance with the rules of the commission.

Pursuant to §161.101, entitled "Duty to Report", a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the diseases, if required by the Commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the Commission within 24 hours after diagnosis of the disease.

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

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

Pursuant to §161.148, titled "Administrative Penalty", the Commission may impose an administrative penalty on a person who violates Chapter 161 or a rule or order adopted under Chapter 161. The penalty for a violation may be in an amount not to exceed $5,000, effective September 1, 2021.

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

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 November 20, 2025.

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For further information, please call: (512) 839-0511

CHAPTER 45. REPORTABLE AND ACTIONABLE DISEASES

4 TAC §45.3

The Texas Animal Health Commission (Commission) in a duly noticed meeting on November 18, 2025, adopted amendments

to Title 4, Part 2, Chapter 45 §45.3, concerning Reportable and Actionable Disease List in the Texas Administrative Code, Title 4, Part 2, Chapter 45, titled "Reportable and Actionable Diseases." The Commission adopted amendments to §45.3 without changes to the proposed text published in the September 19, 2025 issue of the *Texas Register* (50 TexReg 6090) and will not be republished.

JUSTIFICATION FOR RULE ACTION

Egg drop syndrome virus (EDSv) is an infectious disease caused by an atadenovirus which can affect many species of poultry and birds. The clinical signs of EDSv are largely associated with egg production. Infected birds produce thin-shelled, soft-shelled, or shell-less eggs, and experience a rapid and extended loss in egg production. Currently, there is no treatment for EDSv and vaccine use is limited.

Due to the economic risks posed by EDSv on the Texas poultry industry, early detection and reporting are critical to prevention. The amendment to §45.3 will add egg drop syndrome virus to the list of diseases that are reportable to the Commission to address the emerging threat to susceptible species in Texas.

Adopted concurrently with a separate preamble, the Commission also amends §51.15 concerning entry requirements for poultry that require domestic poultry from EDSv affected states or poultry vaccinated against EDSv to enter Texas for immediate slaughter only with a written request reviewed and approved by the executive director.

HOW THE RULE WILL FUNCTION

The amendments to §45.3, Reportable and Actionable Disease List, add egg drop syndrome virus to the list of reportable and actionable diseases and reorder the list in alphabetical order.

SUMMARY OF COMMENTS RECEIVED AND COMMISSION RESPONSE

The 30-day comment period ended October 19, 2025.

During this period, the Commission received one comment in support of the amendment from the Texas Poultry Federation.

The Texas Poultry Federation thanked the Commission for its proactive approach to protecting Texas poultry from emerging disease threats.

Response: The Commission thanks the commenter for its feedback.

STATUTORY AUTHORITY

The amendments are adopted under the Texas Agriculture Code, Chapter 161, §161.046 which authorizes the Commission to promulgate rules in accordance with the Texas Agriculture Code.

Pursuant to §161.041, titled "Disease Control," the Commission shall protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases the Commission determines require control or eradication. Pursuant to §161.041(b) the Commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl. The Commission may adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

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

Pursuant to §161.054, titled "Regulation of Movement of Animals; Exception," the Commission may by rule regulate the movement of animals, and may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved.

Pursuant to §161.101, titled "Duty to Report," a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the disease, if required by the Commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the Commission within 24 hours after diagnosis of the disease.

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

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

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CHAPTER 51. ENTRY REQUIREMENTS

4 TAC §51.15

The Texas Animal Health Commission (Commission) in a duly noticed meeting on November 18, 2025, adopted amendments to Title 4, Part 2, Chapter 51 §51.15, concerning Poultry in the Texas Administrative Code, Title 4, Part 2, Chapter 51, titled "Entry Requirements." The Commission adopted amendments to §51.15 with non-substantive changes to §51.15(e) of the proposed text published in the September 19, 2025 issue of the *Texas Register* (50 TexReg 6092) to clarify language concerning applicable quarantine areas. The rule will be republished.

JUSTIFICATION FOR RULE ACTION

The Commission is tasked with creating and enforcing entry requirements for livestock, fowl, exotic livestock, and exotic fowl. The Commission adopts amendments to the entry requirements governing poultry to simplify and consolidate rules across chapters and to add entry requirements concerning egg drop syndrome virus (EDSv).

Previously, entry requirements for poultry were located in §51.15 and in §57.11. The amendments move the requirements from §57.11 to §51.15. These changes create concise and clear

guidelines for entry. Additionally, prior rules were written in large paragraph blocks that were difficult to understand. The amendments seek to break the requirements down into easy to follow lists. The amendments to §51.15 are adopted concurrently with amendments to §57.11.

Further, the amendments to §51.15 include new entry requirements for poultry entering from EDSv affected states. The amendments require birds from affected states or birds that have been vaccinated against EDSv to submit a written request prior to entry and obtain authorization from the executive director prior to entry. Egg drop syndrome virus (EDSv) is an infectious disease caused by an atadenovirus which can affect many species of poultry and birds. The disease results in malformed eggs and decreased egg production. Currently, there is no treatment for EDSv. The amendments to §51.15 are adopted concurrently with an amendment to §45.3 which adds EDSv to the Commission's reportable and actionable disease list.

HOW THE RULES WILL FUNCTION

Section 51.15 includes entry requirements for poultry. The amendments consolidate entry requirements previously found in §57.11 for clarity and conciseness. The amendments reorganize existing entry requirements into easier to follow lists rather than bulky paragraphs. And the amendments create new requirements for birds entering Texas from EDSv affected states similar to existing requirements for birds entering Texas from Infectious Laryngotracheitis affected states.

SUMMARY OF COMMENTS RECEIVED AND COMMISSION RESPONSE

The 30-day comment period ended October 19, 2025.

During this period, the Commission received one comment in support of the amendments from the Texas Poultry Federation.

The Texas Poultry Federation thanked the Commission for its proactive approach to protecting Texas poultry from emerging disease threats. TPF expressed concern with possible confusion over language in §51.15(e) and requested the Commission clarify that birds from both state quarantine and federal quarantine areas shall not enter without express written consent.

Response: The Commission thanks the commenter for its feedback.

The Commission agrees that the language can be made clearer. Changes to the proposal were made to clarify that birds from both state quarantine and federal quarantine areas shall not enter without express written consent.

STATUTORY AUTHORITY

The amendments are adopted under the Texas Agriculture Code, Chapter 161, §161.046 which authorizes the Commission to promulgate rules in accordance with the Texas Agriculture Code.

Pursuant to §161.041, titled "Disease Control," the Commission shall protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases the Commission determines require control or eradication. Pursuant to §161.041(b) the Commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl. The Commission may adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

Pursuant to §161.043, titled "Regulation of Exhibitions," the Commission may regulate the entry of livestock and may require certification of those animals as reasonably necessary to protect against communicable diseases.

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

Pursuant to §161.054, titled "Regulation of Movement of Animals; Exception," the Commission may by rule regulate the movement of animals, and may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved.

Pursuant to §161.056(a), titled "Animal Identification Program," the Commission, to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the Commission to adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.081, titled "Importation of Animals," the Commission by rule may provide the method for inspecting and testing animals before and after entry into Texas. The Commission may create rules for the issuance and form of health certificates and entry permits.

Pursuant to §161.101, titled "Duty to Report," a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the disease, if required by the Commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the Commission within 24 hours after diagnosis of the disease.

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

§51.15. Poultry.

(a) Poultry shipped into the State of Texas shall be accompanied by an official health certificate issued by an accredited veterinarian within 30 days prior to shipment and shall have an entry permit in accordance with §51.2 of this title (relating to General Requirements). The health certificate shall state:

(1) Poultry have been inspected and are free of evidence of infectious or contagious disease;

(2) Poultry have been vaccinated only with approved vaccines as defined in this regulation;

(3) Poultry have not originated from an area that has had active Laryngotracheitis or chicken embryo origin Laryngotracheitis vaccine virus within the last 30 days; and

(4) Poultry have passed a negative test for pullorum-typhoid within 30 days prior to shipment or that they originate from flocks

which have met the pullorum-typhoid requirements of the Texas Pullorum-Typhoid Program and/or the National Poultry Improvement Plan.

(5) Live domestic poultry from states not affected with Avian Influenza may enter Texas under the following circumstances:

(A) The domestic poultry originates from a flock that is certified in accordance with the National Poultry Improvement Plan as U.S. Avian Influenza Clean, U.S. H5/H7 Avian Influenza Clean, or U.S. H5/H7 Avian Influenza Monitored; or

(B) The domestic poultry is from an Avian Influenza negative flock that participates in an approved state-sponsored Avian Influenza monitoring program and participation in the program and the general description of the birds, test date, test results, and name of testing laboratory are documented on the CVI; or

(C) The domestic poultry originate from a flock in which a minimum of 30 birds, 4 weeks of age or older, or the complete flock, if fewer than 30, are serologically negative to an Enzyme Linked Immunosorbent Assay (ELISA) or Agar Gel Immunodiffusion (AGID) test for Avian Influenza within 30 days of entry or a minimum of 10 birds (e.g. two pools of 5 birds per house) are tested negative on trachea swabs to a real-time reverse-transcriptase polymerase chain reaction (RRT-PCR) test within 30 days of entry or negative to other tests approved by the Commission; the general description of the birds, test date, test results, and name of testing laboratory are documented on the CVI.

(b) Movement of poultry from disease affected states.

(1) Live domestic poultry from states affected with Avian Influenza may enter Texas for immediate slaughter and processing only under the following circumstances:

(A) A minimum of 30 birds per flock are serologically negative to an ELISA or AGID test for Avian Influenza within 72 hours of entry, or a minimum of 10 birds (e.g., two pools of 5 birds per house) are tested negative on tracheal swabs to a RRT-PCR test within 72 hours of entry or negative to other tests approved by the TAHC; and

(B) Specific written permission has been granted.

(2) Live domestic poultry from states affected with Infectious Laryngotracheitis or poultry that has been vaccinated with chick embryo vaccine may enter Texas for immediate slaughter and processing only under the following conditions:

(A) The request for authorization to bring poultry into the state must be in writing and shall include a proposed route to slaughter that would not pose a disease risk to Texas poultry;

(B) The initial request must be approved by the executive director prior to entry of the poultry;

(3) Live domestic poultry from states affected with egg drop syndrome virus or poultry that has been vaccinated against the virus may enter Texas for immediate slaughter and processing only under the following conditions:

(A) The request for authorization to bring poultry into the state must be in writing and shall include a proposed route to slaughter that would not pose a disease risk to Texas poultry;

(B) The initial request must be approved by the executive director prior to entry of the poultry;

(c) An official health certificate is not required on poultry consigned to slaughter establishments, which maintain federal or state ante and postmortem inspection, provided the shipment is accompanied by a waybill indicating the plant of destination.

(d) Baby poultry will be exempt from this section if from an NPIP, or equivalent, hatchery, and accompanied by NPIP Form 9-3 or 9-3i; or, if covered by an approved "Commuter Poultry Flock Agreement" on file with the state of origin and the commission.

(e) Live poultry, unprocessed poultry, hatching eggs, unprocessed eggs, egg flats, poultry coops, cages, crates, other birds, and used poultry equipment affected with, or recently exposed to, infectious, contagious, or communicable disease, or originating in state quarantined areas or federal quarantined areas shall not enter Texas without express written consent from the commission.

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

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CHAPTER 57. POULTRY

4 TAC §57.11

The Texas Animal Health Commission (Commission) in a duly noticed meeting on November 18, 2025, adopted amendments to Title 4, Part 2, Chapter 57 §57.11, concerning General Requirements in the Texas Administrative Code, Title 4, Part 2, Chapter 57, titled "Poultry." The Commission adopted amendments to §57.11 without changes to the proposed text published in the September 19, 2025 issue of the *Texas Register* (50 TexReg 6095) and will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission is tasked with creating and enforcing entry requirements for livestock, fowl, exotic livestock, and exotic fowl. The Commission adopts amendments to the entry requirements governing poultry to simplify and consolidate rules across chapters. Previously, entry requirements for poultry were located in §51.15 and in §57.11. The amendments move the requirements from §57.11 to §51.15. These changes create concise and clear guidelines for entry. The amendments to §57.11 are adopted concurrently with amendments to §51.15.

HOW THE RULES WILL FUNCTION

The amendments to §57.11, General Requirements, remove the interstate movement requirements that have been moved to §51.15, renumber paragraphs, and clarify proven available methods of poultry carcass disposal.

SUMMARY OF COMMENTS RECEIVED AND COMMISSION RESPONSE

The 30-day comment period ended October 19, 2025.

During this period, the Commission received no comments regarding the changes to this rule.

STATUTORY AUTHORITY

The amendments are adopted under the Texas Agriculture Code, Chapter 161, §161.046 which authorizes the Commission to promulgate rules in accordance with the Texas Agriculture Code.

Pursuant to §161.041, titled "Disease Control," the Commission shall protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases the commission determines require control or eradication. Pursuant to §161.041(b) the Commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl. The Commission may adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

Pursuant to §161.043, titled "Regulation of Exhibitions," the Commission may regulate the entry of livestock and may require certification of those animals as reasonably necessary to protect against communicable diseases.

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

Pursuant to §161.054, titled "Regulation of Movement of Animals; Exception," the Commission may by rule regulate the movement of animals, and may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved.

Pursuant to §161.056(a), titled "Animal Identification Program," the Commission, to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the Commission to adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.081, titled "Importation of Animals," the Commission by rule may provide the method for inspecting and testing animals before and after entry into Texas. The Commission may create rules for the issuance and form of health certificates and entry permits.

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

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

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Texas Animal Health Commission
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TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 3. OIL AND GAS DIVISION

16 TAC §3.15, §3.107

The Railroad Commission of Texas adopts amendments to §3.15, relating to Surface Equipment Removal Requirements and Inactive Wells, and §3.107, relating to Penalty Guidelines for Oil and Gas Violations, without changes to the proposed text as published in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5795); the rule text will not be republished. The amendments implement House Bill 2663, 89th Texas Legislature (Regular Session, 2025). The bill amends Texas Natural Resources Code §89.029 to require an operator who is applying for a plugging extension for a well that has been inactive for at least 10 years to affirm to the Commission it has removed all equipment associated with providing electric power to the production site, unless the equipment is owned by a utility provider, as defined by Texas Utilities Code §31.002. The bill also requires the Commission to assess a penalty of up to $25,000 if an operator falsely files this affirmation.

The Commission received one comment from the Texas Land & Mineral Owners Association (TLMA) which supports the proposed amendments. TLMA stated that inactive wells have created serious challenges for landowners, some of whom endured physical damage to their property long before the devastating Panhandle wildfires of 2024 drew statewide attention to this issue. The consequences of neglect are both economic and environmental, and they fall disproportionately on landowners who often lack standing in oil and gas leasing negotiations. TLMA commends the Commission for taking steps to address the growing problem of inactive wells and the removal of electrical equipment is a vital component of these reforms. What may appear to be a minor change has the potential to prevent millions of dollars in losses and protect landowners from the continued impacts of operator negligence.

The Commission adopts amendments in §3.15(f)(2)(A) to add a reference to Texas Natural Resources Code §89.029.

The Commission adopts amendments in §3.15(f)(2)(A)(ii) to add wording that an operator who is applying for a plugging extension for a well that has been inactive for at least 10 years to affirm that equipment associated with providing electric service has been removed. This new provision does not apply to equipment owned by an electric utility.

The Commission adopts amendments to the Figure in §3.107(j) to add the new penalty.

The Commission adopts the amendments under Texas Natural Resources Code, §81.051 and §81.052, which provide the Commission with jurisdiction over all persons owning or engaged in

drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under commission jurisdiction; Texas Natural Resources Code §§85.042, 85.202, 86.041 and 86.042, which require the Commission to adopt rules to control waste of oil and gas; and Texas Natural Resources Code, §89.023, which authorizes the Commission to adopt rules relating to the definition of active operation.

Statutory authority: Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.202, 86.041, 86.042, 89.023.

Cross-reference to statute: Texas Natural Resources Code, Chapter 81, 85, 86, and 89.

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

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CHAPTER 9. LP-GAS SAFETY RULES
SUBCHAPTER A. GENERAL REQUIREMENTS

The Railroad Commission of Texas (Commission) adopts the repeal of §9.14, relating to Military Fee Exemption, new §9.14, relating to Military Licensing and Fee Exemption, and amendments to §§9.2, 9.10, 9.13, and 9.20 relating to Definitions, Rules Examination, General Installers and Repairman Exemption, and Dispenser Operations Certificate Exemption, without changes to the proposed text as published in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5801); the rule text will not be republished. The Commission received no comments on the proposal. The Commission adopts the repeal, new rule, and amendments pursuant to House Bill (HB) 5629 (89th Legislature, Regular Session, 2025) which amended Occupations Code §§55.004, 55.0041, 55.0042, 55.005, and 55.009 and Senate Bill 1818 (89th Legislature, Regular Session, 2025) which amended Occupations Code §§55.004 and 55.0041.

HB 5629 amends current law governing state agencies that issue occupational licenses to military service members, military veterans, and military spouses, establishing new and streamlined requirements. The legislation amends provisions in §55.004, Occupations Code, related to the issuance of alternative licenses, and in §55.0041, Occupations Code, related to the recognition of out-of-state licenses. Pursuant to HB 5629, a state agency must issue an alternative license to a military service member, military veteran, or military spouse if the applicant either (1) holds a current license issued by another state that is similar in scope of practice to the state agency's license and is in good standing with the out-of-state licensing authority, or (2) held a license with the state agency within the preceding five years. Similarly, HB 5629 requires a state agency to recognize an out-of-state license for a military service member or a military spouse who (1) holds a current out-of-state license that is similar in scope of practice to the state agency's license, (2) is in good standing with the out-of-state licensing authority, and (3) submits certain required information in an affidavit. The legislation also clarifies the definition of what qualifies as "good standing", decreases application processing timelines from 30 business days to 10 business days, and requires a state agency to maintain a record of each complaint made against a military service member, military veteran, or military spouse to whom the agency issued a license and to publish such information on its website. Lastly, HB 5629 requires a state agency issuing an occupational license to waive license application and examination fees for military service members, military veterans, and military spouses. The Commission already complies with the requirement to waive license application and examination fees but streamlines those requirements in response to the legislation.

The Commission's Alternative Fuels Safety Department (AFS) issues LP-gas licenses to applicants that meet the requirements of Chapter 9 to perform LP-gas activities in Texas. AFS also issues certifications to qualified individuals, known as certificate holders or certified individuals, allowing them to perform certain LP-gas activities in Texas. Certificate holders must be in compliance with all applicable continuing education and training requirements, renewal requirements, and must be employed by an LP-gas licensee in accordance with §9.8(a) of this title (relating to Requirements and Application for a New Certificate).

Section 55.001 of the Occupations Code defines "license" as "a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business." Accordingly, Chapter 55 and HB 5629 only apply to licenses, as defined by §55.001, that are issued to individuals. AFS typically issues LP-gas licenses to registered business entities, but on rare occasions may issue an LP-gas license to an individual operating as a sole proprietorship. Certifications, on the other hand, are issued only to individuals employed by an LP-gas licensee, provided they meet the applicable examination, continuing education, and renewal requirements in Chapter 9. Therefore, an LP-gas license issued to a sole proprietor and certifications issued under Chapter 9 are "licenses" under §55.001 and are subject to the provisions of HB 5629 and this rulemaking. New §9.14(a)(2) adopts the term "license" as defined in §55.001, Occupations Code, and therefore, usage of the word "license" in §9.14 refers specifically to LP-gas licenses issued to individuals as sole proprietors and to certifications issued to individuals.

The Commission adopts amendments to §9.2(5)(F), the definition of "certificate holder", to clarify that an individual who holds an alternative license or the recognition of an out-of-state license pursuant to §9.14 meets the definition of certificate holder.

New §9.14 includes retitling the rule to more accurately reflect its subject matter, reorganizing the rule for greater clarity in light of the changes to military fee exemption requirements under HB 5629, and incorporating new provisions related to alternative licensing and the recognition of out-of-state licenses as required by HB 5629.

New §9.14(a)(1) - (2) clarifies that §9.14 applies to licenses, military service members, military veterans, or military spouses as those terms are defined in §55.001, Occupations Code. New §9.14(a)(3), in accordance with HB 5629, states that an individual is considered to be in good standing with another state's licensing authority if the individual holds a license that

is current and has not been suspended, revoked, or voluntarily surrendered during an investigation for unprofessional conduct; has not been disciplined with the other state's licensing authority; and is not currently under investigation by the other state's licensing authority for unprofessional conduct. AFS will conduct reviews of each application submitted under new §9.14 to determine whether the applicant is in good standing with the other state's licensing authority. Additionally, §9.14(a)(4) states that the Commission shall maintain a record of complaints made against a military service member, military veteran, or military spouse to whom AFS issues an alternative license or out-of-state recognition of a license and shall publish at least quarterly the complaint information on its website.

To implement this requirement, the Commission is creating a page on its website to post a list of any complaints it receives against the military service members that hold an alternative license or an out-of-state license recognized by the Commission. The website will be updated at least quarterly. The Commission is in the process of creating a new Form 16V for applications for an alternative license and a new Form 16M for applications for recognition of an out-of-state license.

New subsection §9.14(b) contains the provisions for alternative licensing pursuant to HB 5629. Military service members, military veterans, and military spouses may apply for an alternative license by submitting a completed Form 16V to AFS. There are two avenues by which an applicant may receive an alternative license from AFS. First, an applicant may receive an alternative license from the Commission if the applicant holds a current license issued by another state's licensing authority that is similar in scope of practice to the requested LP-gas license issued by AFS and the applicant is in good standing with the other state's licensing authority. The applicant must submit a completed Form 16V, which includes as an attachment a copy of the current LP-gas license issued in the other state, a copy of military documentation reflecting the applicant's status as a military service member or military veteran, and any other documentation that may be requested by AFS. If the applicant is a military spouse, a copy of the marriage license must also be attached. Upon receipt of a completed Form 16V with all required attachments, AFS will conduct a review of the application to ensure the form and attachments are completed as required, will determine whether the other state's license is similar in scope of practice to the requested alternative license to be issued by AFS, and conduct due diligence to determine whether the applicant is in good standing with the other state's licensing authority.

Second, an applicant may receive an alternative license from the Commission if the applicant held an LP-gas license from the Commission within the five years preceding the application date. Those applicants are still required to complete Form 16V and must attach military documentation and a marriage license, if applicable. Regardless of which avenue an applicant uses to pursue an alternative license under §9.14, AFS will issue the alternative license within 10 business days of the application date if the application meets the requirements of §9.14 and HB 5629.

New §9.14(c) contains the provisions for the recognition of an out-of-state license pursuant to HB 5629. Military service members and military spouses are eligible to apply for the recognition of an out-of-state license by submitting a complete Form 16M to AFS. An applicant may receive the recognition of an out-of-state license from the Commission if the applicant holds a current license issued by another state's licensing authority that is similar in scope of practice to the requested LP-gas license issued by AFS. The applicant must submit a completed Form 16M, which includes as an attachment a copy of the current LP-gas license issued in the other state, a copy of military orders showing relocation to Texas, and any other documentation that may be requested by AFS. If the applicant is a military spouse, a copy of the marriage license must also be attached. Finally, the affidavit included in Form 16M must be signed and notarized by the applicant, affirming under penalty of perjury that: (1) the applicant is the person described and identified in the application; (2) all statements in the application are true, correct, and complete; (3) the applicant understands the scope of practice for the applicable license in this state and will not perform outside of that scope of practice; and (4) the applicant is in good standing in the state in which the applicant holds or has held an applicable license. Upon receipt of a completed Form 16V with all required attachments, AFS will conduct a review of the application to ensure the form, attachments, and affidavit are completed as required and will determine whether the other state's license is similar in scope of practice to the requested alternative license to be issued by AFS. AFS will recognize the out-of-state license within 10 business days of the application date if the application meets the requirements of §9.14 and HB 5629.

New §9.14(d) contains provisions for the exemption of license application and examination fees for military service members, military veterans, and military spouses. A service member may apply for exemption from a license application fee or examination fee by filing a completed Form 35 with AFS, including a copy of applicable military records and a copy of the applicant's driver's license or state-issued identification card. If the exemption is granted by AFS, the applicant should attach the exemption to the application for a license or examination to serve as notice of payment.

New §9.14(e) contains provisions related to renewals of licenses. Alternative licenses and out-of-state recognitions are still required to submit renewals pursuant to Chapter 9 and are required to pay renewal fees. However, a military service member who fails to renew a license because the individual was on active duty is exempt from any increased fee or penalty imposed by AFS. Additionally, a military service member who holds a license is entitled to two years of additional time to complete continuing education requirements or any other requirement related to the renewal of the license.

The Commission adopts the repeal under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

16 TAC §9.14

Statutory authority: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, §113.051.

Cross reference to statute: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, Chapter 113.

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 November 18, 2025.

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Effective date: December 8, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 475-1295

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16 TAC §§9.2, 9.10, 9.13, 9.14, 9.20

The Commission adopts the new rule and amendments under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

Statutory authority: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, §113.051.

Cross reference to statute: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, Chapter 113.

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

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CHAPTER 13. REGULATIONS FOR COMPRESSED NATURAL GAS (CNG) SUBCHAPTER C. CLASSIFICATION, REGISTRATION, AND EXAMINATION

The Railroad Commission of Texas (Commission) adopts the repeal of §13.76, relating to Military Fee Exemption, new §13.76, relating to Military Licensing and Fee Exemption, and amendments to §13.61 and §13.70, relating to License Categories, Container Manufacturer Registration, Fees, and Application for Licenses, Manufacturer Registrations, and Renewals; and Examination and Exempt Registration Requirements and Renewals, without changes to the proposed text as published in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5806); the rule text will not be republished. The Commission received no comments on the proposal. The Commission adopts the repeal, new rule, and amendments pursuant to House Bill (HB) 5629 (89th Legislature, Regular Session, 2025) which amended Occupations Code §§55.004, 55.0041, 55.0042, 55.005, and 55.009 and Senate Bill 1818 (89th Legislature, Regular Session, 2025) which amended Occupations Code §§55.004 and 55.0041.

HB 5629 amends current law governing state agencies that issue occupational licenses to military service members, military veterans, and military spouses, establishing new and streamlined requirements. The legislation amends provisions in §55.004, Occupations Code, related to the issuance of alternative licenses, and in §55.0041, Occupations Code, related to the recognition of out-of-state licenses. Pursuant to HB 5629, a state agency must issue an alternative license to a military service member, military veteran, or military spouse if the applicant either (1) holds a current license issued by another state that is similar in scope of practice to the state agency's license and is in good standing with the out-of-state licensing authority, or (2) held a license with the state agency within the preceding five years. Similarly, HB 5629 requires a state agency to recognize an out-of-state license for a military service member or a military spouse who (1) holds a current out-of-state license that is similar in scope of practice to the state agency's license, (2) is in good standing with the out-of-state licensing authority, and (3) submits certain required information in an affidavit. The legislation also clarifies the definition of what qualifies as "good standing", decreases application processing timelines from 30 business days to 10 business days, and requires a state agency to maintain a record of each complaint made against a military service member, military veteran, or military spouse to whom the agency issued a license and to publish such information on its website. Lastly, HB 5629 requires a state agency issuing an occupational license to waive license application and examination fees for military service members, military veterans, and military spouses. The Commission already complies with the requirement to waive license application and examination fees but streamlines those requirements in response to the legislation.

The Commission's Alternative Fuels Safety Department (AFS) issues CNG licenses to applicants that meet the requirements of Chapter 13 to perform CNG activities in Texas. AFS also issues certifications to qualified individuals, known as certificate holders or certified individuals, allowing them to perform certain CNG activities in Texas. Certificate holders must be in compliance with all applicable continuing education and training requirements, renewal requirements, and must be employed by a CNG licensee in accordance with §13.70(a).

Section 55.001 of the Occupations Code defines "license" as "a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business." Accordingly, Chapter 55 and HB 5629 only apply to licenses, as defined by §55.001, that are issued to individuals. AFS typically issues CNG licenses to registered business entities, but on rare occasions may issue a CNG license to an individual operating as a sole proprietorship. Certifications, on the other hand, are issued only to individuals employed by a CNG licensee, provided they meet the applicable examination, continuing education, and renewal requirements in Chapter 13. Therefore, a CNG license issued to a sole proprietor and certifications issued under Chapter 13 are "licenses" under §55.001 and are subject to the provisions of HB 5629 and this rulemaking. New §13.76(a)(2) adopts the term "license" as defined in §55.001, Occupations Code, and therefore, usage of the word "license" in §13.76 refers specifically to CNG licenses issued to individuals as sole proprietors and to certifications issued to individuals.

New §13.76 includes retitling the rule to more accurately reflect its subject matter, reorganizing the rule for greater clarity in light of the changes to military fee exemption requirements under HB 5629, and incorporating new provisions related to alternative licensing and the recognition of out-of-state licenses as required by HB 5629.

New §13.76(a)(1) - (2) clarifies that the rule applies to licenses, military service members, military veterans, or military spouses as those terms are defined in §55.001, Occupations Code. New §13.76(a)(3), in accordance with HB 5629, states that an individual is considered to be in good standing with another state's licensing authority if the individual holds a license that is current and has not been suspended, revoked, or voluntarily surrendered during an investigation for unprofessional conduct; has not been disciplined with the other state's licensing authority; and is not currently under investigation by the other state's licensing authority for unprofessional conduct. AFS will conduct reviews of each application submitted under new §13.76 to determine whether the applicant is in good standing with the other state's licensing authority. Additionally, §13.76(a)(4) states that the Commission shall maintain a record of complaints made against a military service member, military veteran, or military spouse to whom AFS issues an alternative license or out-of-state recognition of a license and shall publish at least quarterly the complaint information on its website.

To implement this requirement, the Commission is creating a page on its website to post a list of any complaints it receives against the military service members that hold an alternative license or an out-of-state license recognized by the Commission. The website will be updated at least quarterly. The Commission is in the process of creating a new Form 16V for applications for an alternative license and a new Form 16M for applications for recognition of an out-of-state license.

New §13.76(b) contains the provisions for alternative licensing pursuant to HB 5629. Military service members, military veterans, and military spouses may apply for an alternative license by submitting a completed Form 16V to AFS. There are two avenues by which an applicant may receive an alternative license from AFS. First, an applicant may receive an alternative license from the Commission if the applicant holds a current license issued by another state's licensing authority that is similar in scope of practice to the requested CNG license issued by AFS and the applicant is in good standing with the other state's licensing authority. The applicant must submit a completed Form 16V which includes as an attachment a copy of the current CNG license issued in the other state, a copy of military documentation reflecting the applicant's status as a military service member or military veteran, and any other documentation that may be requested by AFS. If the applicant is a military spouse, a copy of the marriage license must also be attached. Upon receipt of a completed Form 16V with all required attachments, AFS will conduct a review of the application to ensure the form and attachments are completed as required, will determine whether the other state's license is similar in scope of practice to the requested alternative license to be issued by AFS, and conduct due diligence to determine whether the applicant is in good standing with the other state's licensing authority.

Second, an applicant may receive an alternative license from the Commission if the applicant held a CNG license from the Commission within the five years preceding the application date. Those applicants are still required to complete Form 16V and must attach military documentation and a marriage license, if applicable. Regardless of which avenue an applicant uses to pursue an alternative license under §13.76, AFS will issue the alternative license within 10 business days of the application date if the application meets the requirements of §13.76 and HB 5629.

New §13.76(c) contains the provisions for the recognition of an out-of-state license pursuant to HB 5629. Military service members and military spouses are eligible to apply for the recognition of an out-of-state license by submitting a complete Form 16M to AFS. An applicant may receive the recognition of an out-of-state license from the Commission if the applicant holds a current license issued by another state's licensing authority that is similar in scope of practice to the requested CNG license issued by AFS. The applicant must submit a completed Form 16M which includes as an attachment a copy of the current CNG license issued in the other state, a copy of military orders showing relocation to Texas, and any other documentation that may be requested by AFS. If the applicant is a military spouse, a copy of the marriage license must also be attached. Finally, the affidavit included in Form 16M must be signed and notarized by the applicant, affirming under penalty of perjury that: (1) the applicant is the person described and identified in the application; (2) all statements in the application are true, correct, and complete; (3) the applicant understands the scope of practice for the applicable license in this state and will not perform outside of that scope of practice; and (4) the applicant is in good standing in the state in which the applicant holds or has held an applicable license. Upon receipt of a completed Form 16V with all required attachments, AFS will conduct a review of the application to ensure the form, attachments, and affidavit are completed as required and will determine whether the other state's license is similar in scope of practice to the requested alternative license to be issued by AFS. AFS will recognize the out-of-state license within 10 business days of the application date if the application meets the requirements of new §13.76 and HB 5629.

New §13.76(d) contains provisions for the exemption of license application and examination fees for military service members, military veterans, and military spouses. A service member may apply for exemption from a license application fee or examination fee by filing a completed Form 35 with AFS, including a copy of applicable military records and a copy of the applicant's driver's license or state-issued identification card. If the exemption is granted by AFS, the applicant should attach the exemption to the application for a license or examination to serve as notice of payment.

New §13.76(e) contains provisions related to renewals of licenses. Alternative licenses and out-of-state recognitions are still required to submit renewals pursuant to Chapter 13 and are required to pay renewal fees. However, a military service member who fails to renew a license because the individual was on active duty is exempt from any increased fee or penalty imposed by AFS. Additionally, a military service member who holds a license is entitled to two years of additional time to complete continuing education requirements or any other requirement related to the renewal of the license.

The Commission adopts the repeal under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

16 TAC §§13.61, 13.70, 13.76

The Commission adopts the new rule and amendments under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

Statutory authority: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, §§116.012.

Cross reference to statute: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, Chapter 116.

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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Olivia Alland
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Railroad Commission of Texas
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For further information, please call: (512) 475-1295

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16 TAC §13.76

The Commission adopts the repeal under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

Statutory authority: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, §§116.012.

Cross reference to statute: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, Chapter 116.

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 14. REGULATIONS FOR LIQUEFIED NATURAL GAS (LNG)
SUBCHAPTER A. GENERAL APPLICABILITY AND REQUIREMENTS

The Railroad Commission of Texas (Commission) adopts the repeal of §14.2015, relating to Military Fee Exemption, new §14.2015, relating to Military Licensing and Fee Exemption, and amendments to §14.2013 and §14.2019, relating to License Categories, Container Manufacturer Registration, Fees, and Application for Licenses, Manufacturer Registrations, and Renewals; and Examination and Requirements and Renewals, without changes to the proposed text as published in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5811); the rule text will not be republished. The Commission received no comments on the proposal. The Commission adopts the repeal, new rule, and amendments pursuant to House Bill (HB) 5629 (89th Legislature, Regular Session, 2025) which amended Occupations Code §§55.004, 55.0041, 55.0042, 55.005, and 55.009 and Senate Bill 1818 (89th Legislature, Regular Session, 2025) which amended Occupations Code §§55.004 and 55.0041.

HB 5629 amends current law governing state agencies that issue occupational licenses to military service members, military veterans, and military spouses, establishing new and streamlined requirements. The legislation amends provisions in §55.004, Occupations Code, related to the issuance of alternative licenses, and in §55.0041, Occupations Code, related to the recognition of out-of-state licenses. Pursuant to HB 5629, a state agency must issue an alternative license to a military service member, military veteran, or military spouse if the applicant either (1) holds a current license issued by another state that is similar in scope of practice to the state agency's license and is in good standing with the out-of-state licensing authority, or (2) held a license with the state agency within the preceding five years. Similarly, HB 5629 requires a state agency to recognize an out-of-state license for a military service member or a military spouse who (1) holds a current out-of-state license that is similar in scope of practice to the state agency's license, (2) is in good standing with the out-of-state licensing authority, and (3) submits certain required information in an affidavit. The legislation also clarifies the definition of what qualifies as "good standing", decreases application processing timelines from 30 business days to 10 business days, and requires a state agency to maintain a record of each complaint made against a military service member, military veteran, or military spouse to whom the agency issued a license and to publish such information on its website. Lastly, HB 5629 requires a state agency issuing an occupational license to waive license application and examination fees for military service members, military veterans, and military spouses. The Commission already complies with the requirement to waive license application and examination fees but streamlines those requirements in response to the legislation.

The Commission's Alternative Fuels Safety Department (AFS) issues LNG licenses to applicants that meet the requirements of Chapter 14 to perform LNG activities in Texas. AFS also issues certifications to qualified individuals, known as certificate holders or certified individuals, allowing them to perform certain LNG activities in Texas. Certificate holders must be in compliance with all applicable continuing education and training requirements, renewal requirements, must be employed by an LNG licensee in accordance with §14.2019(a).

Section 55.001 of the Occupations Code defines "license" as "a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business." Accordingly, Chapter 55 and HB 5629 only apply to licenses, as defined by §55.001, that are issued to individuals. AFS typically issues LNG licenses to registered business entities, but on rare occasions may issue an LNG license to an individual operating as a sole proprietorship. Certifications, on the other hand, are issued only to individuals employed by an LNG licensee, provided they meet the applicable examination, continuing education, and renewal requirements in Chapter 14. Therefore, an LNG license issued to a sole proprietor and certifications issued under Chapter 14 are "licenses" under §55.001 and are subject to the provisions of HB 5629 and this rulemaking. New §14.2015(a)(2) adopts the term "license" as defined in §55.001, Occupations

Code, and therefore, usage of the word "license" in §14.2015 refers specifically to LNG licenses issued to individuals as sole proprietors and to certifications issued to individuals.

New §14.2015 includes retitling the rule to more accurately reflect its subject matter, reorganizing the rule for greater clarity in light of the changes to military fee exemption requirements under HB 5629, and incorporating new provisions related to alternative licensing and the recognition of out-of-state licenses as required by HB 5629.

New §14.2015(a)(1)-(2) clarifies that the rule applies to licenses, military service members, military veterans, or military spouses as those terms are defined in §55.001, Occupations Code. Subsection (a)(3), in accordance with HB 5629, states that an individual is considered to be in good standing with another state's licensing authority if the individual holds a license that is current and has not been suspended, revoked, or voluntarily surrendered during an investigation for unprofessional conduct; has not been disciplined with the other state's licensing authority; and is not currently under investigation by the other state's licensing authority for unprofessional conduct. AFS will conduct reviews of each application submitted under new §14.2015 to determine whether the applicant is in good standing with the other state's licensing authority. Additionally, subsection (a)(4) states that the Commission shall maintain a record of complaints made against a military service member, military veteran, or military spouse to whom AFS issues an alternative license or out-of-state recognition of a license and shall publish at least quarterly the complaint information on its website.

To implement this requirement, the Commission is creating a page on its website to post a list of any complaints it receives against the military service members that hold an alternative license or an out-of-state license recognized by the Commission. The website will be updated at least quarterly. The Commission is in the process of creating a new Form 16V for applications for an alternative license and a new Form 16M for applications for recognition of an out-of-state license.

New §14.2015(b) contains the provisions for alternative licensing pursuant to HB 5629. Military service members, military veterans, and military spouses may apply for an alternative license by submitting a completed Form 16V to AFS. There are two avenues by which an applicant may receive an alternative license from AFS. First, an applicant may receive an alternative license from the Commission if the applicant holds a current license issued by another state's licensing authority that is similar in scope of practice to the requested LNG license issued by AFS and the applicant is in good standing with the other state's licensing authority. The applicant must submit a completed Form 16V which includes as an attachment a copy of the current LNG license issued in the other state, a copy of military documentation reflecting the applicant's status as a military service member or military veteran, and any other documentation that may be requested by AFS. If the applicant is a military spouse, a copy of the marriage license must also be attached. Upon receipt of a completed Form 16V with all required attachments, AFS will conduct a review of the application to ensure the form and attachments are completed as required, will determine whether the other state's license is similar in scope of practice to the requested alternative license to be issued by AFS, and conduct due diligence to determine whether the applicant is in good standing with the other state's licensing authority.

Second, an applicant may receive an alternative license from the Commission if the applicant held an LNG license from the Commission within the five years preceding the application date. Those applicants are still required to complete Form 16V and must attach military documentation and a marriage license, if applicable. Regardless of which avenue an applicant uses to pursue an alternative license under §14.2015, AFS will issue the alternative license within 10 business days of the application date if the application meets the requirements of §14.2015 and HB 5629.

New §14.2015(c) contains the provisions for the recognition of an out-of-state license pursuant to HB 5629. Military service members and military spouses are eligible to apply for the recognition of an out-of-state license by submitting a complete Form 16M to AFS. An applicant may receive the recognition of an out-of-state license from the Commission if the applicant holds a current license issued by another state's licensing authority that is similar in scope of practice to the requested LNG license issued by AFS. The applicant must submit a completed Form 16M which includes as an attachment a copy of the current LNG license issued in the other state, a copy of military orders showing relocation to Texas, and any other documentation that may be requested by AFS. If the applicant is a military spouse, a copy of the marriage license must also be attached. Finally, the affidavit included in Form 16M must be signed and notarized by the applicant, affirming under penalty of perjury that: (1) the applicant is the person described and identified in the application; (2) all statements in the application are true, correct, and complete; (3) the applicant understands the scope of practice for the applicable license in this state and will not perform outside of that scope of practice; and (4) the applicant is in good standing in the state in which the applicant holds or has held an applicable license. Upon receipt of a completed Form 16V with all required attachments, AFS will conduct a review of the application to ensure the form, attachments, and affidavit are completed as required and will determine whether the other state's license is similar in scope of practice to the requested alternative license to be issued by AFS. AFS will recognize the out-of-state license within 10 business days of the application date if the application meets the requirements of §14.2015 and HB 5629.

New §14.2015(d) contains provisions for the exemption of license application and examination fees for military service members, military veterans, and military spouses. A service member may apply for exemption from a license application fee or examination fee by filing a completed Form 35 with AFS, including a copy of applicable military records and a copy of the applicant's driver's license or state-issued identification card. If the exemption is granted by AFS, the applicant should attach the exemption to the application for a license or examination to serve as notice of payment.

New §14.2015(e) contains provisions related to renewals of licenses. Alternative licenses and out-of-state recognitions are still required to submit renewals pursuant to Chapter 14 and are required to pay renewal fees. However, a military service member who fails to renew a license because the individual was on active duty is exempt from any increased fee or penalty imposed by AFS. Additionally, a military service member who holds a license is entitled to two years of additional time to complete continuing education requirements or any other requirement related to the renewal of the license.

The Commission adopts amendments to §§14.2013(c) and 14.2019(b)(3)(C)(iv) to rename the title of §14.2015 and to remove language related to military licensing fee exemptions as

all rule language related to fee exemptions is covered by new §14.2015(d).

16 TAC §§14.2013, 14.2015, 14.2019

The Commission adopts the new rule, and amendments under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

Statutory authority: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, §§116.012.

Cross reference to statute: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, Chapter 116.

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 November 18, 2025.

TRD-202504196
Olivia Alland
Attorney, Office of General Counsel
Railroad Commission of Texas
Effective date: December 8, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 475-1295

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16 TAC §14.2015

The Commission adopts the repeal under Texas Occupations Code, Chapter 55, which authorizes the Commission to promulgate rules pertaining to the issuance of occupational licenses to military service members, military veterans, and military spouses.

Statutory authority: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, §§116.012.

Cross reference to statute: Texas Occupations Code, Chapter 55, and Texas Natural Resources Code, Chapter 116.

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

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PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 22. PROCEDURAL RULES

The Public Utility Commission of Texas (commission) repeals 16 Texas Administrative Code (TAC) §22.71, relating to Filing of Pleadings, Documents, and Other Materials, and 16 TAC §22.72, relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission, and adopts new 16 TAC §22.71, relating to Commission Filing Requirements and Procedures, and new 16 TAC §22.72, relating to Form Requirements for Documents Filed with the Commission. The commission adopts these rules with changes to the proposed text as published in the May 23, 2025 issue of the *Texas Register* (50 TexReg 3057). The rules will be republished. The repeals are adopted without changes and will not be republished

The new rules modernize the process, procedures, and standards for filing documents for proceedings and other matters before the commission. New 16 TAC §22.71 removes the requirement to file physical documents, except for maps; applications and notices of intent in electric base rate proceedings; and applications for new or amended electric, water, or sewer certificates of necessity, where both physical and electronic documents may be required to be filed. The new rule authorizes both the physical and electronic filing of documents with the commission, updates the standards for physical filings, and authorizes an employee of the commission or the presiding officer to request a physical copy of any filing. It establishes new requirements for filing confidential material with the commission and restates existing requirements for confidential filing. Specifically, when a person seeks to file an item confidentially with the commission, the person must publicly file a redacted copy of the item and a fully completed confidential-filing memorandum to identify the pages that are confidential and justify the claim to confidentiality and confidentially file an unredacted version of the item. Additionally, new 16 TAC §22.71 authorizes Central Records to reject certain filings and establishes a process for challenging a confidential-filing designation. The adopted rule also includes the confidential filing memorandum, a new commission-prescribed form, as Figure 16 TAC §22.71(j)(1)(E). New 16 TAC §22.72 updates the formatting standards and guidelines for electronic and physical items filed with the commission and includes procedures for filing external storage devices for digital media, handwritten documents, and maps and GIS data. New 16 TAC §22.72 also updates the page limit and signature requirements for filings and adds a new requirement for a party to provide evidence of service with a filing.

The commission received comments on the proposed rule from AEP Texas, Inc. and Southwestern Electric Power Company (collectively, AEP); CenterPoint Energy Houston Electric, LLC (CenterPoint); Electric Reliability Council of Texas (ERCOT); Entergy Texas, Inc. (Entergy); Lower Colorado River Authority (LCRA); Oncor Electric Delivery Company, LLC (Oncor); Southwestern Public Service Company (SPS); State Office of Administrative Hearings (SOAH); Texas Association of Water Companies, Inc. (TAWC); Texas Competitive Power Advocates (TCPA); Texas Electric Cooperatives (TEC); Texas Energy Association for Marketers (TEAM); Texas Public Power Association (TPPA); Texas-New Mexico Power Company (TNMP); and Vistra Corporate Service Company, LLC (Vistra).

General Comments

TPPA recommended that any deadlines in proposed §22.71 and proposed §22.72 are measured in "working days," as defined by §22.22(48), relating to Definitions.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The usage of "working days" versus "calendar days" or "days" is intentional across all commission rules. Specifically, the definition of "days" under §22.2(18) means "[c]alendar days, not working days, unless otherwise specified by this chapter or the commission's substantive rules." It is also not apparent why revising the timelines to use "working days" in either rule is necessary.

Proposed §22.71 - Commission Filing Requirements and Procedures.

Proposed §22.71 establishes the filing requirements and procedures for the commission.

The commission modifies the proposed order to replace the scope section with a purpose section. The contents of proposed subsection (a) are now located at adopted subsection (b)(1). The comments on the various paragraphs of proposed subsection (a) are discussed below under the headers corresponding with their locations as proposed.

The new provisions added by the commission are designed to better recognize the commission's current efforts to improve and modernize the available methods of filing information with the commission. It is a practical reality that each new method of filing will have different features and capabilities, and inflexible rule language would prevent this necessary progress. Flexibility, however, must be balanced with clear process descriptions and meaningful standards, such as ensuring the transparency of public information. Accordingly, the commission adds a provision of the rule to explicitly enable the establishment of alternative filing methods and to establish the process by which filing procedures and standards may be created for such an alternative filing method. Simultaneously, the commission deletes all references to the commission filing system in the adopted rule and clarifies that there are items to be filed that are to be posted on the commission's Interchange and there are items to be filed using an alternative method.

To facilitate the development of new filing methods, the commission clarifies that commission staff is authorized to develop new filing instructions within the policy parameters established in subsection (b)(2) of the adopted rule.

Proposed §22.71(a) - Scope

Proposed §22.71(a) provides the list of items that must be filed using the commission filing system.

The commission modifies proposed §22.71(a) to recognize two separate methods for filing documents with the commission: those documents that must be filed for posting on the commission's Interchange and those documents that must be filed using an alternative method, such as through an internet portal or using an internet-based application, by adding the phrase "unless otherwise requested by the presiding officer or an employee of the commission." This language is added to allow for ad hoc exchanges of information between presiding officers and employees of the commission with other individuals without requiring a formal filing. For example, if a presiding officer requests that a party email a paralegal a copy of a document or a rulemaking team requests a copy of comments in a different file format. The commission redesignates proposed §22.71(a) as adopted §22.71(b) for organizational purposes.

TPPA recommended adding "open meeting presentations" to the list of items that must be filed with the commission under proposed §22.71(a) to codify current commission practice and ensure the continuation of this practice.

Commission response

The commission agrees with TPPA's recommendation and adds adopted (b)(1)(G).

Proposed §22.71(a)(3) - Filing of registrations, certifications, or reports

Proposed §22.71(a)(3) requires "[r]egistrations, certifications, or reports required by statute or rule to be submitted to the commission with an associated control number and for which no alternative means of submission, such as a database, have been provided by the commission" to be filed with the commission using the commission filing system.

TPPA recommended the reference to "any Commission database" in proposed §22.71(a)(3) be clarified with specific reference to which database the provision applies to.

Commission response

The commission declines to implement TPPA's suggestion because it is moot. Because the commission modifies this provision to apply to filings that will be posted to the Interchange, reference to other filing platforms is no longer appropriate. Any report that must be filed using an alternative filing method under adopted §22.71(b)(2) will be subject to the specific filing requirements and standards associated with that specific method.

The commission makes corresponding edits by removing references to control numbers and alternative methods of submission and redesignates proposed §22.71(a)(3) as adopted §22.71(b)(1)(C).

Proposed §22.71(a)(5) - Filing of maps, geographic information system (GIS) data, and other material

Proposed §22.71(a)(5) requires "[m]aps, geographic information system (GIS) data, or other visual information such as charts, photographs, or illustrations" to be filed with the commission using the commission filing system.

TPPA requested clarification on whether the requirement to file maps, GIS data, or other visual information only applies to information that relates to a proceeding for which a control number has been assigned.

Commission response

The commission revises the provision to specify that it relates "to any commission proceeding". This, in essence, implements TPPA's recommended change. The commission redesignates proposed §22.71(a)(5) as adopted §22.71(b)(1)(E) for organizational purposes.

Proposed §22.71(a)(7) - Filing of other materials with no alternative means of submission

Proposed §22.71(a)(7) requires "[a]ny other item required to be filed by statute or commission rule for which no alternative means of submission, such as a database, have been provided by the commission" to be filed with the commission using the commission filing system.

TPPA recommended the deletion of proposed §22.71(a)(7), which requires the commission filing system be used for the filing of items for which no alternative means of submission

exists but are otherwise required by law to be filed, because it is redundant of proposed §22.71(a)(3), which requires the commission filing system be used for the filing of registrations, certifications or reports that are required by law for which no alternative means of submission exists.

Commission response

The commission disagrees with TPPA's assertion that there may be overlap between several of the categories of items required to be filed. Each type of item to be filed in the proposed rule and in the adopted rule are unique categories to themselves. Therefore, the commission declines to modify the proposed rule as recommended by TPPA. However, the commission redesignates proposed §22.71(a)(7) as adopted §22.71(b)(1)(J) and clarifies that this category also applies to filings required by commission order.

Proposed §22.71(b) - Definition of "commission filing system"

Proposed §22.71(b) defines the term "commission filing system as "the electronic filing system maintained for the archiving and organization of items and materials received by the commission."

The commission deletes proposed §22.71(b) from the adopted rule and restructures the adopted rule to create two distinct filing methods: one for documents that are filed to be posted to the commission's Interchange and the other for documents to be filed using an alternative filing method. For clarity, the Interchange is a commission-run website through which the public can access documents filed either electronically or physically with the commission. To file items electronically for posting on the Interchange, the public uses the Interchange Filer, an internet application found on the commission's website. To file items physically for posting on the Interchange, the public uses the commission's Central Records office.

TPPA recommended adding a definition for "filer" or "filing party" to §22.71(b) that would include commission staff. TPPA also recommended distinguishing between the terms "commission staff and "employee of the Commission" if there is a distinction. If there is no distinction between the terms, TPPA recommended utilizing a single term.

Commission response

The commission declines to introduce additional defined terms because it is unnecessary. The commission agrees with TPPA's suggestion to clarify terms and modifies the usage of "commission staff" and "employee of the commission" throughout the rule to reflect that, for purposes of this section, the former is a collective noun describing functions of the staff of the commission generally (maintaining lists on the commission's website) and the latter is used in reference to individual members of the staff (signing a non-disclosure form to access confidential data). This usage pattern is adopted in this rule to distinguish the terms use in this rule from being conflated with its usage in other contexts to refer to "Commission Staff," the party representing the public interest on behalf of the commission in proceedings with a tariff or an assigned docket control number. This is largely an operational rule, and the term is used in an operational manner.

Adopted §22.71(b)(2) - Internet applications and portals

The commission adds adopted §22.71(b)(2) to describe distinctly a second method for filing documents with the commission. The commission recognizes that, as technologies evolve, alternative filings methods may provide the commission, the public, and regulated communities with more efficient means to collect and process information the commission requires to exercise its authorities. An example of an alternative filing method is the commission's new Compliance Reporting Portal, which was launched on July 15, 2025 to provide an efficient vehicle for the collection and analysis of data related to monthly transmission construction progress reports required under §25.83, relating to Transmission Construction Reports. In the adopted rule, the commission enables the development of these alternative filing methods and directs commission staff to propose for the commission's consideration filing instructions and procedures for each new alternative filing method created.

Proposed §22.71(c) - Filing methods and procedure

Proposed §22.71(c) establishes the form and manner in which filings may be filed and posted by the commission filing system.

The commission modifies proposed §22.71(c) to remove references to the commission filing system and add a paragraph that each item filed in accordance with §22.71 will serve as the agency's official copy of record. In addition, the commission modifies the proposed rule to clarify that any item to be posted to the Interchange may be filed using the Interchange Filer, the commission's internet application used to post files to the Interchange, or by delivering a physical copy to Central Records unless a commission rule, statute, or an order from a presiding officer instructs otherwise.

TAWC recommended the rule be revised to mandate electronic filing for all documents except for Highly Sensitive Protected Material (HSPM) which should be physically filed.

Commission response

The commission declines to implement the recommended change. Requiring electronic filing of all documents except for HSPM is contrary to the public interest and commission practice. The capability to physically file documents with the commission may be advantageous to some filers, such as individual consumers or pro se litigants. In the interest of maximizing public participation and accessibility, the commission maintains the capability to file physical copies of documents.

TPPA requested clarification as to whether a commission-prescribed form is required when requesting a control number for new projects.

Commission response

There is no external commission-prescribed form for requesting a control number.

Proposed §22.71(c)(2) - Posting of filings

Proposed §22.71(c)(2) requires "all items required to be filed with the commission using the commission filing system, including confidential filings" to be posted on the commission filing system "[u]nless otherwise required by commission rule, statute, or ordered by the presiding officer."

TAWC noted that the method for posting physical filings on the commission filing system is ambiguous in proposed § 22.71(c)(2). TAWC emphasized that HSPM should not be posted on the commission filing system "in any form."

Commission response

The commission disagrees with TAWC and declines to implement the recommended change. All documents covered by adopted §22.71(b)(1) will be posted to the Interchange. Confi-

dential filings, including those that contain HSPM, are subject to access and content limitations under adopted §22.71(j).

SPS requested clarification as to whether proposed §22.71(c)(2) means that the contents of a confidential filing will be posted on the commission filing system, or only a record indicating a confidential filing was made. SPS emphasized such clarification would ensure that confidential information is not publicly posted. SPS further stated that the public disclosure of confidential information would be inconsistent with current commission practice and the commission's standard protective order. SPS provided draft language consistent with its recommendation.

Commission response

The contents of a confidential filing will not be publicly accessible except to those who meet the criteria enumerated under adopted §22.71(j)(6). The Interchange will display that a confidential filing has been made but the confidential material will not be publicly posted.

Proposed §§22.71(d), 22.71(d)(1) and 22.71(d)(2) - Special filing requirements

Proposed §22.71(d) and §22.71(d)(1) establish specific filing requirements for certain types of documents or other materials filed with the commission. Proposed §22.71(d)(2) requires both the electronic filing of the items specified under §22.71(d)(2)(A) and (B) and the filing of two physical copies of those items.

TAWC commented that the requirements to provide physical copies for certain types of proceedings under §22.71(d) would be costly, unnecessary, and undercut the benefits of electronic filing. TAWC recommended that water and sewer utility applications should be excluded from any requirement to file physical copies with the commission. TAWC alternatively recommended that §22.71(d)(2)(B) be revised to identify whether the requirement applies to water and sewer utility sale, transfer, and merger (STM) applications.

Commission response

The commission disagrees with TAWC and declines to implement the recommended change. The specific filing requirements for the items listed under §22.71(d) were carefully considered in response to the specific qualities of those items and the attendant issues that accompany them. For example, the physical copy filing requirement for applications for new or amended certificates of convenience and necessity (CCNs) under §22.71(d)(2)(B) was added because those applications are generally voluminous (i.e. hundreds of pages). Physical copies of such applications are generally useful for commissioner offices and the different divisions that review and process those cases. It is appropriate for applicants, not the commission, to bear the costs to print and organize applications appropriately.

In response to TAWC's concerns about STM applications, those proceedings almost always necessitate a CCN amendment. In practice, §22.71(d)(2)(B) may require the filing of the entire STM application, including the CCN amendment, physically, if the two actions are inseparable. It is at the utility's discretion to separate the STM portion of the application from the CCN portion of the application to the extent possible if the utility does not want to file both physically.

Proposed §22.71(d)(1)(A) - Filing requirements for letters of credit

Proposed §22.71(d)(1)(A) requires a copy of an original letter of credit to be filed electronically, unless otherwise required by commission staff or the presiding officer. The provision also authorizes an "employee of the commission or a presiding officer may require the original or one or more copies of the original letter of credit to be physically filed."

TPPA and TEAM recommended that the option to file a physical letter of credit with the commission should be retained. TPPA noted that §22.71(d)(1)(A), which pertains to copies of letters of credit, should be preserved as "original letters of credit cannot be reproduced" by commission staff. TEAM recommended that the option to file a physical letter of credit should be maintained in proposed §22.71(d)(1)(A) because the commission has historically required retail electric providers to file physical copies of letters of credit in Project 37919. Specifically, TEAM explained that the commission, as the beneficiary of letters of credit, has historically required retail electric providers to file physical copies of letters of credit. TEAM noted that §25.107(f), relating to Certification and Obligations of Retail Electric Providers (REPs) for original letters of credit to be "provided in a manner established by the commission" and does expressly preclude the provision of physical copies. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to preserve generally the physical filing option for letters of credit. Transitioning to electronic-only filing of letters of credit will facilitate more efficient work by the commission. Currently, the process for presentation (i.e., drawing), amending, and cancelling physical letters of credit is onerous and time intensive. These efforts can be streamlined through the usage of electronic letters of credit. The commission revises proposed §22.71(d)(1)(A) to require irrevocable stand-by letters of credit provided in accordance with §25.107, relating to Certification and Obligations of Retail Electric Providers (REPs), and filed with the commission to be original letters of credit that are filed electronically using the Interchange Filer. The commission further requires such original letters of credit to provide some means of authentication to prove the letter of credit is an original, such as an electronic signature. The commission establishes a phase-in date of March 5, 2027 for retail electric providers that have physical letters of credit on file with the commission to transition to electronically filed original letters of credit.

The commission also adds new §22.71(d)(1)(B) to account for letters of credit filed in accordance with §25.510 of this title, relating to Texas Energy Fund In-ERCOT Generation Loan Program, to exempt those letters of credit from being filed on the Interchange and instead require filing with the commission "in a form and manner specified by the executive director or his or her designee."

Proposed §22.71(d)(1)(B)(ii) and §22.71(d)(2)(A) and (B) - Physical filing requirements for maps and certain proceedings.

Proposed §22.71(d)(1)(B)(ii) requires "an applicant initiating a CCN proceeding under §25.101, relating to Certification Criteria to provide six physical copies of any maps filed electronically." The provision further establishes that the requirement for six physical copies for maps is in addition to the two physical copies required under §22.72(d)(2), as applicable. Proposed §22.71(d)(2)(A) and (B) respectively require the electronic filing plus two physical copies of "[a]pplications and notices of intent in electric base rate proceedings" and "[a]pplications for new or amended electric, water, or sewer certificates of convenience and necessity, including any maps."

Oncor recommended the provisions in proposed §22.71(d)(1) and (d)(2) concerning the physical filings of certain documents be revised for clarity. Specifically, Oncor recommended proposed §22.71(d)(1)(B)(ii), which requires an applicant initiating a CCN proceeding under §25.101, relating to Certification Criteria to provide six physical copies of any maps filed electronically, be deleted and proposed §22.71(d)(2)(B), which requires the additional filing of two physical copies of maps, to be revised to require eight physical copies of maps. Oncor commented that, as written, the two requirements may be redundant and cause confusion. Oncor alternatively recommended that if proposed §22.7(d)(1)(B)(ii) and proposed §22.71(d)(2)(B) are not consolidated, then the provisions be clarified as to whether the set of six physical copies required under proposed §22.7(d)(1)(B)(ii) be filed together with, or separately from, the set of two physical copies required under proposed §22.71(d)(2)(B). Oncor further recommended the phrase "physically filed" in proposed §22.71(d)(2) should be replaced with the phrase "provided to Central Records" for consistency with proposed §22.71(d)(1)(B)(ii) and to prevent duplicates from being filed in the proceeding. Oncor also requested clarity as to whether the filer is required to provide the physical copies required under proposed §22.71(d)(2) on the same date the electronic filing is made. Oncor expressed a preference for providing such physical copies as soon as is reasonably practicable after the electronic filing is made. Oncor emphasized the complexities that filing physical copies of CCN cases would entail and accordingly recommended that, if proposed §22.71(d)(1)(B)(ii) were to be retained, the timeframe for the physical filing of CCN documents be expanded to when reasonably practicable after electronic filing. Oncor provided draft language consistent with its recommendations.

Commission response

The commission agrees with Oncor and implements the recommended changes. Specifically, the commission moves the physical document requirements of proposed §22.71(d)(1)(B)(ii) into adopted §22.71(d)(2)(C) and makes further clarifying revisions indicating that physical copies of the documents listed under §22.71(d)(2) may be provided "as soon as reasonably practicable following the electronic filing" with an appropriate identifying cover letter identifying the applicable control number.

Proposed §22.71(d)(1)(B)(iii) and §22.71(d)(3) - Additional physical copies of maps and other filings, required by an employee of the commission or a presiding officer

Proposed §22.71(d)(1)(B)(iii) and §22.71(d)(3) authorize an employee of the commission or a presiding officer to require additional physical copies of maps or other filings, respectively.

TPPA recommended the deletion of proposed §22.71(d)(1)(B)(iii) and (d)(3), which variously authorize commission staff to request additional physical copies of a filing..

TPPA explained that the provisions would be unnecessarily burdensome for both commission staff and filing parties, and that commission staff could print the documents from the commission filing system.

Commission response

The commission disagrees with TPPA and declines to implement the recommended change for the stated reason. The rationale for requiring physical copies of certain documents from filers is to conserve commission staff time and the taxpayer-funded resources of the commission. Maps and the applications listed under §22.71(d)(2) are frequently printed out for commission review, but in some instances the nature, size, or organization of a document may make this impracticable. It is appropriate for the filer, not the public, to bear these costs. However, proposed §22.71(d)(1)(B)(iii) is redundant with the broader requirement stated under proposed §22.71(d)(3). Accordingly, the commission deletes §22.71(d)(1)(B)(iii).

Proposed §22.71(d)(2)(A) - Physical filing of copies of applications and notices of intent in electric base rate proceedings.

CenterPoint recommended deleting the requirement to file two physical copies of rate case applications under §22.71(d)(2)(A). CenterPoint explained that there is little benefit to imposing such a requirement and instead recommended that physical copies of rate case filings be provided "only upon request" as in proposed §22.71(d)(1)(B)(i).

Commission response

The commission disagrees with CenterPoint and declines to implement the recommended change. Requiring two physical copies (one copy for commissioner officers and one copy for commission advisors and other divisions) of applications and notices of intent in electric base rate proceedings was deemed to be the least burdensome on filers while still facilitating efficient work by the commission. Physical copies of such applications and notices are preferable because a considerable amount of staff time and resources is spent checking assertions in briefs, pleadings, and proposed orders.

Proposed §22.71(e) - Receipt by the commission and filing deadline

Proposed §22.71(e) provides that items filed with the commission will be processed by Central Records or the commission filing system.

Proposed §22.71(e)(1) - Rejection of filings by Central Records

Proposed §22.71(e)(1) authorizes Central Records to reject a filing if the filing does not contain information necessary for accurate filing, which specifically includes the criteria under §22.71(e)(1)(A)-(C).

The commission modifies §22.71(e)(1)(C) to narrow Central Records' authority to reject a confidential filing that does not meet the requirements of §22.71(j)(1)(A) or §22.71(j)(1)(F).

SPS recommended deleting the authorization for Central Records to reject a filing if the filing "does not contain information necessary for accurate filing" in proposed §22.71(e)(1). SPS emphasized that such an authorization is ambiguous, subjective, and unnecessarily broad that would create uncertainty for filers. SPS recommended that filings should be rejected only for the three specific reasons specified in §22.71(e)(1)(A)-(B) to promote certainty. SPS provided draft language consistent with its recommendation.

Commission response

The commission agrees with SPS and implements the recommended change which would make the criteria for which Central Records may reject a filing exhaustive. However, the commission adds two new criteria for which Central Records may reject a filing. Specifically, the commission adds new §22.71(e)(1)(D), which authorizes Central Records to reject a filing that "may pose a risk to the commission, its employees, or the commission electronic system (e.g. suspicious packages, spam, suspected

viruses or malware)". This prohibition is generally derived from Chapter 11 of the Texas Civil Practices and Remedies Code. The commission also adds new §22.71(e)(1)(E), which authorizes Central Records to reject external hard drives or other external storage devices for digital media that are prohibited by Central Records under §22.72(b)(2). This prohibition is to minimize the risk of cybersecurity breaches or the usage of external storage devices for digital media that have already been expressly disallowed by Central Records.

SPS requested that §22.71(e)(1) be revised to clarify how the rejection of a filing may impact the original filing date and time. Specifically, SPS recommended that the rejection of a timely filing should not result in the filing being deemed no longer timely if it is re-filed after the filing deadline. SPS also recommended that §22.71(e)(1) be revised to indicate whether a filer has the opportunity to cure an issue that results in the rejection of a filing. SPS emphasized that such clarifications are necessary for filers to manage compliance risks, given the potential significant consequences of missing filing deadlines for what may otherwise be curable oversights.

Commission response

The commission declines to implement the recommended change. A filing that Central Records has rejected and is later re-filed will not be backdated to the original date and time of the initial filing that was rejected. The risk of a late filing is borne by the filer if it files documents close to a deadline. Such risks include technical glitches, loss of connection, and rejection of a filing by Central Records. To the extent a subsequently re-filed item is late and extenuating circumstances exist, a filer can include an explanation in the filing and seek leave from the presiding officer- or commission staff, when appropriate - or otherwise request an exception from the presiding officer.

Proposed §22.71(e)(1)(B) - Rejection of filing lacking minimally necessary identifying information

Proposed §22.71(e)(1)(B) authorizes Central Records to reject a filing if the filing does not contain minimally necessary identifying information such as the control number or the filer's complete contact information.

TAWC and TEAM recommended that proposed §22.71(e)(1)(B) be revised to clarify what is meant by the phrase "minimally necessary identifying information" and the filer's "complete contact information" in the context of when Central Records may reject a filing. TAWC recommended enumerating what this phrase means, such as the filer's name, address, phone number, and e-mail address.

Commission response

The commission declines to implement the recommended change. "Complete contact information" is the filing party's valid contact information as it relates to the specific filing. Stated differently, what "complete contact information" includes may vary between filings (e.g., a pleading filed in a contested case, an application or petition, rulemaking comments, etc.). In the context of filings generally, "complete contact information" means sufficient information for Central Records to contact the filer plus any additional information required by applicable law, rule, or order.

Proposed §22.71(e)(2)-(4) - Processing and date-stamping of electronic and physical filings

Proposed §22.71(e)(2) describes the filing process for physical filings by Central Records. Proposed §22.71(e)(3) describes the filing process for electronic filings by the commission filing system. Proposed §22.71(e)(4) provides that an item date-stamped before at 5:00:00 p.m. on a working day will be deemed filed on that day and a filing date-stamped after that time on a working day will be deemed filed on the next working day. The provision also establishes that an "item date-stamped at any time on a day that is not a working day will be deemed filed on the next working day."

TPPA, TEAM, and SPS commented that the time period for deeming an item as filed is ambiguous and recommended the procedure be clarified. TPPA and SPS argued that the new processes and timelines for when an item is deemed filed introduced by proposed §22.71(e)(2)-(4) should be revised to conform to existing policy where a physical filing is deemed filed upon delivery to Central Records and an electronic filing is deemed filed upon submission to the commission filing system. TPPA and SPS emphasized that it is critically important for filers to know the timeframe for an item to be deemed filed to ensure that commission deadlines are met. TPPA explained that, currently, an item is deemed filed when it is presented to Central Records, however, under the proposed rule, an item is deemed filed when processed by Central Records. As a point of comparison, TPPA noted that under proposed §22.71(h)(3) physical filings, confidential filings, and requests for new control numbers may not be "processed" by Central Records until the next working day. TPPA noted that the timeline for such processing is "undefined and unclear," and that the existing commission practice, by comparison, is more reliable and certain for filers. TPPA alternatively recommended that if the processes in proposed §22.71(e)(2)-(4) are retained, Central Records be required to "expeditiously" date stamp filings and assign control numbers to ensure filers can reliably meet commission filing deadlines. SPS noted that, as proposed, the rule does not sufficiently distinguish between a filing being processed by Central Records and a filing that is potentially deficient and requires correction. TEAM generally supported revisions that minimize ambiguity surrounding when an electronic filing is deemed filed and endorsed a straightforward process for a party to defend against allegations of a late filing."

Commission response

The commission revises the physical filing process described under §22.71(e)(2) for clarity. Specifically, the commission revises the provision to state "[u]pon receipt of an item by physical filing, Central Records will date stamp the item, post the item on the Interchange in the control number specified by the filer, and assign the item an item number in accordance with the order the filing was received." The commission also makes conforming edits to the electronic filing process described under §22.71(e)(3): "[u]pon receipt of an item by electronic filing, the Interchange Filer will process and date stamp the item, post the item in the control number specified by the filer, and assign the item an item number in accordance with the order the filing was received."

With regards to the general concern as to the timely date-stamping of items, whether filed electronically or physically, the commission reminds stakeholders of the difference between the commission's receipt of an item to be filed and the actual filing of the item. Typically, the time difference between these two actions is measured in a few minutes, if not seconds, for both electronic and physical filing. However, lengthier delays may occur in the event that numerous filers attempt to file voluminous

items simultaneously. For example, if several filers attempt to physically file hundreds of pages at 4:45 p.m., a queue will be formed outside of the Central Records office. The filers towards the back of the queue risk not having their material filed (i.e., date-stamped) until after 5:00 p.m. that working day. The same can be said for the Interchange Filer or any alternative method of filing with the commission (in which case the queue is virtual, but the same principle applies. The new rule language merely restates current commission practice for date-stamping items, but more accurately and explicitly details that process for each method of filing.

In response to SPS' comment concerning the appropriate level of distinction between processing a filing and deficient filings, the aforementioned revisions to §22.71(e)(2) and (e)(3) should address this concern. As stated previously, if a filing is rejected by Central Records for the criteria specified under §22.71(e)(1), the re-filed filing is not backdated to the time of the original filing.

Proposed §22.71(e)(3) - Electronic filing process

CenterPoint and AEP recommended that proposed §22.71(e)(3) be revised to clarify that the written receipt that is automatically created by the commission's electronic filing system serves as a date stamp for an electronic filing. CenterPoint explained this would clarify what timely filing means in the context of electronic filings and addresses any issues that may arise surrounding delays between the actual time of filing and the appearance of the filing on the commission filing system. CenterPoint provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. The e-mailed receipt of filing is not the "date stamp" identifying the time when a filing is deemed to be filed; the receipt only includes the date stamp which will always precede the time the receipt is issued. The clarifying revisions to §22.71(e)(3) made previously should address commenter concerns. Additionally, if the circumstances merit, the filer may elect to provide the e-mailed receipt of filing as support for a petition for a good cause exception.

TAWC and SPS recommended proposed §22.71(e)(3) be clarified to identify when an item is deemed filed if the commission filing system malfunctions or is otherwise unavailable. Specifically, TAWC recommended the provision be revised to state that, in such an event, Central Records to "date stamp the electronic filing with a date stamp matching the date and time on the E-filing Receipt generated by the Commission's filing system" or, if the commission filing system does not otherwise generate a filing receipt, authorizing the filing party to submit an affidavit that attests to the date and time the filing was made.

Commission response

The commission declines to modify the rule to require Central Records to use the date on the filing receipt as the filing date in the instance that the Interchange, Interchange Filer, or an alternative filing method of filing with the commission malfunctions or are otherwise unavailable. The commission encourages filers to not wait until the last minute to make filings to avoid this scenario. However, §22.5(b), relating to Suspension of Rules and Commission-Prescribed Forms, provides presiding officers with discretion to make exceptions to procedural rules for good cause. Additionally, in many proceedings that are not contested cases, the relevant administrator with discretion over a requirement (e.g., commission staff for rulemaking deadlines) may be contacted with information concerning a malfunction leading to the inability of a filer to make a timely filing.

Proposed §22.71(e)(4) - Date stamping of items

Vistra, TAWC, TCPA recommended the filing deadline in proposed §22.71(e)(4) be extended from 5:00 p.m. to midnight. CenterPoint opposed Vistra, TAWC, and TCPA's recommendation and expressed a preference for the 5:00 deadline in the proposed rule. LCRA generally recommended the filing deadlines be revised and clarified given their importance to parties in commission proceedings. TAWC remarked that the deadline should be extended because of the 24/7 availability of electronic filing as highlighted by proposed §22.71(g)(3). Vistra commented that the commission has historically exempted certain projects that are not "proceedings" as defined by §22.2(35), relating to Definitions, and accordingly could be filed prior to midnight on the due date. Vistra noted that this could be accomplished by distinguishing deadlines for contested case dockets from deadlines for projects. Vistra explained that such a distinction would enable parties in contested case dockets to rely on clear deadlines established by the docket's procedural schedule while not confusing participants in other commission projects that may be unfamiliar with commission filing requirements. Vistra also noted that extending the filing deadline from 5:00 p.m. to midnight would also diminish the chance of one party receiving a "prejudicial advantage" over another. Vistra provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. A uniform, default filing deadline of 5:00 p.m. is being considered across Chapter 22 as part of the Chapter 22 rule review under Project 56574. Moreover, different deadlines for electronic filings and physical filings would be difficult to implement. Additionally, some parts of the commission's electronic systems, such as the Interchange Filer, may be scheduled for downtime after 5:00 p.m. on working days. A midnight filing deadline would interfere with this maintenance schedule.

Oncor did not take a position on whether the commission should extend the filing deadline to midnight, but noted that if the change is implemented, it is essential to clarify whether the revised deadline conflicts with the 3:00 p.m. deadline for service of request for information under §22.144(b)(2). Oncor emphasized that, given the volume of RFIs that may be served on utilities in certain proceedings such as rate cases, it is of critical importance that the RFI filing deadline not be impacted by any extension of the filing deadline. Oncor noted that this clarification is of particular importance in light of its other recommendation concerning whether the physical filing requirements for certain documents such as maps in the proposed rule must be provided contemporaneously with the physical filing or may be provided within a reasonable time period.

Oncor and CenterPoint requested clarification as to whether the 5:00 p.m. filing deadline in proposed §22.71(e)(4) includes responses to discovery. Oncor further requested clarification as to whether the 5:00 p.m. filing deadline in proposed §22.71(e)(4) is compatible with or otherwise modifies the 3:00 p.m. deadline for requests for information in §22.144(b)(2), relating to Requests for Information and Requests for Admission of Facts. LCRA generally supported clarifying the proposed filing deadlines given their importance to parties in commission proceedings.

Commission response

The 5:00 p.m. filing deadline under §22.71(e)(4) extends to discovery responses. The commission has proposed conforming revisions in the Chapter 22 rule review under Project 56574 (i.e., Projects 58400, 58401, and 58402) to align with the new 5:00 p.m. filing deadline in §22.71. Specifically, the deadline for requests for information under §22.144(b)(2), relating to Requests for Information and Requests for Admission of Facts has been proposed to be revised to 5:00 P.M under Project 58401. The deadline for filing requests for oral argument under §22.262(d)(3), relating to commission action after a proposal for decision has similarly been proposed to be revised to 5:00 p.m. under Project 58402. However, the commission clarifies that a presiding officer or commission staff, if the matter is related to a non-contested case proceeding, can set a specific filing deadline different from the standard established under §22.71(e)(4).

TPPA recommended that proposed §22.71(e)(4) be revised to clarify that the 5:00 p.m. filing deadline is measured in Central Time to reduce ambiguity.

Commission response

The commission agrees with TPPA and revises §22.71(e)(4) to state that the 5:00 p.m. filing deadline is measured in Central Prevailing Time.

Proposed §22.71(e)(5) - Responsibility of filer for delays, disruption, or interruption of filing

TAWC, SPS, and TPPA recommended that proposed §22.71(e)(5), which holds filers responsible for any delay, disruption, or interruption associated with filing a document with the commission, should be deleted from the rule. TEAM generally endorsed additional specificity regarding filings that were otherwise timely submitted, but experienced a processing delay due to connectivity issues due to an issue with the commission filing system to reduce ambiguity. TAWC and SPS commented that the provision is overly broad and unfair to filers, as it effectively holds filers responsible for any instance where the commission filing system is unavailable through no fault of the filer. TAWC recommended the provision be revised to state that filers are not responsible for "'any delay, disruption, or interruption' of the Commission's filing system that is on the Commission's side of the interface such that all filings made in a specific period were affected."

Commission response

It is appropriate that the burden of timely filing rests with the filer, because the filer is in the best position to prevent filing errors. Filers can promote better outcomes by filing in advanced of a deadlines, just as filers could previously mail in filing early to protect against postal delays. As previously stated, §22.5(b) provides for good cause exceptions to the commission's procedural rules. In many proceedings that are not contested cases, the same may be requested from commission staff or the presiding officer.

SPS, TPPA, and AEP further requested that, if the provision is retained and filers are held accountable for filing interruptions or delays associated with the commission filing system, filers be provided advance notification of planned downtime for the commission filing system.

Commission response

The commission declines to implement the recommended change because it is unnecessary. Any planned downtime is always scheduled after 5:00 p.m. on working days. In the event there is an issue with the commission's electronic systems during business hours, the current practice is to post a notice on the commission's website.

TPPA, LCRA, and TEAM recommended proposed §22.71(e) be revised to provide the option for a filer to request a good cause exception for delays of a filing caused by third parties or other external factors beyond the filer's control. TPPA noted that proposed §22.71(g)(3) identifies several instances where the commission filing system may be unavailable that are outside of the control of filers. TPPA commented that such instances of unavailability should accordingly not be the responsibility of filers. In the same vein, TPPA recommended clarifying that delays or interruptions associated with "internet or electronic signals" be restricted only to delays or interruptions experienced by the filer, not disruptions or outages of the commission filing system itself. LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended changes because it is unnecessary. The risk of late filing is borne by the filer. As stated previously, §22.5(b) serves as a good cause exception for late filings in contested cases. In many proceedings that are not contested cases, the same may be requested from commission staff or the presiding officer.

New §22.71(e)(6) - Exception to late filing due to unavailability of commission filing system

TEAM, TCPA, TPPA, and AEP recommended a new provision stating that any loss of connectivity on the commission side of the commission filing system will not result in legal consequences, such as missing a filing deadline, for a party that submits a filing while the commission filing system is unavailable. Specifically, TEAM recommended addressing this issue by exempting such instances through the addition of new §22.71(e)(6). TEAM explained that a filing submitted during such a period of unavailability could result in a timely-submitted filing being date stamp at the time the commission filing system was restored, rather than the time the document was actually filed. TAWC provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the new provision because it is unnecessary. As stated previously, §22.5(b) serves as a good cause exception to procedural rules. In many proceedings that are not contested cases, the same may be requested from commission staff or the presiding officer.

Proposed §22.71(g) - Availability of Central Records

Proposed §22.71(g) establishes the availability of Central Records for physical filings, the office hours of Central Records, and the availability of the commission filing system.

The commission restructures proposed §22.71(g) into §22.71(g)(1) which relates to availability for physical filings and §22.71(g)(2) which relates to availability for electronic filings. Specifically, proposed §22.71(g)(2)(A) and (B) are moved to adopted §22.71(g)(1)(A) and (B) and relabeled "Regular business hours" and "Supplemental business hours for commission employees", respectively. Proposed §22.71(g)(3) is renumbered as adopted §22.71(g)(2) and relabeled "Electronic filing".

Proposed §§22.71(g)(2) and §22.71(g)(2)(A) - Office Hours of Central Records

Proposed §22.71(g)(2) provides the office hours of Central Records. Specifically, proposed §22.71(g)(2)(A) provides that "[t]he office hours of Central Records are from 9:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, on working days, except on open meeting days, the working day immediately preceding an open meeting day, and emergencies or days with inclement weather." Proposed §22.71(g)(2)(B) provides that Central Records will be will be open from 8:00 a.m. to 5:00 p.m. on open meeting days and the day prior to open meeting days: The provision also limits the availability of physical filing on those days only to "commissioners, commission counsel, and the commission employees in the Office of Policy and Docket Management (OPDM)" between the hours of 8:00 A.M and 9:00 a.m. and 12 noon to 1:00 p.m..

Proposed §22.71(g)(2)(A) - Normal Office Hours of Central Records

TAWC and TPPA requested clarification on the standard for closure of Central Records as indicated by the phrase "days with inclement weather" in proposed §22.71(g)(2). TAWC and TPPA commented that more specific language tied to an identifiable and objective benchmark, such as a severe weather alert for Travis County announced by the Office of the Governor, would provide more clarity for parties seeking to file physically.

Commission response

The commission revises proposed §22.71(g)(1)(A) to replace the phrase "emergencies or days with inclement weather" with "in the case of an emergency or inclement weather." The commission declines to tie the closure of Central Records to an identifiable or objective benchmark such as severe weather alerts issued by Travis County or the Office of the Governor as there may be instances in which the commission is not closed but staff are either sent home early or directed to telework. The rule appropriately recognizes and prioritizes the safety of Commission Central Records personnel over precision in this context.

TPPA and TEAM recommended that the new Central Records office hours in proposed §22.71(g)(2)(A) and (B) not be implemented. Specifically, TPPA recommended the existing Central Records office hours of "9:00 a.m. to 5:00 p.m. Monday through Thursday, and from 9:00 a.m. to noon and 1:00 p.m. to 5:00 p.m. on Fridays" be retained. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. The proposed office hours reflect the actual availability of Central Records personnel. Specifically, the revised office hours are to account for a lunch break. Moreover, the availability of Central Records is only relevant for physical submissions which are made far more infrequently than electronic filings, even with the requirements under §22.71(d). The specific restrictions on physical filings under proposed §22.71(g)(2)(B) that are redesignated under adopted §22.71(g)(1)(B), are important for commission advising in preparing for Open Meetings.

Proposed §22.71(g)(3) - Availability of commission filing system

Proposed §22.71(g)(3) establishes that the commission filing system "will be available for electronic filing 24 hours a day, seven days a week, unless taken down for maintenance, emergency, loss of connectivity, or as otherwise determined by Central Records."

SPS, TEAM, and AEP recommended that advance notification of planned downtime for the commission filing system should be required, particularly if filers are made responsible for delays in a filing associated with such downtime. SPS emphasized that providing advance notification regarding the unavailability of the commission filing system would minimize disruptions for all parties to commission proceedings and provide certainty for filers when planning to meet commission deadlines. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. Any planned maintenance occurs after 5:00 p.m. on working days, which aligns with the process for date stamping of filings under §22.71(e)(4).

TPPA recommended that the phrase "or as otherwise determined by Central Records," as it relates to the criteria where the commission filing system may be taken offline, be deleted because it is unnecessarily ambiguous. TPPA asserted that the criteria for rendering the commission filing system unavailable should be explicit and specific so as to not risk a filer's ability to meet filing deadlines and for consistency with other exceptions in the rule.

Commission response

The commission disagrees with TPPA and declines to implement the recommended change. The proposed revision would eliminate all discretion from Central Records in the context of taking the Interchange Filer offline if necessary to ensure the proper functioning of the Interchange Filer (e.g., due to a cybersecurity threat, a systemic issue with processing filings, etc.). The criteria for taking the Interchange Filer offline under adopted §22.71(g)(2) are fairly limited and specific; and Central Records should not be unnecessarily constrained by having to wait and determine if a future undefined event meets one of those criteria.

New §22.71(g)(4) - Availability of commission filing system and computation of time

TAWC and TEAM requested clarification as to whether the days in which the commission filing system is unavailable under proposed §22.71(g)(3) will not interfere with the methodology the commission uses for counting days under §22.4, relating to Computation of Time. TEAM recommended new §22.71(g)(4) be added to the rule to indicate that the computation of time under §22.4 is not modified by the availability of the commission filing system under proposed §22.71(g)(3). TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement TEAM's recommended change because it is unnecessary. In terms of the interaction between adopted §22.71(g)(2) and §22.4, the day the Interchange Filer may be offline and unavailable is not necessarily the same as a day the commission is not open for business. It is possible that such dates may overlap, but the general availability of the Interchange Filer under adopted §22.71(g)(2) does not affect the computation of time under §22.4.

Proposed §22.71(h) and §22.71(h)(1)-(4) - Availability of items filed with the commission.

Proposed §22.71(h) establishes the availability of items filed with the commission electronically or physically, certain qualifications for physical filings, and the process for voiding a filing. Proposed §22.71(h)(1) provides that an electronic filing will be available for

access once accepted and processed by the commission filing system," and once processed, "a written receipt will be automatically generated and electronically sent to the filing party identifying the date and time the filing was accepted by the commission's filing system." Proposed §22.71(h)(2) provides that a physical filing "will be available for access on the commission filing system once processed by Central Records." Proposed §22.71(h)(3) establishes that a "physical filing, request for a new control number, or an item designated as confidential might not be processed or appear on the commission filing system until the next working day after the filing is processed by Central Records." Proposed §22.71(h)(4) establishes that, for electronic filings, "when the item becomes available on the commission filing system, [an] email notification will be sent to the filing party. If the item does not appear on the commission filing system, the filer is responsible for notifying Central Records to correct the filing."

SPS recommended that proposed §22.71(h)(1) be revised to require Central Records to notify a filer of a rejected filing, how the filer will be notified, and a time period for Central Records to issue such a notification. SPS stated that these changes would assist filers in timely rectifying any filing deficiencies.

Commission response

The commission generally agrees with SPS and adds new §22.71(h)(5) that states "[i]f a filing is rejected in accordance with subsection (e) of this section, Central Records will make reasonable efforts to notify the filer of the rejection."

TEAM and SPS recommended that proposed §22.71(h)(1)-(4) be revised to address inconsistencies with current commission practice. Specifically, TEAM and SPS commented that the provisions concerning the availability of electronic filings under proposed §22.71(h)(1)-(4) do not align with the two-step email process currently used by the commission for electronic filing where a notification of receipt followed by a notification of filing is issued to the filer. TEAM maintained that the current practice of issuing notification of filing should be preserved, even if the notification of receipt is no longer issued in the future. TEAM provided draft language consistent with its recommendation.

Commission response

The commission revises proposed §22.71(h)(1) to indicate that an electronic filing "will be available for access on the Interchange once accepted and posted by the Interchange Filer" and that "[o]nce a filing is posted and accessible on the Interchange" a written receipt will be automatically generated and electronically sent to the filer. The commission also revises §22.71(h)(3) by deleting the reference to the appearance of a filing on the commission filing system as it is superfluous of the process stated in previous provisions and given that the term is being omitted from the rule.

To clarify, there is a two-step e-mail notification process associated with the Interchange Filer, the first e-mail is a courtesy notification indicating that the commission has received the item to be filed, and the second e-mail- referenced in both proposed §22.71(h)(1) and (h)(4)- is the substantive notification indicating that the item has been accepted and date stamped (i.e. filed).

Proposed §22.71(h)(3) - Qualifications on the appearance of physical filings

Entergy, TEAM, and TAWC recommended that proposed §22.71(h)(3) be revised to explicitly state that a filed item designated as confidential or as highly sensitive protected material that is timely filed but is not processed by the commission filing system or does not otherwise appear on the commission filing system until the next working day would not be considered late. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The date stamping of filings is addressed under §22.71(e)(2)-(4). In contrast, adopted §22.71(h) only concerns the availability of documents on the Interchange. Stated differently, the appearance of an item on the Interchange under adopted §22.71(h) has no effect on when an item is date stamped (i.e., filed), which is governed by adopted §22.71(e). In the example provided by commenters, the physical filing designated as confidential would be considered timely filed if the physical filing is date stamped that day.

Proposed §22.71(h)(4) - E-mail notifications for electronic filings and notification of Central Records for filings that do not appear on the commission filing system.

TAWC and SPS requested clarification as to whether the email notification regarding the processing and availability of a filing referenced by proposed §22.71(h)(4) is a separate notification from the filing receipt referenced under proposed §22.71(h)(1) because, as proposed, the provisions are unclear as to whether there is a distinction.

Commission response

As stated previously, the two-step notification process for filing made on the Interchange is as follows: the first e-mail is a courtesy notification indicating that the commission has received the item to be filed, and the second e-mail is the substantive notification indicates that the item has been accepted and date stamped (i.e. filed). The e-mail referenced under proposed §22.71(h)(1) and §22.71(h)(4) is the second, substantive e-mail notification. For clarity, the commission deletes the first sentence in §22.71(h)(4) referencing the e-mail notification for electronic filings so that the reference to the substantive e-mail notification remains only under §22.71(h)(1).

TPPA recommended that proposed §22.71(h)(4) be revised to specify a timeline for when a filing will appear on the commission filing system. TPPA noted that such a revision is necessary to inform filers as to whether a filing is still being processed or whether the party must contact Central Records to correct a deficiency in the filing.

Commission response

The commission declines to implement the recommended change. Prescribing a timeline of availability for the appearance of a filing on the Interchange would be burdensome on Central Records and commission staff and provide little benefit. The timeline for a filing to appear on the Interchange depends on whether the filing was performed electronically or physically, the size of the filing, and whether other filers submitted voluminous filings at the same time. As stated previously, the accessibility (i.e., storage and posting) of a filing under §22.71(h) is unrelated to when a filing is date stamped and therefore deemed filed under §22.71(e)(2)-(4).

Proposed §22.71(h)(5) and §22.71(h)(5)(A) - Void filing procedure

Proposed §22.71(h)(5) establishes the procedures for voiding a filing with the commission. Proposed §22.71(h)(5)(A) requires a

void filing request to "identify the filing with enough precision for Central Records to identify the correct filing."

TAWC recommended that proposed §22.71(h)(5) be revised to include further specificity on the procedure for voiding a filing than what is currently provided in proposed §22.71(h)(5)(A). TAWC noted that the phrase "with enough precision for Central Records to identify the correct filing" in the context of identifying the correct filing for purposes of voiding is too vague. TAWC remarked that current commission E-Filing instructions, which are more specific than the proposed language, should be incorporated into proposed §22.71(h). TAWC further recommended that §22.71(h) should be revised to make explicit that the voiding instructions also apply to confidential filings under proposed §22.71(j).

Commission response

The commission generally agrees with TAWC and revises §22.71(h)(6) (previously §22.71(h)(5)) to state that the procedure under that paragraph is the manner in which a filer may request a filing be voided and Central Records will void and remove the item only if the each of the enumerated procedures is satisfied. The commission also adds new §22.71(h)(6)(A)(i) and (ii) to clarify the steps a filer must follow to request an item be voided. The commission declines to further clarify that the void filing request process under §22.71(h)(6) applies to confidential filings, as the provision expressly includes reference to confidential filings under §22.71(j).

Proposed §§22.71(i) and §22.71(i)(1) - Filing deadlines for open meeting documents addressed to the commissioners

Proposed §22.71(i) and §22.71(i)(1) establish the filing deadline for open meeting documents addressed to the commissioners and the authorized exemptions to that deadline. Specifically, §22.71(i)(1) requires "all documents addressed to the commissioners and concerning an item that has been placed on an agenda for an open meeting must be filed no later than seven days prior to the open meeting at which the matter will be considered" unless exempted under §22.71(i)(2). The provision further establishes that late documents will be considered untimely and that commissioners may review untimely filed documents at their discretion.

TPPA recommended proposed §22.71(i) be revised to establish a formal process for requesting exceptions to the deadline to file documents at least seven days prior to a commission Open Meeting in proposed §22.71(i)(1). TPPA remarked that this deadline-exception process could be based on ERCOT's procedures for expediting urgent revision requests. TPPA explained that the process could authorize a filer to request late-filed matters be considered at the Open Meeting at the discretion of the commissioners, provided that sufficient justification is included by the filing party. TPPA commented that the inclusion of such a process would provide transparency and organization to the commissioner's broad discretion to review untimely filings in proposed §22.71(i)(1).

Commission response

The commission declines to implement the recommended change. The requirement to file documents at least seven days prior to an open meeting reflects the practical reality of what is required of the commissioners. For the commissioners, this preparation often includes reviewing documents and receiving briefings on several dozen dockets and projects. This requirement is broad by design, because whether the commissioners have the bandwidth to review additional filings is highly circumstantial and up to the discretion of each commissioner. Documents addressed to the commissioners that are filed late will not be addressed by the commission at the Open Meeting unless the commission decides otherwise. This is reflected by the provision in §22.71(i)(1) that commissioners can review untimely filed documents at their discretion or the deadline exemption under §22.71(i)(2)(A) for documents requested by the commission.

The commission does not institute a formal exception process, as requested by TPPA, because such a process is impracticable. If the exception request is made with fewer than seven days before the open meeting, there is not an opportunity for the commissioner to resolve the request in a uniform manner, resulting in the same outcome as the current system: the commissioners will make individual decisions about whether to review the untimely filed content or not. In either case, the commission is not prevented from taking action based upon such a filing. Further, an exception request framework to allow filers to request an exception more than seven days before the open meeting is unnecessary, because §22.5 already permits the commission to grant good cause exceptions.

TPPA recommended the deadline for open meeting documents addressed to the commissioners should be modified from seven days to five working days. TPPA expressed concern that the seven day filing deadline for Open Meeting documents addressed to the commissioners may impact project-related filings such as responses to ERCOT revision requests and filings from commission staff. TPPA explained that stakeholders sometimes file comments within five working days of a commission Open Meeting where ERCOT Protocol revision requests are concerned.

Commission response

The commission declines to modify the seven-day requirement to a five working day requirement. In most cases five working days and seven calendar days are equivalent. However, in instances where a holiday falls within the seven-day period, TPPA's recommendation would require filers to post earlier than under the seven-day deadline, making this requirement more burdensome to comply with.

Proposed §22.71(i)(2) - Exceptions to filing deadline for documents addressed to commissioners

Proposed §22.71(i)(2) establishes the two exceptions to the seven day filing deadline under §22.71 for documents addressed to commissioners.

Vistra, TCPA, and TPPA recommended a general good cause exception be included in proposed §22.71(i)(2) for the deadline to file documents at least seven days prior filing to a commission Open Meeting under proposed §22.71(i)(1). Vistra indicated that the proposed language omits the general good cause exception present in existing §22.71(i)(2). Vistra noted that preserving such an exception would allow for responsive filings related to questions from commissioners or other relevant parties. Vistra further remarked that, in some instances, commissioners may not specifically request additional information but in the context of the open meeting discussion, suggests further information is warranted. Vistra commented that preserving a general good cause exception would also allow for parties to correct filings that have erroneous information but were otherwise timely filed. Vistra stated that a good cause exception would also diminish perverse incentives to hold back filings until the last moment to

gain a "tactical advantage" in Open Meeting matters. Vistra provided draft language consistent with their recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The exception from existing §22.71(i)(2)(C) has been translated into the last sentence of §22.71(i)(1) which provides that "[t]he commissioners may review untimely filed documents at their discretion." Moreover, the good cause exception to procedural rules under §22.5(b) covers an exception to any rule under Chapter 22, including §22.71.

Proposed §22.71(i)(2)(A) - Commissioner-requested document exception

Proposed §22.71(i)(2)(A) exempts documents specifically requested by one or more commissioners from the seven day filing deadline specified under §22.71(i)(1) if the request occurs at a time that makes it impossible for the filer to meet the deadline.

TEC and TPPA recommended the commission-requested document exception to the seven-day Open Meeting filing deadline under proposed §22.71(i)(2)(A) also extend to documents requested from commission staff. TEC explained that including commission staff in the exception would in turn help reduce the likelihood burdensome deadlines are imposed on other filers due to the lack of time available to commission staff. However, TEC remarked that any new exemption for commission staff-requested documents should be used sparingly.

Commission response

The commission agrees with TEC that it is sometimes appropriate for filers to file with fewer than seven days prior to an open meeting at the request of commission staff and also agrees this situation should be the rare exception. Accordingly, the commission modifies the rule language to also allow the executive director or his or her designee to request filings with fewer than seven days before the open meeting at which the filing will be considered.

Proposed §22.71(i)(2)(B) - Negotiation exception

Proposed §22.71(i)(2)(B) exempts documents related to party negotiations where such negotiations necessitate the late filing of materials reporting on the negotiation.

TPPA requested clarification as to whether revision requests for ERCOT Protocols qualify for the negotiation-related exception under proposed §22.71(i)(2)(B) to the deadline to file documents at least seven days prior filing to a commission Open Meeting under proposed §22.71(i)(1). TPPA further recommended that if revision requests do qualify for the exception, the term "party" should be replaced with "persons" since the term party is a defined term under §22.2(30). TPPA explained that the term "party" would only include applicants, complainants, respondents, intervenors, and Commission Staff, and as a result exclude many stakeholders involved with ERCOT Protocol revision requests. TPPA further requested clarification as to whether the filing deadlines in proposed §22.71(i) apply to commission staff. TPPA recommended that such deadlines should explicitly include commission staff to ensure fairness to all persons or parties that participate in matters considered at a commission Open Meeting.

Commission response

Responses to ERCOT revision requests do not qualify for the negotiation-related exemption under §22.71(i)(2)(B). That exemption is related to settlements in contested cases. Additionally, the seven-day filing deadline under §22.71(i)(1) applies to all filers, including commission staff. The commission declines to implement any revisions to §22.71(i)(1) as it is expressly stated that the provision applies to "all documents" addressed to the commissioners and concerning an item on the Open Meeting agenda.

The commission also declines to modify the rule to explicitly state that the seven-day rule applies to commission staff, because it is unnecessary. The rule applies to all filings addressed to the commissioners, including those filed by commission staff.

Proposed §22.71(j) - Confidential material filed with the commission

Proposed §22.71(j) establishes that "[a]n item filed in a commission proceeding is public and available for viewing by the public unless the item is designated as confidential in accordance with this subsection." The provision also specifies that, "[t]o designate an item as confidential, a party must comply with the requirements of this subsection, unless otherwise ordered by the presiding officer."

TAWC and Entergy recommended the rule be revised to address HSPM to reflect the commission's Standard Protective Order. TAWC commented that proposed §22.71(j) would "significantly expand the steps needed for…filers to designate and file [confidential] documents." TAWC also recommended that proposed §22.71(j) include a section dedicated to HSPM due to its importance and frequent use. TAWC noted that HSPM is not addressed by the proposed rules and that HSPM should be afforded heightened protections to prevent nondisclosure. Entergy maintained that all provisions in the rule that refer to confidential material should be revised to address HSPM. Entergy recommended all instances of the term "confidential material" in proposed §22.71(j) be revised to also refer to "highly sensitive protected material" for consistency with the two designations included in the commission's Standard Protective Order.

Commission response

The commission declines to implement the recommended change. The categories of "protected material" and "highly sensitive protected material" are only relevant categories if a protective order has been issued in a proceeding (generally a contested case). In contrast, the requirements of §22.71(j) establish the generally applicable standards for confidential filings, not just confidential filings made in accordance with a protective order. Accordingly, any specific protective order is therefore based on the requirements of §22.71(j). However, the heightened protections afforded to HSPM under a protective order are not diminished by the term not appearing in §22.71. To the extent any HSPM requirements are not complied with, the commission may enforce the protective order in the same manner as the commission enforces a rule. If any changes to the commission protective order are necessary, the commission will revise the template after §22.71 and §22.72 are adopted.

TEAM and TCPA recommended that the confidential filing requirements under proposed §22.71(j) should be revised to differentiate between the different types or commission projects and dockets, such as contested cases and rulemakings. TEAM specifically recommended that the redaction requirements under proposed §22.71(j)(2)(A) only apply to confidential documents filed in contested case proceedings. TEAM commented that, at present, the uniform requirements for confidential filing would substantially increase administrative costs associated with mak-

ing such filings and may be duplicative of requirements in the commission's Standard Protective Order.

Commission response

The commission declines to implement the recommended change. The commission's existing rule applies to filings made in both contested case and non-contested case proceedings, like rulemakings or projects. Adopted §22.71(j) maintains this framework because the commission recognizes the need to balance public transparency with development of a complete record in all its various proceedings.

Proposed §22.71(j)(1) - Electronic and physical filing of confidential information

Proposed §22.71(j)(1) provides that electronically and physically filed items may be designated as confidential in the manner described by §22.71(j).

The commission deletes proposed §22.71(j)(1) because it is largely redundant with §22.71(j). The commission modifies (j) to state explicitly that an item that is filed electronically or physically is available for viewing by the public unless it is designated as confidential in accordance with the subsection. The remaining paragraphs under subsection (j) are renumbered accordingly.

Proposed §22.71(j)(2) and §22.71(j)(3) - Confidential filing requirements and challenge of confidential designation

Proposed §22.71(j)(2) establishes the requirements for filing material designated as confidential with the commission. The provision includes the two-step filing requirements for redacted and unredacted confidential materials, the associated confidential filing memorandum, the authorization for Central Records to reject filings that do not meet the confidential filing requirements, requirements for redactions, specific confidential filing requirements for physical and electronically filed documents. Proposed §22.71(j)(3) authorizes the challenge of a confidential designation of any filing by any party via motion or by the presiding officer via order. The provision also requires such a challenge to "specifically indicate the basis of the challenge and the portions of the filing that should not be confidential" and establishes the procedure for if such a challenge is successful.

SPS, TEAM, and Oncor noted that the commission's Standard Protective Order and the proposed confidential filing memorandum have similar requirements and could lead to filers submitting duplicative information. SPS recommended that the commission Standard Protective Order be revised to incorporate the changes to confidential filing processes in proposed §22.71(j)(2) to avoid conflicts between the Standard Protective Order and the proposed rule. SPS stated that certain provisions in the Standard Protective Order, such as "Procedures for Submission of Protected Material" substantially overlap with the physical filing requirements of the proposed rule. SPS further noted that if the Standard Protective Order and proposed rule are not reconciled, it may lead to redundant and duplicative activities from filers. For example, certain provisions of the protective order, such as "Procedures for Designation of Protected Material" and "Procedures to Contest Disclosure or Change in Designation" contains procedures very similar to the proposed confidential filing memorandum under proposed §22.71(j)(2) and confidentiality challenge mechanism under proposed §22.71(j)(3). Similarly, TEAM commented that certain confidential filing provisions, such as the confidentiality challenge, are unnecessary given that the commission's Standard Protective Order already provides a substantially similar procedure for the presiding officer that is well-established and been historically used without issue.

Commission response

The commission declines to implement the recommended change because it is unnecessary. To the extent any part of the two-step filing process described under §22.71(j) overlaps with the requirements of a protective order, duplicative action is not necessary. However, a filer must comply with any additional requirements specified by a protective order that has been issued in a proceeding. To address this, the commission revises the confidential filing memorandum to account for protected material and highly sensitive protected material (or neither if a protective order has not been issued in the proceeding). As stated previously, if any changes to the commission protective order are necessary, the commission will revise the template after §22.71 and §22.72 are adopted. Section §22.71 establishes the requirements for confidential filings with which any protective order issued in a specific proceeding must comply.

Oncor and AEP recommended that the commission's Standard Protective Order and the proposed confidential filing memorandum should be revised to accommodate proposed §22.71(j)(2)(A)(i). Specifically, Oncor and AEP recommended that the requirement to file statements of confidentiality should be taken out of the commission's Standard Protective Order and inserted into the proposed confidential filing memorandum. Oncor commented that it would be more efficient for parties to provide relevant information related to a confidential filing, such as Public Information Act exemptions, in one location. Oncor provided draft language consistent with its recommendation. In contrast, TEAM opposed revising the commission's Standard Protective Order to accommodate the rule revisions and instead endorsed revising the proposed language to eliminate any overlap with the procedures in the Standard Protective Order and harmonize the requirements of each. TEAM noted that the procedures in the commission Standard Protective Order have historically been effective in commission proceedings and therefore do not need to change.

Commission response

The commission declines to revise the confidential filing memorandum in the manner recommended by Oncor and AEP. The requirements of §22.71(j) are generally applicable to all proceedings. Stated differently, any protective order issued in a specific proceeding must conform with the rule, not the rule with the protective order. Any confidentiality requirements that are specific to a protective order should not be translated to §22.71 or the confidential filing memorandum because a protective order is not issued in all contested case proceedings and are not generally issued in proceedings outside of contested cases, such as projects. As stated previously, if any changes to the commission protective order are necessary, the commission will revise the template after §22.71 and §22.72 are adopted.

Proposed §22.71(j)(2)(A), 22.71(j)(2)(A)(i), and 22.71(j)(2)(A)(ii) - Two-step confidential filing process

Proposed §22.71(j)(2)(A) requires a filer submitting an item designated as confidential to separately file the materials specified by proposed §22.71(j)(2)(A)(i) and proposed §22.71(j)(2)(A)(ii), as well as comply with any individual protective order governing the access and handling of confidential materials. Proposed §22.71(j)(2)(A)(i) requires the filing of a fully completed confidential filing memorandum as specified under §22.71(j)(2)(D) and (E) accompanied by a redacted copy of the original item for pub-

lic filing. Proposed §22.71(j)(2)(A)(ii) requires the filing of an unredacted copy of the original item for confidential filing.

TAWC primarily recommended that the commission eliminate the requirement for redacted copies be filed for public viewing under proposed §22.71(j)(2)(A)(i). TAWC noted that this requirement does not exist in the current rule, which is primarily oriented around physical filings. TAWC alternatively recommended that proposed §22.71(j)(2)(A)(i) be revised to clarify that redacted copies for public availability are not required if the entire document is confidential or HSPM. Similar to TAWC's alternative recommendation, Oncor recommended proposed §22.71(j)(2)(A)(i) be revised to authorize parties to omit fully redacted pages that only contain confidential material from confidential filings. Oncor explained that, given the wide scope and volume of confidentially filed material, it would be more efficient to allow the removal of fully redacted pages in their entirety. TEAM recommended that the rule provide discretion where significant time and expense would be involved with providing a filing that is almost wholly redacted and therefore be of limited benefit.

Commission response

The commission declines to implement TAWC's recommendation to not require redacted copies to be filed for public viewing and Oncor's recommended change to omit redacted pages. The purpose of requiring a redacted copy filed non-confidentially with the confidential filing memorandum under adopted §22.71(j)(1)(A)(i) is to ensure that the general public is able to view, to the extent possible, the non-confidential filing portions of a document that is otherwise being filed confidentially. Open government and public access necessitate the public being able to see the confidential memo with the additional context of the redacted portions of the document.

To address commenter's concerns, adopted §22.71(j)(1)(C) provides for a list of exclusions to the redaction requirement. Specifically, the revised provision authorizes a redacted copy of the document to be replaced with a cover letter describing the filing for letters of credit. For documents filed in Microsoft Excel format, the revised provision establishes a requirement to file a redacted copy of the Excel document in a non-native format and the cover letter or, if the Excel sheet would exceed 50 pages, just the cover letter. This list reflects the types of documents where the difficulty of complying with the redaction requirement is not commensurate with the benefit of providing a redacted copy of the filing.

TPPA, TCPA, and Vistra recommended that either the confidential filing memorandum requirement or redacted copy filing requirement under §22.71(j)(2)(A)(i) be deleted from the provision because requiring both is unnecessarily burdensome for filers. TPPA commented that one of the requirements by itself is sufficient to provide transparency to the public regarding the purpose and nature of confidential filings made by parties. TPPA noted that requiring both elements would only create duplicative work for filers with little additional benefit. TCPA commented that the memo requirement for confidential information submitted outside of a contested case context is unnecessary and burdensome.

Commission response

The commission declines to implement the recommended change. The confidential memorandum and the public-facing redacted document fulfill two different purposes. The former is for the filer to provide justification as to why the filed material should be treated confidentially, and the second is to ensure the right of the public to access to all aspects of a document filed with the commission that are not confidential. The confidential memo is beneficial to both Central Records (for administrative purposes) and the presiding officer (for substantive purposes) in identifying the material being redacted because the confidential memo requires an explanation of why the material is being filed confidentially. Therefore, both documents must be filed together in a non-confidential manner.

Entergy and CenterPoint recommended that the requirement to submit a redacted version of confidential or HSPM should be revised to exclude discovery response attachments, workpapers, or native Excel files due to the inherent difficulty and potential cost and time commitment it would take to redact those items. Entergy also noted that the requirement to submit a redacted version of confidential or HSPM currently exists for certain documents such as pleadings or exhibits. TEAM generally recommended that any additional requirements concerning the form and content of a confidential filing, such as the provision of redacted copies, account for different types of documents and information.

Commission response

As stated previously, adopted §22.71(j)(1)(C) provides for a list of exclusions to the redaction requirement. This list reflects the types of documents where the difficulty of complying with the redaction requirement is not commensurate with the benefit of providing a redacted copy of the filing.

Proposed §22.71(j)(2)(B) and §22.71(j)(2)(C) - Rejection of confidential filing by Central Records and minimum redaction requirement

Proposed §22.71(j)(2)(B) authorizes Central Records to reject a confidential filing that does not include the documents described under proposed §22.71(j)(2)(A). The provision also establishes that Central Records will notify the filer of the rejection through electronic mail if reasonably practical and that "it is the filer's responsibility to check the control number to verify that its confidential filing was accepted and to contact Central Records for any necessary corrections." Proposed §22.71(j)(2)(C) requires "a redacted copy of a confidential filing must be redacted only to the minimum extent necessary to ensure confidentiality."

TEAM recommended deleting the authorization for Central Records to reject filings in the manner specified by proposed §22.71(j)(2)(B) and (C). TEAM expressed concern that, reading §22.71(j)(2)(B) and (C) together would effectively authorize Central Records to determine "whether a confidential filing has been redacted 'only to the minimum extent necessary to ensure confidentiality.'" TEAM noted that Central Records lacks the necessary expertise to review confidential documents in this manner, therefore it is neither realistic nor fair to authorize Central Records to perform this review. TEAM emphasized that in some situations, the majority or entirety of a document may be confidential, rendering the practice of providing a redacted document burdensome and costly. TEAM and TCPA maintained that the current process for confidentiality designations under the commission's Standard Protective Order have been working without issue and currently effectuate the provisions regarding confidentiality challenges. Therefore, TEAM recommended not adopting the requirements surrounding the confidential filing memorandum and instead retaining the processes currently in the commission's Standard Protective Order. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended changes. Central Records' review of a confidential document is clerical in nature, not substantive. That is, Central Records is not evaluating a filer's justification for confidential filing in the confidential memo or the contents of the filing. The authorization for Central Records to reject a confidential filing under §22.71(e)(1)(C) for not complying with the requirements of §22.71(j) is further limited by adopted §22.71(j)(1)(B). Specifically, §22.71(j)(1)(B) only authorizes Central Records to reject a filing to ensure a confidential filing follows the two-step process under §22.71(j)(1)(A) and to ensure a physical filing is delivered in the appropriate envelope under §22.71(j)(1)(F)(iii). Conversely, the authorization for Central Records to reject a filing under §22.71(j)(1)(B) is not connected to the general requirement under §22.71(j)(1)(C) for redactions to be only to the minimum extent necessary to ensure confidentiality. Stated differently, Central Records will not be reviewing confidential filings to ensure they comply with §22.71(j)(1)(C) or for substance. The commission clarifies §22.71(e)(1)(C) accordingly.

In response to TEAM's recommendation to retain only the processes in the commission's standard protective order, the requirements of §22.71(j), including the confidential filing memorandum, are generally applicable to all proceedings. This is because a protective order is not issued in all contested case proceedings and are not generally issued in proceedings outside of contested cases, such as projects.

TPPA and SPS recommended the phrase "if reasonably practicable" in proposed §22.71(j)(2)(B) be replaced with "unless no email address was provided with the item" for clarity. Specifically, TPPA noted that the proposed revisions would provide a more objective standard for when a filer can expect a filing rejection notification from Central Records. Consistent with its recommendation for §22.71(h)(4), TPPA requested the rule include a specific timeline for when a filing should appear on the commission filing system to provide certainty for filers. TPPA commented that such a timeline would provide a clear indication to filers as to whether a filing is still being processed or whether contacting Central Records to resolve a filing issue or rejection is necessary.

Commission response

The commission agrees with TPPA that filers that provide accurate email addresses can reasonably expect to receive notice of rejected filings. However, in some instances, e-mail is not a prerequisite to filing (physical filings and some portals or applications), and erroneous e-mail addresses are sometimes provided.

Implementing TPPA's recommended language would be unnecessarily limiting on Central Records' ability to follow-up, whereas "if reasonably practicable" provides more flexibility in the event a fake or incorrectly transcribed e-mail is provided. If such an erroneous e-mail is provided, the rule should not require Central Records to perform what it cannot actually do. For physical filings, Central Records will administratively review the document to determine whether it should be rejected under §22.71(e)(1) and, if an e-mail is provided. notify the filer by e-mail if the filing is rejected. If an e-mail is not provided, then Central Records will attempt to call the filer. If no phone number is included, Central Records will return the filing by mail with an explanation of the rejection.

New §22.71(j)(2)(B) - Exceptions to redaction requirement

Oncor and AEP recommended that the redaction requirement under proposed §22.71(j)(2)(A)(i) be revised to exempt Excel documents due to certain limitations with that file format through the addition of new §22.71(j)(2)(B). Oncor and AEP explained that Excel filings may have linked cells, formulas, and other advanced functions that could generate hundreds or thousands of pages of output and therefore be impractical to redact. For potential alternatives, Oncor and AEP recommended either requiring a filing party to submit a statement summarizing the contents of the Excel filing, require the public filing of the confidential Excel filing that only shows the column and row headers, or require the filing party to publicly file a PDF copy of the confidential Excel documents with all confidential cells redacted. Oncor expressed a preference for the first alternative where a statement summarizing the content of the confidential Excel file would be publicly filed. Oncor stated that this option would permit the public to view the information on the commission filing system and provide relevant information regarding the confidential data. Oncor provided draft language consistent with its recommendations.

Commission response

As stated previously, adopted §22.71(j)(1)(C) provides for a list of exclusions to the redaction requirement. This list reflects the types of documents where the difficulty of complying with the redaction requirement is not commensurate with the benefit of providing a redacted copy of the filing.

Proposed §22.71(j)(2)(D) and §22.71(j)(2)(F) - Minimum information for confidential filing memorandum and confidential filing requirements for physical filings

Proposed §22.71(j)(2)(D) prescribes the criteria that must be included in a confidential memorandum to be deemed fully completed. Proposed §22.71(j)(2)(F) prescribes the requirements to designate an item filed physically as confidential using a confidential envelope that must be delivered to Central Records. The provision further specifies that the requirements are additional to the requirements of §22.71(j)(2)(A)-(E) and that "the confidential envelope must not include non-confidential documents unless directly related to and essential for clarity of the confidential document."

TEAM, TPPA, and AEP recommended that the confidential filing memorandum under proposed §22.71(j)(2)(D) be modified to exempt routine regulatory filings such as the Retail Performance Report submitted by retail electric providers. Specifically, TEAM contended that, in such proceedings, parties to the proceeding should not be required to complete and submit a confidential filing memorandum "because they are citing to information designated confidential by another party." TEAM alternatively recommended an abridged confidential filing memorandum be created for such instances which would simply reference the fact that the information was designated confidential by another party and identify the filer. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. The two-step filing process described by adopted §22.71(j)(1)(A) is applicable to all confidential filings made with the commission.

Proposed §22.71(j)(2)(D)(v) - Additional information required by protective order or presiding officer (confidential filing memo)

Proposed §22.71(j)(2)(D)(v) requires a confidential filing memorandum to include "[a]ny additional information required by the protective order in effect in the applicable proceeding or that may

otherwise be required by the presiding officer via written order" to be deemed fully completed.

CenterPoint requested clarification as to whether the language referencing "any additional information required by the protective order in effect in the applicable proceeding" under proposed §22.71(j)(2)(D)(v) means that the written statement of confidentiality currently required under the commission's Standard Protective Order could be included in the confidential filing memorandum. CenterPoint recommended that, as an alternative, the confidential filing memorandum not apply to proceedings with a protective order in effect, such as contested cases. CenterPoint noted that, for such proceedings, the written statement of confidentiality currently required under the commission's Standard Protective Order should be deemed sufficient by itself. CenterPoint maintained that the confidential filing memorandum should only be required for commission proceedings without a protective order.

Commission response

If there is a protective order issued in a proceeding, a filer seeking to designate material as confidential must comply with both the requirements of §22.71(j) and the protective order. The requirements of §22.71(j), including the confidential filing memorandum, are generally applicable to all proceedings. Any confidentiality requirements that are specific to a protective order should not be translated to §22.71 or the confidential filing memorandum because a protective order is not issued in all contested case proceedings and are not generally issued in proceedings outside of contested cases, such as projects.

Proposed §22.71(j)(2)(G) - Confidential filing requirements for electronic filings

Proposed §22.71(j)(2)(g) requires a filer seeking to designate an electronically filed item as confidential must do so in the manner provided by the commission filing system. The provision further specifies that the requirements are additional to the requirements of §22.71(j)(2)(A)-(E).

CenterPoint recommended that the procedure for indicating how electronically filed items are designated as confidential under proposed §22.71(j)(2)(G) be clarified because it is ambiguous. CenterPoint noted that, comparatively, the procedure for designating physically filed items as confidential under proposed §22.71(j)(2)(F) is clear.

Commission response

The commission modifies the rule to provide more detail on the process for designating electronic filings as confidential. As noted above, the commission deletes the term "commission filing system" throughout the adopted rule. In this instance, that term is replaced with Interchange Filer, which is the commission's internet application used to post electronic items to the Interchange. In addition, the commission adds, by way of example, that a filer would select a checkbox on the Interchange Filer to indicate that an electronic filing should be designated confidential.

Proposed §22.71(j)(3) - Challenge of confidentiality designation

Proposed §22.71(j)(3) authorizes the confidential designation to be challenged "by any party via motion or by the presiding officer via order." The provision also requires "[a] challenge to a confidential designation must specifically indicate the basis of the challenge and the portions of the filing that should not be confidential."

LCRA, TCPA, AEP, and SPS recommended that challenges to designations of confidentiality under proposed §22.71(j)(3) be limited to contested cases. LCRA maintained that, in contested case matters, such challenges would be restricted only to parties admitted to the proceeding. In contrast, in other commission proceedings such as rulemakings, the proposed language would effectively allow anyone to challenge the confidentiality designation made by any other participant. LCRA noted that such a broad requirement would be unfair and unnecessary, as it would allow direct competitors an unrestricted capability to challenge any confidential filing. LCRA provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change for the reasons espoused by the commenters. However, the commission clarifies that the provisions under adopted §22.71(j)(2) apply to proceedings with an assigned tariff or docket control number and adds new §22.71(j)(3) to provide separate provisions for challenges to confidentially filed information in other commission proceedings, such as projects or rulemakings. Subsequent paragraphs under subsection (j) are renumbered accordingly.

TPPA recommended that because the phrases "party" and "parties" are defined terms under §22.2(30) and §22.102 "that would not necessarily include all persons who may challenge a claim of confidentiality," the terms should be replaced with the term "any person" in proposed §22.71(j)(3). SPS disagreed with TPPA's recommendation to replace the terms "party" and "parties" with the term "any person." SPS explained that the terms appropriately limit challenges to confidentiality designations to contested cases where the entity is either an original party to the case or has been admitted as an intervenor. SPS noted that replacing the terms as TPPA recommended would introduce unnecessary complexity into these proceedings by allowing non-parties to challenge confidentiality designations. SPS averred that the process established in the proposed rule "adequately addresses the ability to challenge confidential designations" and is merely a codification of a pre-existing process that has historically been available, not a new process altogether. SPS acknowledged TPPA's general concern that confidential material may be filed outside of the contested case context, but stated it is unclear what types of projects should be subject to an unrestricted ability for any person to challenge confidentiality.

Commission response

The commission revises the proposed rule such that adopted §22.71(j)(2) applies only to filings in proceedings with an assigned tariff or docket control number. The commission agrees with SPS that limiting the ability to contest a confidentiality designation to parties to these types of proceedings strikes the right balance and avoids adding unnecessary complexity to those proceedings.

To address confidentiality designations in projects and other commission proceedings, the commission adds new §22.71(j)(3). This new paragraph allows the executive director or a designee to request, in writing, that a filer void a confidential filing and non-confidentially re-file all or part of the item. The new paragraph requires the written request to provide the basis for the request and provide a deadline for response. If the filer does not agree to the request, the filer must issue a response and carries the burden of showing the item should remain filed confidentially. After considering the response, the executive

director or his or her designee will notify the filer if the filing may remain filed confidentially, stating the basis for the decision. If the executive director or his or her designee determines the filing cannot remain filed confidentially, the filer must void the filing and may re-file the item in accordance with §22.71(j) and the determination of the executive director or his or her designee.

TPPA recommended that proposed §22.71(j)(3) be revised to require the presiding officer to specifically identify any and all information in a filing that should not be treated as confidential. TPPA explained that such a change would help prevent parties from confidentially re-filing substantially similar documents without properly correcting the underlying deficiencies.

Commission response

The commission declines to implement the recommended change because it is unnecessary. For proceedings with assigned tariff or docket control numbers, the order issued by the presiding officer will address what confidential material should not be treated as confidential and therefore must be re-filed publicly. Additionally, under new §22.71(j)(3) for other commission proceedings, the written memorandum or, if applicable, the subsequent determination from the executive director or his or her designee will perform the same function.

TPPA further recommended that confidential filings that have been deemed to be not confidential by the presiding officer and subsequently voided "should not impact the outcome of the proceeding." TPPA stated that, upon the voiding of a filing, a party has the choice to re-file the information publicly, revise the filing, or omit the filing or content entirely. Accordingly, TPPA recommended that voided filings should not be included as part of the official record or otherwise influence commission decision making.

Commission response

The commission declines to implement the recommended change. In proceedings with an assigned tariff or docket control number, the commission is generally limited to the evidentiary records which is in turn limited to what the presiding officer's order says is admitted. Voided filings are not considered by the commission in the evidentiary record. Other filings that are not voided, to the extent they are not admitted into the evidentiary record, are not considered by the commission. In other commission proceedings, there is no ex parte prohibition, and participants in such proceedings can (and frequently do) contact the decisionmakers directly with questions, comments, and concerns. The decisionmaker in such proceedings, whether it be the commissioners, an administrative law judge, or commission staff, can consider individual facts and the public interest as a whole. Therefore, it is not appropriate to limit consideration of voided filings in these other types of commission proceedings.

TPPA requested clarification as to how confidential items that have been deemed to not be confidential by the presiding officer and subsequently voided would affect filing deadlines. Specifically, whether an instruction to void a filing would "constitute a missed deadline."

Commission response

As with any filing, an item refiled non-confidentially following an improper confidential filing will be timestamped at the time of filing. It is the responsibility of filers to ensure that improper confidentiality designations do not result in missed filing deadlines. However, the presiding officer has authority to grant exceptions to procedural rules for good cause, and may use this discretion to determine whether the initial filing can remain to allow the proceeding to continue while the filing is being re-filed, if deadlines needs to be extended to permit the refiling, or if there is good cause supporting a different outcome. Similarly, in a commission project, commission staff has the authority to extend deadlines, if it is appropriate to do so. Further, in all cases, if there is a discrepancy, the redacted version of the initial confidential filing may be used as evidence of a prior timely filing.

Proposed §22.71(j)(3)(A) - Burden of proof and response to motion challenging confidentiality designation

Proposed §22.71(j)(3)(A) requires, in the event of challenge of confidentiality designation, the filing party to bear the burden of proof to show that the item should remain confidential. The provision requires a filing party to "respond to a motion challenging the confidentiality of a filing within five days of the motion, or within the time period specified by the presiding officer."

TEC recommended that proposed §22.71(j)(3)(A) be revised to place the burden of proof on the party challenging a confidentiality designation, rather than on the party requesting a document be filed confidentially. TEC stated that the default position should be to assume that information designated as confidential is in fact confidential until demonstrated otherwise. TEC provided redlines consistent with its recommendation.

Commission response

The commission declines to modify the rule to shift the burden of whether a filing should be permitted to be filed confidentially to the party challenging a confidentiality designation. The commission regulates critical industries, and it serves the public interest to do so as transparently as possible. Further, this should not be a difficult burden to meet for information that merits confidential filing, especially if the filer has already provided its justification for why information should be treated confidentially using the required memorandum.

TPPA recommended the deadline for responding to a motion challenging the confidentiality of a filing be revised to "'five working days' to avoid confusion."

Commission response

The commission agrees with TPPA and implements the recommended change.

Proposed §22.71(j)(3)(C) and new (j)(3)(D) - Order from presiding officer regarding inappropriate confidentiality designation

TEC recommended that proposed §22.71(j)(3)(C) be revised and split into new §22.71(j)(3)(D). Specifically, TEC recommended that on a finding by the presiding officer that a confidential filing be made public, "the order should be accompanied by an automatic stay and appeal, unless waived by the filing party." TEC emphasized that making a confidential document public would represent an "immediate and potentially irreparable" harm. Accordingly, TEC commented that such documents should remain confidential until the commission renders a final determination, unless waived by the filer. TEC provided redlines consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. In the event the presiding officer issues an order requiring a document to be re-filed, there is not any automatic release of filed information in accordance with that order on the part of the order. The rule appropriately

puts the responsibility on the filer to refile the document publicly or not, and to pursue any other appropriate legal remedies with regards to the order.

Entergy recommended that the procedure for voiding a confidential filing under proposed §22.71(j)(3)(C) be abridged to only require the re-filing of an item publicly, rather than also require the filer to submit a request to Central Records to void the confidential version. Entergy contended that this truncated procedure would be more administratively efficient and also preserve the administrative record to include the item on the commission filing system that is referenced in the presiding officer's order.

Commission response

The commission declines to implement the recommended change. As stated previously, voided items are not considered as part of the administrative record in proceedings with an assigned tariff or docket control number. Moreover, the process for voiding a filing reflected in the rule is current commission practice and standard procedure. However, the commission modifies §22.71(j)(5) to require the party filing information deemed to be improperly labeled confidential to adhere with the rule's provisions for voiding a filing, which are found in §22.71(h)(6).

Proposed §22.71(j)(4) - Posting of confidential information on the commission filing system

Proposed §22.71(j)(4) establishes the form and manner in which a document designated as confidential will be posted to the commission filing system.

Proposed §22.71(j)(4)(B) - Posting of unredacted item confidentially

Proposed §22.71(j)(4)(B) establishes that an unredacted version of the filed item that has been designated as confidential will be posted confidentially on the commission filing system and will only be accessible by the persons listed under §22.71(j)(6).

SPS requested clarity as to what the term "posting" means in the context of "posting of confidential material on the commission filing system under proposed §22.71(j)(4)(B)." SPS expressed concern over the requirements to file an unredacted version of a confidential filing under proposed §22.71(j)(2)(A)(ii) in conjunction with proposed §22.71(j)(4)(B) and indicated that such language should not increase the risk of disclosing confidentially filed material. If the risk of disclosure is increased by such language, SPS recommended that the commission consider alternative procedures for handling and processing confidential materials, such as through virtual data rooms or remote servers. SPS noted its current practice of "storing unredacted, sensitive documents in secure folders" within its proprietary software "iManage" where access is limited to intervenors that have signed a protective order.

Commission response

In response to SPS request for clarity, the rule language is unambiguous and reflects current practice: an item on the Interchange is created to demonstrate to the public that a confidential filing has been made. The contents of that item are only available pursuant to the restrictions described in this paragraph and adopted paragraph (j)(6).

Proposed §22.71(j)(6) - Access to confidential information

Proposed §22.71(j)(6) limits access to confidential material to the persons that meet the criteria of §22.71(j)(6)(A)-(C). The provision further establishes that disclosure of confidential information is subject to the ex parte requirements of the subtitle (Title 16, Part 2 of the Texas Administrative Code).

Proposed §22.71(j)(6)(A) and (B) - Posting of unredacted item confidentially

Proposed §22.71(j)(6)(A) authorizes a commissioner, a commission employee in OPDM, or an employee in a commissioner's office to access confidential filings in any proceedings if the confidential access form is completed, signed, and submitted to Central Records. The provision also limits disclosure of the confidential material by those persons only to another commissioner or other employee in OPDM or a commissioner's office that has completed, signed, and submitted the confidential access form to Central Records and only if such disclosure does not violate the Texas Open Meetings Act. Proposed §22.71(j)(6)(B) generally authorizes a commission employee in Central Records or Information Technology to access confidential filing "for clerical and administrative tasks necessary to ensure the proper maintenance and functioning of the commission filing system including the correction or removal of filings or actions otherwise directed by the presiding officer in a specific proceeding."

TEAM recommended deleting proposed §22.71(j)(6)(A) and (B) "because the Commission employees referenced in these subparagraphs and the Commissioners themselves are not parties to a proceeding."

Commission response

The commission declines to implement the recommended change because it is impracticable. General access to confidential filings by the commissioners under §22.71(j)(6)(A) is essential as they are the decisionmakers and adjudicators for proceedings before the commission. General access to confidential filings by Central Records and Information Technology under §22.71(j)(6)(B) is also necessary for clerical and administrative tasks, and maintenance, respectively.

Entergy recommended that proposed §22.71(j)(6)(B) be revised to require commission employees in Central Records and Information Technology be required to "to comply with the requirements for maintaining confidentiality set out in the Employee Statement Regarding Non-Disclosure of Confidential Information" as is required for all other commission employees under proposed §22.71(j)(6)(A). Entergy commented that such a change is necessary to ensure that confidential material is appropriately protected.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The confidential access form described by §22.71(j)(6)(A) is not the same as the internal nondisclosure agreement signed by Central Records for their access to confidential material. Information Technology does not sign a nondisclosure agreement because the employees in that division do not directly access or handle confidential material. Moreover, Penal Code §39.06 prohibits the disclosure of official information and Texas Government Code §552.352 prohibits the disclosure of information designated as confidential under that chapter.

Proposed §22.71(j)(6)(C) - Protective order certification for specific proceedings

Proposed §22.71(j)(6)(C) requires that a party to a proceeding not covered by proposed §22.71(j)(6)(A) or (B) must "complete,

sign, and file in the proceeding a protective order certification" to access confidential filings filed with the commission in a specific proceeding. The provision further requires the certification to "comply with the protective order entered by the presiding officer in that proceeding" and provides that the certification is no longer valid "after the commission's plenary jurisdiction over the proceeding has expired."

TAWC recommended that proposed §22.71(j)(6)(C) be revised to align with the current version of the commission's Standard Protective Order and accordingly restrict access to HSPM to specific persons and entities, such as commission staff, the Texas OAG, OPUC, and representatives of other parties that are authorized to view such material. TAWC also noted that HSPM is not referenced whatsoever under proposed §22.71(j) and that proposed §22.71(j)(6)(C) could be interpreted to provide "open access of HSPM to anyone without restriction in contravention of the current Commission PO." TAWC emphasized its opposition to providing such expansive access to HSPM due to the inherently increased risk of improper distribution of such material.

Commission response

The commission declines to revise §22.71(j) and the confidential filing memorandum in the manner recommended by TAWC. As stated previously, the requirements of §22.71(j) are generally applicable to all proceedings. Any confidentiality requirements that are specific to a protective order should not be translated to §22.71 or the confidential filing memorandum because a protective order is not issued in all contested case proceedings and are not generally issued in proceedings outside of contested cases, such as projects. If any changes to the commission protective order are necessary, the commission will revise the template after §22.71 and §22.72 are adopted.

TEAM recommended that the commission not adopt the new procedures for designating confidential material under proposed §22.71(j), including the confidential access requirements under proposed §22.71(j)(6)(C). TEAM emphasized that the commission Standard Protective Order should remain the sole authority for establishing such procedures and access to confidential materials. In the context of proposed §22.71(j)(6)(C), TEAM noted that in the current rule, access to confidential material is primarily oriented around paper filings, which require the deliberate act of copying and sharing to disseminate. TEAM explained that the current paradigm of electronic filings increases the risk of losing track of which documents contain confidential material and therefore inadvertently providing access to such material. Specifically, TEAM recommended that confidential information not be shared unless the person requesting access has signed a protective order certification, is a party to the docket where the confidential material was filed, or is otherwise an employee of the commission.

Commission response

The commission disagrees with TEAM and declines to implement the recommended change for the previously stated reasons. The confidential filing requirements are generally applicable to all filings made with the commission. Access to confidential materials is expressly limited to the categories specified under proposed §22.71(j)(6)(A)-(D). Under proposed §22.71(j)(6)(C), confidential access in a proceeding with an assigned tariff or docket control number is limited to a party that has filed a protective order certification form that has been approved by the presiding officer. Any additional requirements are specified by the protective order applicable to the proceeding. Similarly, under proposed §22.71(j)(6)(D), access to confidential material for proceedings without a tariff or docket control number such as a project must be requested from the executive director or their designee by a commission employee.

TEAM recommended that the commission delete the words "not covered by subparagraph (A) or (B) of this paragraph" with reference to parties to a proceeding that must complete a protective order certification to access confidential filings in that proceeding. TEAM reasoned that the individuals who are granted access to confidential information under subparagraphs (A) and (B) are not "parties," making the qualifier unnecessary.

Commission Response:

The commission agrees with TEAM and modifies the rule accordingly. Commissioners, their staffs, commission employees in OPDM, and administrative staff in Central Records and IT are not parties to commission proceedings. The commission makes this edit to avoid the impression that commission staff who are parties to a proceeding with an assigned tariff or docket control number can sign a confidential access form and gain access to all confidential materials stored in the specific project where the confidential material is filed on the Interchange.

New §22.71(j)(6)(D)

The commission adds new paragraph (j)(6)(D) to describe the process by which an employee of the commission can access confidential information filed in a proceeding without an assigned tariff or docket control number, such as a project or rulemaking. The process requires the executive director or his or her designee to authorize the release of the confidential information to the employee provided that the employee requires access to the information in performance of his or her official duties.

Proposed §22.71(j)(7) - Public information

Proposed §22.71(j)(7) provides that designation of a document as confidential in a commission proceeding is not determinative of whether that document would be subject to disclosure under the Texas Public Information Act, the Texas Open Meetings Act, or other applicable law.

TAWC requested clarification as to whether proposed §22.71(j)(7) would authorize the commission to release confidential documents or HSPM in response to an open records request. TAWC requested that the commission identify whether it would oppose such requests or at least seek an opinion from the Texas Office of the Attorney General (OAG) before the release of such material. TAWC emphasized the need for certainty among filers that such confidential material or HSPM will either not be released, or at least not filed before an OAG decision is issued.

Commission response

In the event described by TAWC, the commission would seek an opinion from the OAG and provide the filing party notice and an opportunity to provide a rationale as to why the highly sensitive protected material should not be released. However, the Public Information Act (PIA) process is applicable to all existing commission rules, including the adopted version of §22.71 and §22.72. Stated differently, the requirements of §22.71 or a confidential designation of material in a commission proceeding does not affect the PIA process.

Similar to TAWC, TEAM recommended proposed §22.71(j)(7) be revised to require the commission notify a third party if the commission believes that material designated as confidential and

contains private or proprietary information is responsive to a public information request. TEAM provided draft language consistent with its recommendation. Vistra cautioned against implementing TEAM's approach for proposed §22.71(j)(7) on the basis that the addition is redundant given the pre-existing notice requirements of the Public Information Act (PIA) and that the notice requirements of the PIA exceed those proposed by TEAM. Vistra stated that TEAM's proposed addition is therefore unnecessary and risks confusing the commission's broader obligations to protect confidential information. Moreover, Vistra emphasized that the commission should "consider the most efficient and universal means of conveying the Commission's obligations under the PIA rather than specifying them in a single rule reference."

Commission response

The commission declines to implement the recommended change because PIA requirements are already provided for by other law. The PIA process is already covered by Texas Government Code Chapter 552. The commission agrees with Vistra that including separate, related provisions in this rule would risk confusing the commission's pre-existing obligations under existing law.

Proposed §22.72 - Formal Requisites of Pleadings and Documents to be Filed with the Commission

Proposed §22.72 establishes the recommended and mandatory formatting and filing standards for documents required to be filed with the commission under §22.71.

The commission retitles §22.72 "Form Standards for Documents Filed with the Commission" to clarify that the rule applies generally to form and format standards rather than the processes a stakeholder must follow to file a document with the commission.

SOAH recommended that proposed §22.72 be revised to "include certain minimum requirements that would promote greater interoperability and efficiency with SOAH" and prepare commission electronic case records for judicial review. Specifically, SOAH recommended that the rule incorporate certain requirements from the Texas Rules of Civil Procedure (TRCP) such as Rules 21 and 21c, the technology standards of the Texas Judicial Committee on Information Technology, and SOAH's administrative rules concerning filing. SOAH also recommended that the commission's electronic filing standards be amended to be "capable of exchanging documents in accordance with the Electronic Court Filing Version 5.0 (ECF 5.0) service specification.

SOAH commented that it has adopted "eFile Texas" as an electronic filing and case management system that has significantly increased the efficiencies associated with those systems. SOAH noted, however, that it is "unable to leverage the benefits of these technologies with respect to its PUCT caseload because of the incompatible systems and filings requirements of the PUCT." SOAH stated that the commission is "currently the only Texas state agency that follows its own, incompatible electronic filing requirements." SOAH emphasized the need for compatibility of filing requirements because SOAH is the state agency responsible for conducting the commission's administrative hearings under PURA §14.053(a).

SOAH recommended proposed §22.72 include ten minimum requirements for electronic submissions, which included: (1) formatting filings for interoperability with an electronic filing service provider certified by the Texas Office of Court Administration (i.e., eFile Texas); (2) requiring filings to include the e-mail address of the attorney representative or unrepresented party that files the document on the face of the document; (3) establishing specific electronic signature requirements that include either an "/s/" followed by the filer's name, a graphic or scan of the signature, or a digital signature; (4) requiring filings to be in a text-searchable PDF in 8½ x 11 format; (5) requiring documents to be direct conversions into PDF format rather than be scanned to the greatest extent possible, be legible, and have a dots-per-inch resolution of 300 or greater; (6) requiring filings to not be locked, password protected, encrypted or have any security features that would restrict use or accessibility; (7) requiring documents to be in a single PDF document with bookmarks as necessary to separate content; (8) requiring separate filing submissions to avoid confusion in the administrative record by prohibiting the combination of multiple motions that request different types of relief or action, and properly identifying and separately filing exhibits; (9) requiring audio and video filings to be submitted in a common, non-proprietary file format such as .mp4, .wmv, .avi, or .mpeg that does not require specific equipment or software for review; and (10) requiring exhibits to be numbered sequentially and, if combined into a single PDF, to be bookmarked, and also requiring documents with multiple pages to be paginated.

TCPA, AEP, Oncor, Vistra, TNMP, LCRA, CenterPoint, and TEAM opposed SOAH's recommendation for the commission to transition to eFile Texas and ECF 5.0. However, CenterPoint generally supported conforming the commission's formatting standards to those used by SOAH given the frequency in which contested cases are referred to SOAH and the fact that filings in such cases must be made at both the commission and at SOAH.

TCPA and Vistra disagreed with SOAH's assertion that it has primary jurisdiction over contested cases filed with the commission because the commission may retain jurisdiction over such cases. Vistra commented that PURA §14.053 authorizes SOAH to hear a contested case originating at the commission if the commission does not hear the case. Accordingly, the commission "has primary legal responsibility for its contested cases." Vistra recommended that, if the commission implements any of SOAHs recommendations, those changes be implemented in an easy to understand and accessible manner.

TCPA and Vistra commented that the commission has historically had its own procedural rules for filing documents that have been well understood by stakeholders. In contrast, adopting the new standards proposed by SOAH would be confusing and unnecessarily burdensome. Specifically, TCPA noted that eFile Texas requires registration and login information and also requires additional information when opening a new docket.

TCPA, AEP, Oncor, Vistra, and LCRA indicated that these processes would be difficult and unfamiliar for parties, including pro se parties and the public, and would therefore discourage valuable public participation. AEP and Oncor remarked that the eFile Texas processes may be particularly challenging for participants in certain proceedings related to CCNs, rulemakings, and customer complaints where stakeholders may submit physical documents by mail with handwritten materials or may be unable to use electronic mail. AEP, Vistra, and LCRA emphasized the importance of public participation in commission proceedings and recommended the commission not adopt any requirements that would diminish that capability.

Oncor noted that it is the commission itself, not SOAH, that is a party to an appeal and therefore responsible for delivering the administrative record to the court. Accordingly, Oncor asserted

that it is not clear why changing the commission's filing requirements to be compatible with eFile Texas is justified, regardless of whether the proceeding has been referred to SOAH.

Oncor commented that the TRCP should not universally apply to commission proceedings, including those proceedings referred to SOAH. Oncor explained that, because the commission's procedural rules under Chapter 22 include proceedings referred to SOAH, there is an insufficient need and justification to impose eFile Texas or other requirements used by Texas courts on commission filings.

TNMP recommended that any formatting requirements be clearly identified in proposed §22.72. TNMP commented that it is unclear from SOAH's comments what specific requirements should be incorporated into the commission rules for interoperability with "an electronic filing service provider certified by the Office of Court Administration" or "how parties should access and interpret the third-party materials" referred to in SOAH's comments.

TNMP and TEAM noted issues with SOAH's more specific formatting recommendations. Specifically, TNMP and TEAM stated that requiring universal PDF usage would be incompatible with the frequent submission of large and complex documents in their native format, such as Microsoft Excel sheets, and that this recommendation should therefore be rejected as unworkable. Moreover, TNMP and TEAM indicated that requiring PDF conversion and bookmarking of all documents for separate content would be "burdensome or inapplicable" when applied to all documents filed on the commission filing system, such as discovery. TNMP generally recommended the commission consider whether the filing and formatting requirements listed by SOAH are appropriate for commission proceedings in the contested case context and beyond. Similarly to TNMP, TEAM noted that universal application of SOAH's formatting requirements is unnecessary given that there are certain proceedings before the commission that are not referred to SOAH for an evidentiary hearing and are instead eligible for administrative approval, such as certifications or registrations. Moreover, TEAM commented that there are other cases that are referred to SOAH but end in a settlement which minimizes the likelihood of appeal.

LCRA commented that SOAH's recommendations would represent a significant burden to parties involved in proceedings before the commission. LCRA noted that, while the TRCP filing requirements may apply to SOAH filings in certain instances, such as for discovery under 1 TAC § 155.251(c), and may be considered by administrative law judges when interpreting SOAH rules under 1 TAC § 155.3(g), the TRCP filing requirements do not directly apply to SOAH filings. LCRA stated that the commission's revisions to §22.71 and §22.72 will improve the processing of commission dockets by SOAH and that there is no compelling reason for the commission to attempt to further align its filing and formatting requirements with those of SOAH.

LCRA further indicated that, currently, SOAH's own rules do not apply to commission proceedings and referred to 1 TAC §155.101(b) which exempts both the commission's and the Texas Commission on Environmental Quality's cases from SOAH filing requirements.

TEAM commented that SOAH does not list which Texas state agencies utilize their own filing system like the commission. TEAM remarked that to the extent that SOAH's proposals would necessitate changes or upgrades to the commission's current filing system, SOAH's recommendations amount "to an unfunded mandate on the Commission that has not been approved by the Texas Legislature."

Commission response

The commission agrees with the various reasons provided by commenters as to the disadvantages of adopting SOAH's recommendations and accordingly declines to modify the proposed rule. SOAH's recommendations would amount to a complete overhaul of the commission's filing procedures for little commensurate benefit. The commission notes that a significant majority of commission proceedings are handled in-house by the commission's own administrative law judges or policy staff and are never referred to SOAH. Moreover, the commission has committed extensive resources to developing the commission's Interchange and is diligently working on expanding its capabilities.

Proposed §22.72(a) - Applicability

Proposed §22.72(a) specifies that this section applies to all items required to be filed with the commission under §22.71.

The commission modifies this subsection to clarify that the adopted rule applies only to items required to be filed with the commission under adopted §22.71(b)(1) to differentiate any form or format standards for filings made under an alternative filing method described in adopted §22.71(b)(2).

The commission also makes uniform modifications throughout the rule by replacing the terms "party" with "filer" and replacing the term "requirement" with "standard" for clarity and consistency. The standards of this section apply, and the existing version of this rule have always applied, to all individuals who file items with the commission. This clarity edit prevents any confusion by using the term "filer" consistent with its use in §22.71, and the term "party" consistent with how it is defined in §22.2, relating to Definitions. This is not a substantive change, because the context and specific language of existing and proposed §22.72 clearly indicated that the use of "party" in those versions of this rule was not consistent with its definition in §22.2.

Proposed §22.72(b) - Definition

Proposed §22.72(b) defines the term "commission filing system" as the electronic filing system maintained for the archiving and organization of items and materials received by the commission.

The commission deletes proposed §22.72(b) to maintain consistency with adopted §22.71 and renumbers subsequent subsections accordingly.

Proposed §22.72(c)(2) - Formatting of filed documents

Proposed §22.72(c)(2) provides that all items should be formatted for 8.5 x 11-inch paper except for any log, graph, map, drawing, or chart submitted as part of a filing if such content cannot be formatted legibly on 8.5 x 11-inch paper.

The commission deletes proposed §22.72(c)(2) because it is redundant with proposed §22.72(d)(1)(A). In addition, the commission modifies proposed §22.72(d)(1)(A) to remove suggestive form standards and replaces it with a requirement that filers format items in a manner that renders the information legible and generally accessible. This change allows for the rule to serve as a requirement while still providing for a preferred formatting standard.

Proposed §22.72(c)(3) - Electronic material submitted on an external storage device for digital media

Proposed §22.72(c)(3) establishes the requirements for "electronic material submitted on an external storage device for digital media (such as a CD, DVD, or USB)."

Proposed §22.72(c)(3)(A) - Prohibition on external storage devices unless approved by Central Records

Proposed §22.72(c)(3)(A) prohibits a party from "submitting electronic material on an external storage device for digital media, unless the request is authorized by Central Records in writing" under §22.72(c)(3)(B).

TEAM recommended the external storage device for digital media requirements under proposed §22.71(c)(3)(A) be revised to account for individual file size limits when submitting a filing using the commission filing system. Specifically, TEAM recommended the provision authorize the usage of external storage devices for digital media without approval by Central Records if the file size exceeds 599 MB. TEAM commented that the commission filing system currently has a limit of "255 individual files per filing and a total file size limitation of 200 megabytes (MB)." TEAM noted that this change would minimize the need to break very large filing into multiple parts under 200 MB each. TEAM provided draft language consistent with its recommendation.

Commission response

The commission declines to implement the recommended change. The proposed language provides the flexibility necessary for Central Records and Information Technology to review external storage devices for digital media given the changing nature of technology. Due to cybersecurity concerns, Central Records must have the authority and discretion to accept or reject external storage devices for digital media to ensure the protection of the commission's digital assets and infrastructure. The commission is in the process of developing an authorized list of external storage devices for digital media and the attendant procedures for handling and managing such devices, including the filings received through them. An authorization for an unspecified category of external storage devices without review by Central Records is a cybersecurity risk.

However, the commission expands the exception to this prohibition to include authorization provided by a presiding officer in a proceeding or by the commission itself. This expansion renders proposed §22.72(c)(3)(C) redundant; therefore, the commission deletes that provision and renumbers proposed §22.72(c)(3)(D) as adopted §22.72(b)(2)(C).

Proposed §22.72(c)(3)(B) and proposed §22.72(c)(3)(B)(i)

Proposed §22.72(c)(3)(B) establishes the procedure for filing an external storage device for digital media. Proposed §22.72(c)(3)(B)(i) requires a filer to demonstrate to Central Records via written correspondence that the material is unique and not ordinarily capable of being electronically or physically filed on the commission filing system. The provision also establishes that "Central Records will review the written correspondence and make a determination regarding the request within a reasonable time period."

TPPA recommended that proposed §22.72(c)(3)(B)(i) be revised to provide a more definite time period for Central Records to make a determination on and respond to requests from filers to submit items using an external storage device for digital media. TPPA stated that a clear deadline as opposed to "a reasonable time period" would provide certainty to filers in submitting timely filings and promote more effective planning among filers.

Commission response

The commission declines to implement the recommended change. A filer must request permission from Central Records before using an external storage device for digital media. Central Records routinely has to consult Information Technology to determine what the Interchange Filer can or cannot accept. The time this process takes is dependent on the content of the storage device, the type of digital media that is delivered to the commission, the volume or size of the filing, and other external factors affecting processing. Any timeframe included in the rule would be unnecessary and arbitrary, because it may or may not provide meaningful guidance on how long a particular inquiry will take. Central Records will process these requests as efficiently as possible. Central Records is also currently working with Information Technology to develop a list of acceptable external storage devices for digital media.

Proposed §22.72(d) - Format and filing standards

Proposed §22.72(d) establishes the permissive and mandatory format and filing standards for items filed at the commission.

The commission redesignates proposed §22.72(d) as adopted §22.72(c) adds new subsection (c)(3) to consolidate the format and filing standards for physical filings previously contained in proposed §22.71(i).

TPPA recommended that proposed §22.72(d) be updated to accommodate filings made in commission databases to ensure the commission's formatting and file standards are applied correctly. TPPA commented that some of the formatting and file standards under proposed §22.72(d), such as the spacing and margin requirements under proposed §22.72(d)(1)(A) and the 12-point font requirements under proposed §22.72(d)(1)(C), may be incompatible with documents submitted through a commission database.

Commission response

The commission declines to implement the recommended change because it is unnecessary. As stated previously, the commission modifies proposed §22.72(a) to clarify that the standards in the entire section apply to filings required to be made under adopted §22.71(b)(1); therefore, formatting standards for items using alternative filing methods are no longer appropriate.

Proposed §22.72(d)(1) - General standards

Proposed §22.72(d)(1) establishes recommended general standards for all filings.

The commission revises proposed §22.72(d)(1)(A)-(C) to remove suggestive format and filing standards. Instead, the commission requires filed items to be formatted in a manner that renders them legible and generally accessible. Filed items must meet the prescribed format standards unless doing so would render the content of the item illegible or if the native format of the file uses another generally acceptable structure or format.

Proposed §22.72(d)(1)(C) - Legible font and 12-point type

Proposed §22.72(d)(1)(C) provides that a filing should be "printed or formatted in a legible font and not less than 12-point type."

Oncor and AEP recommended that Excel files that are too large to view on 8.5 x 11-inch paper in 12-point font be either exempt from the 12-point font requirement under proposed §22.71(d)(1)(C) or be subject to a different font size requirement, such as 8-point font. Oncor noted that in some cases it is

impracticable to accommodate a 12-point font in an Excel document and may not increase legibility when viewed in a single window. Oncor and AEP further noted that Excel documents filed with the commission may have a significant amount of data that would make the 12-point font requirement difficult to accommodate. Oncor provided draft language consistent with its recommendation.

Similarly, TPPA recommended that proposed §22.71(d)(1)(C) be revised to allow for font sizes as small as 10-point font, as is the case in the current rule, as opposed to the 12-point font required in the proposed rule. TPPA remarked that preserving the 10-point font minimum would provide greater flexibility for filers when formatting lengthy or technical documents while preserving legibility.

Commission response

The commission declines to implement the recommended changes because they are unnecessary. The commission's modification to proposed §22.72(d)(1) acknowledges that some items may not be legible or generally accessible if they are formatted to the proposed standards. Therefore, filers must format all items to be filed in a manner that renders them legible and generally accessible.

Proposed §22.72(d)(2) - Mandatory general standards

Proposed §22.72(d)(2) establishes mandatory general standards that are applicable to all filings.

The commission modifies §22.72(d)(2) to except filings made by a presiding officer, the Office of Policy and Docket Management (OPDM), and the Rules and Projects division (RAP) from subparagraphs (A) and (B) of this paragraph (described below). Filings made by these entities are generally either orders, proposed orders, memos, or otherwise administrative in nature, making these requirements inapplicable or unnecessary.

Proposed §22.72(d)(2)(A) - Non-native figures

Proposed §22.72(d)(2)(A) requires any non-native figure, illustration, or object submitted with a filing must be filed as a referenced attachment in its native format.

Proposed §22.72(d)(2)(B) - Table of contents

Proposed §22.72(d)(2)(B) provides that an item with "five or more headings or five or more subheadings must have a table of contents that lists the major sections of the item, the page number for the start of each major section, and identifiers for each major section of the item." The provision exempts discovery responses from the table of content requirement.

Vistra recommended that proposed §22.71(d)(2)(A) and (B) be revised to be more limited in applicability and not count against any page limit restrictions. Specifically, Vistra recommended that proposed §22.72(d)(2)(A) should either be made optional or otherwise exclude "objects embedded in-line with the text of a filing vs. a non-native object filed with a filing and intended as a separate attachment." Vistra indicated that requiring each chart or graph included in a document as a separate referenced attachment in its native format may clutter the record with several files rather than provide helpful information.

Vistra further recommended that documents should not be required to be filed in their native format. Vistra noted that native files may have proprietary and confidential information that should not be publicly disclosed. Vistra commented the presiding officer would still be able to require documents to be filed in their native format, but that the requirement should not be the standard for all filings. Vistra stated that, if the concern with non-native objects is legibility, the proposed rule already has alternatives, such as the authorization for Central Records to reject illegible filings in proposed §22.71(e)(1). Vistra maintained that requiring non-native figures to be filed in their native format is an unnecessary administrative burden that could risk the disclosure of confidential material and may discourage the use of visual aids in filings, which would accordingly diminish the informational value of the record. Vistra provided draft language consistent with its recommendations.

Commission response

The commission declines to implement the recommended changes because they are impracticable. The native-format standard is intended to ensure that any information included in a filing can be reviewed appropriately (i.e., ensuring that Excel formulas and other data is preserved). Regarding non-native embedded items, if a filer does not provide a separate filing for an embedded item, it risks appearing as a blank page indicating that the reader should refer to the .zip file on the Interchange. Whether an item or embedded figure is filed in its native format is also dependent on how the item or embedded figure is created. For instance, a graph created in Microsoft Word that is embedded in a Microsoft Word document filed with the commission is technically filed in its native format. Moreover, creating rule language to address this specific issue regarding embedded figures is liable to create other issues for the application of formatting standards. If there are confidentiality concerns, such items with non-native embedded material may be filed confidentially.

Vistra recommended that the format and filing standards under proposed §22.72(d)(2)(A) and (B) should be limited to contested case proceedings. Vistra explained that the stylistic requirements of the provision are more beneficial for organization as opposed to other commission matters such as rulemakings and projects that rely on more editorial flexibility.

Commission response

The commission determines that the formatting standards for items required to be filed under adopted §22.71(b)(1) should be uniform across all commission proceedings that utilize the Interchange and accordingly declines to implement the recommended change.

Vistra further recommended that, if the commission preserves the requirements of §22.72(d)(2)(A) and (B), any non-native figures included as attachments or tables of contents should not be counted against the page limit requirements under proposed §22.72(g). Vistra provided draft language consistent with its recommendations.

Commission response

The commission declines to implement the recommended change because it is unnecessary. Adopted §22.72(f) provides that the commission, commission counsel, and a presiding officer may consider factors such as which party has the burden of proof and the extent of opposition to a party's position when establishing page limits for filings in a proceeding.

However, the commission does modify the rule to exempt items filed in rulemaking projects from the table of content requirements. The structure of section-by-section analysis that is preferred in rulemaking comments would make a table of contents requirement unwieldy. Further, the commission typically requires

an executive summary on filings in rulemaking projects, which is a more suitable requirement for that type of filing. However, to the extent that a table of contents would be helpful in reviewing long filings in rulemaking projects, the commission encourages its use.

TEAM and TPPA recommended the table of contents requirement under proposed §22.72(d)(2)(B) to be revised to be based on the number of pages in the filing, rather than on the number of headings or subheadings. TEAM noted that some documents may contain five headings yet still be shorter than ten pages. TEAM specifically recommended the threshold for including a table of contents be whether the filing has ten or more pages. TEAM provide draft language consistent with its recommendation. TPPA recommended modeling the provision after a similar page-based table of content requirement in §22.205, relating to Briefs. TPPA specifically recommended a 20-page minimum table of content requirement for non-briefs to ensure that the table of content is applied in a useful manner.

Commission response

The commission agrees with TEAM and TPPA and modifies the proposed rule to require an item that has ten or more pages and has multiple headings or subheadings to have a table of contents.

Proposed §22.72(d)(2)(C) - Consecutive numbering

Proposed §22.72(d)(2)(C) requires all pages of a filing, starting with the first page of the table of contents to be consecutively numbered through the last page of the document, including any attachments.

Oncor recommended the consecutive numbering requirement under proposed §22.72(d)(2)(C) to be revised to exempt CCN applications as it would be burdensome for utilities. Oncor noted that while pagination can be applied across file types that are included in a filing (i.e., PDFs, power points, etc.), applying pagination to CCN applications would present serious difficulties for utilities. Oncor explained that this is because the environmental assessments that are generally included in CCN applications are finalized significantly earlier than any other part of the application and would therefore have separate numbering. Oncor also commented that consecutive pagination is further complicated in CCN applications by the size and formatting requirements associated with large maps. Oncor accordingly indicated that, in conjunction with the other attendant requirements for CCN applications, such as for notices and maps, CCN filings and the requisite environmental assessments should be exempted from the consecutive pagination requirement. As an alternative, Oncor recommended that the consecutive pagination requirement apply to the CCN pleading but not to the CCN application's attachments and exhibits. Oncor provided draft language consistent with its recommendation. Similar to Oncor, TEAM recommended revising proposed §22.72(d)(2)(C) to only require consecutive pagination if an item is ten pages or longer, including attachments. TEAM provided draft language consistent with its recommendation.

Commission response

The commission agrees in part with Oncor's recommendation. The commission retains the requirement that a filer must consecutively number the pages of all filings. However, the commission exempts from this requirement any attachment or exhibit to an application for electric, water, or wastewater certificate of convenience and necessity. The changes are adopted as §22.72(c)(1)(B).

Proposed §22.72(d)(2)(E) - Redaction of personally sensitive information

Proposed §22.72(d)(2)(E) requires sensitive personal information of the filer or any other person, such as social security numbers, driver license numbers, or financial records, including account numbers, to be redacted from a filing.

TPPA requested clarification on the requirement to redact personal information under proposed §22.72(d)(2)(E) as it could be interpreted to imply that a separate unredacted version of the filing must be submitted with the public-facing redacted version required under proposed §22.71(j)(2)(A)(i).

Commission response

Adopted §22.72(c)(2)(D) (formerly §22.72(d)(2)(E)) does not create a redaction requirement that is additional to the one provided in §22.71. For clarity, the commission revises the term "financial information" to more specifically refer to "account numbers" and qualifies the redaction requirement to "sensitive personal information of the filer or any other person that is not required for the disposition of the case…" (emphasis added).

Proposed §22.72(e) - Citation form

Proposed §22.72(e) provides that an item filed with the commission should comply with the commission's Citation and Style Guide. The provision further provides that citations to law or other legal authority in an item filed with the commission should comply with Texas Rules of Form: The Greenbook (for Texas authorities), The Bluebook: A Uniform System of Citation (for all other authorities).

TPPA recommended that the reference to the "PUCT Citation Guide" under proposed §22.72(e) should be updated to refer to the "Citation and Style Guide for the Public Utility Commission of Texas" which is the actual title of the document.

Commission response

The commission agrees with TPPA and implements the recommended change. The commission further modifies proposed §22.72(e) to replace the phrase "should comply" with the phrase "must substantially comply" as it is more appropriate language for a rule requirement.

Proposed §22.72(f) - Signature and other requirements

Proposed §22.72(f) establishes general requirements concerning signatures, contact information, the date of signature, and certificates of service.

Proposed §22.72(f)(3) - Date of signature and certificate of service

Proposed §22.72(f)(3) requires a filing to include the date the document was signed and the date the document was served on all the parties to the proceeding. The proceeding also requires evidence of service to be presented in accordance with §22.74 of this title, relating to Service of Pleadings and Documents.

TEAM recommended that the reference to §22.74, relating to Service of Pleadings and Documents, under proposed §22.72(f)(3) be simplified to explicitly reference a certificate of service rather than evidence of service. TEAM noted that §22.74 distinguishes between evidence of service and a certificate of service. TEAM provided draft language consistent with its recommendation.

TPPA recommended that the requirement to provide the date a document is served under §22.72(f)(3) be revised to be "as applicable" given the prevalence of filings and parties in commission proceedings and projects where service on other parties is not necessary or expected. TPPA provided draft language consistent with its recommendation.

Commission response

The commission generally agrees with TEAM and TPPA and modifies the rule to require the inclusion of "the date the document as signed and, if a proceeding involves parties, a certificate of service in accordance with §22.74…" (emphasis added).

Proposed §22.72(i) - Physical filing standards

Proposed §22.72(i) establishes filing requirements for physically filed items other than maps.

The commission deletes the proposed subsection because it is made redundant with the modifications made to adopted §22.72(c). Proposed §22.72(j) is renumbered accordingly.

SUBCHAPTER E. PLEADINGS AND OTHER DOCUMENTS

16 TAC §22.71, §22.72

The repeals are adopted under the following provisions of the Public Utility Regulatory Act (PURA) and Chapter 13 of the Texas Water Code: PURA §§14.002 and 14.052 and the 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 of practice and procedure before the commission.

Cross reference to statutes: Public Utility Regulatory Act §§14.002 and 14.052, and Texas Water Code § 13.041(b).

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 November 20, 2025.

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Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
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Proposal publication date: May 23, 2025
For further information, please call: (512) 936-7244

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16 TAC §22.71, §22.72

The new sections are adopted under the following provisions of the Public Utility Regulatory Act (PURA) and Chapter 13 of the Texas Water Code: PURA §§14.002 and 14.052 and the 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 of practice and procedure before the commission.

Cross reference to statutes: Public Utility Regulatory Act §§14.002 and 14.052, and Texas Water Code § 13.041(b).

§22.71. Commission Filing Requirements and Procedures.

(a) Purpose. This section establishes requirements for the submission of items to the commission and for use of such items as the agency's copy of record.

(b) Methods of filing. The method of filing an item is dependent on the nature of the item.

(1) Interchange. The following items must be filed for posting to the commission's Interchange, which can be accessed on the commission's website, unless otherwise ordered by the commission or requested by the presiding officer or an employee of the commission:

(A) Pleadings;

(B) All documents relating to a rulemaking;

(C) Registrations, certifications, or reports required by statute or rule to be filed with the commission;

(D) Letters, memoranda, or other documents relating to any commission proceeding;

(E) Maps, geographic information system (GIS) data, or other visual information such as charts, photographs, or illustrations relating to any commission proceeding;

(F) Any document included as part of the record in all matters or commission proceedings, including protective orders and protective order certifications;

(G) Any document presented to the commission during an open meeting if that document is not already included as part of the record in a contested case proceeding; and

(H) Any other item required to be filed by statute, commission rule, or commission order for which an alternative method of submission is not specified.

(2) Internet applications and portals. The commission may establish an alternative method, such as an internet application or portal, for electronic filing of specific types of content, such as routine reporting requirements. For each alternative method of filing, commission staff must propose filing instructions for the commission's consideration that address:

(A) the items to which the alternative method applies;

(B) the process for accessing the alternative method, such as establishing an account and password, and entering required information;

(C) which data formats are acceptable or required by the method;

(D) the process, if any, for designating data elements as confidential, which must recognize the public's right to transparent and accessible information;

(E) the process to view data submitted using the alternative method;

(F) whether and how a confirmation of data entry will be provided;

(G) the process to void or remove a filing;

(H) the process by which commission staff will maintain the instructions;

(I) contact information to receive technical assistance with a filing; and

(J) any other information necessary to successfully use the alternative method.

(c) Interchange filing methods and procedures.

(1) Unless otherwise required by commission rule, statute, or ordered by the presiding officer, any item required to be filed with the commission, including confidential filings, may be filed electronically. An item listed in (b)(1) of this section may be filed electronically using the Interchange Filer or filed physically for posting on the Interchange by delivering the item to Central Records unless the commission requires the item to be filed using an alternative method described in (b)(2) of this section.

(2) Unless otherwise required by commission rule, statute, or ordered by the presiding officer, each item filed with the commission using the Interchange Filer, including confidential filings, will be posted on the Interchange.

(3) Each item submitted in accordance with this section will serve as the agency's official copy of record, including electronic copies of physical filings posted on the Interchange by Central Records.

(d) Special filing requirements.

(1) Notwithstanding any other provision of this title, the following types of items must be filed in the manner specified below:

(A) Retail electric provider letters of credit. An irrevocable stand-by letter of credit provided in accordance with §25.107 (relating to Certification and Obligations of Retail Electric Providers (REPs)) of this title must be an original letter of credit and must be filed electronically using the Interchange Filer. The original letter of credit must contain a verifiable electronic signature or other means of authentication acceptable to the commission. A retail electric provider with a physical letter of credit on file with the commission on the effective date of this section must file an original letter of credit electronically on or before March 5, 2027.

(B) Texas energy fund letters of credit. A letter of credit required by §25.510 of this title, (relating to Texas Energy Fund In-ERCOT Generation Loan Program) is not required to be filed using the Interchange Filer and must be filed in a form and manner specified by the executive director or his or her designee.

(C) Maps. A map must be filed in its original scale (i.e., an original document that has not been scanned, reduced, or enlarged).

(i) A map that is filed electronically must be filed in PDF format.

(ii) A filer must provide one or more additional copies of a filed map to Central Records at the request of an employee of the commission or a presiding officer and notify Central Records of the name of the requesting employee or presiding officer.

(D) GIS data. GIS data used to create maps under subparagraph (C) of this paragraph must be electronically filed in its native format and be capable of being used and analyzed by commission staff. GIS data includes any additional information, materials, or documents required for accurate interpretation of a map.

(2) Physical copies required. The following types of items must be electronically filed, and the filer must also provide a number of physical copies to Central Records as prescribed below as soon as reasonably practicable following the electronic filing, along with a cover letter identifying the control number assigned to the commission proceeding:

(A) Two physical copies of applications and notices of intent in electric base rate proceedings;

(B) Two physical copies of applications, which include any required maps, for new or amended electric, water, or sewer certificates of convenience and necessity; and

(C) Six additional physical copies of any maps contained in applications for new or amended electric, water, or sewer certificates of convenience and necessity.

(3) An employee of the commission or a presiding officer may require a filer to provide physical copies of a filing.

(e) Receipt by the commission and filing deadline. Items filed either electronically or physically with the commission for posting on the Interchange will be processed in accordance with this subsection.

(1) Central Records may reject a filing if the filing:

(A) is blank, illegible, or missing pages in whole or in part;

(B) does not contain minimally necessary identifying information such as the control number or the filer's complete contact information;

(C) is designated as confidential but does not include the documents described in subsection (j)(1)(A) or (j)(1)(F) of this section;

(D) may pose a risk to the commission, its employees, or the commission's electronic systems (e.g. suspicious packages, spam, suspected viruses or malware); or

(E) is submitted as an external hard drive or other external storage device for digital media that is not approved by Central Records under §22.72(b)(2) of this title.

(2) Upon receipt of an item by physical filing, Central Records will date stamp the item, post the item on the Interchange in the control number specified by the filer, and assign the item an item number in accordance with the order the filing was received.

(3) Upon receipt of an item by electronic filing, the Interchange Filer will process and date stamp the item, post the item in the control number specified by the filer, and assign the item an item number in accordance with the order the filing was received.

(4) An item date-stamped before or at 5:00:00 p.m. Central Prevailing Time on a working day will be deemed filed on that day. An item date-stamped after 5:00:00 p.m. Central Prevailing Time on a working day will be deemed filed on the next working day. An item date-stamped at any time on a day that is not a working day will be deemed filed on the next working day. This paragraph does not preclude a presiding officer or, if a project, commission staff, from setting a specific filing deadline or determining an item filed by that deadline is timely filed.

(5) The filer is responsible for any delay, disruption, or interruption of mail, courier service, Internet, or electronic signals.

(f) No filing fee. No filing fee is required to file an item with the commission.

(g) Availability of filing methods.

(1) Physical filings. An item may be physically filed only during hours when Central Records is open.

(A) Regular business hours. Central Records is open from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, on working days, except in the case of an emergency or inclement weather.

(B) Supplemental business hours for commission employees. On open meeting days and the working day immediately preceding an open meeting day, Central Records will be open to commission employees from 8:00 a.m. to 9:00 a.m. and 12 p.m. to 1:00 p.m. Commission staff acting as a party in a commission proceeding with a tariff or docket control number may not make a physical filing in that proceeding during these supplemental hours.

(2) Electronic filing. Electronic filing, including use of the Interchange Filer, is available 24 hours a day, seven days a week, unless taken down for maintenance, emergency, loss of connectivity, or as otherwise determined to be necessary by Central Records.

(h) Availability of items filed with the commission for posting on the Interchange.

(1) An electronic filing will be available for access on the Interchange once accepted and posted by the Interchange Filer. Once a filing is posted and accessible on the Interchange, a written receipt will be automatically generated and electronically sent to the filer identifying the date and time the filing was accepted for posting.

(2) A physical filing will be available for access on the Interchange once processed by Central Records.

(3) A physical filing, request for a new control number, or an item designated as confidential may be processed the next working day after the filing is received by Central Records.

(4) If the item does not appear on the Interchange, the filer is responsible for notifying Central Records.

(5) If a filing is rejected in accordance with subsection (e) of this section, Central Records will make reasonable efforts to notify the filer of the rejection.

(6) Voiding a filing. A filer may request that a filing posted on the Interchange, including a confidential filing under subsection (j) of this section, be voided. Central Records will remove the voided item from the Interchange only if the conditions in paragraphs (A) through (C) are met. The filer may re-file the item in accordance with this section.

(A) Unless otherwise instructed by a presiding officer or an employee of the commission, a filer seeking to void a filing must:

(i) file the request in the Interchange in the relevant control number and identifying the relevant item number, as applicable; and

(ii) Notify Central Records in writing, via email if possible, that such a request has been filed.

(B) The request and notice to Central Records must identify the filing with enough precision for Central Records to identify the correct filing.

(C) An item must only be voided by the filer that originally filed that item or by that filer's authorized representative.

(i) Filing deadlines for open meeting documents addressed to the commissioners.

(1) Except as provided in paragraph (2) of this subsection, all documents addressed to the commissioners and concerning an item that has been placed on an agenda for an open meeting must be filed no later than seven days prior to the open meeting at which the matter will be considered. Documents that are not timely filed will be considered untimely. The commissioners may review untimely filed documents at their discretion.

(2) The deadline established in paragraph (1) of this subsection does not apply if:

(A) The documents have been specifically requested by one or more of the commissioners or the executive director or his or her designee at a time that makes it impossible for the filer to meet the deadlines under paragraph (1) of this subsection; or

(B) The parties are negotiating and such negotiation requires the late filing of materials reporting on the negotiation.

(j) Confidential material filed with the commission for posting on the Interchange. An item filed either electronically or physically for posting on the Interchange is public and available for viewing by the public unless the item is designated as confidential in accordance with this subsection. To designate an item as confidential, a filer must comply with the requirements of this subsection, unless otherwise ordered by the presiding officer.

(1) Confidential-filing requirements.

(A) To designate an item as confidential, a filer must file the following documents as two separate filings, and, if applicable, comply with any individual protective order governing the access and handling of confidential materials that is applicable to the proceeding:

(i) a fully completed confidential-filing memorandum as specified in subparagraphs (D) and (E) of this paragraph, accompanied by a redacted copy of the original item, filed non-confidentially; and

(ii) an unredacted copy of the original item, filed confidentially.

(B) Central Records may reject a confidential filing that does not include the documents described under subparagraph (A) of this paragraph. Central Records will notify the filer of the rejection through electronic mail if reasonably practicable. It is the filer's responsibility to check the Interchange to verify that a confidential filing was accepted.

(C) A redacted copy of a confidential filing. A redacted copy of a confidential filing must not redact more content than is required to prevent confidential information from being publicly posted. The following exceptions apply:

(i) A cover letter that describes the content of the filing may be filed in lieu of a redacted copy if the confidential filing is a letter of credit.

(ii) If the formatting, size, or content of a confidential filing in Microsoft Excel format (i.e. .xls/.xlsx) makes the filing of a redacted copy of the item in native format impracticable, the filer may:

(I) file a redacted copy of the item in a non-native format accompanied by a cover letter that describes any nonconfidential information that is rendered unavailable to the public due to the non-native format; or

(II) if the non-native format copy of the item exceeds 50 pages, file a cover letter that describes the content of the filing in lieu of filing a redacted copy.

(D) To be deemed fully completed, a confidential-filing memorandum under subparagraph (E) of this paragraph must:

(i) Plainly state the reasons for the confidential designation;

(ii) Plainly state the legal support for the confidential designation, if applicable;

(iii) Identify the specific pages or portions of pages of the filing that are confidential and have been redacted;

(iv) Provide any identifying information required by the confidential-filing memorandum in subparagraph (E) of this paragraph regarding the filer, the proceeding (such as the control number), or confidential filing.

(v) Provide any additional information required by a protective order in effect in the applicable proceeding or that may otherwise be required by the presiding officer via written order; and

(vi) Include an acknowledgement that the confidential status of the filing is subject to revocation.

(E) Confidential-filing memorandum.
Figure: 16 TAC §22.71(j)(1)(E)

(F) Physical filing. In addition to the requirements of subparagraphs (A) through (E) of this paragraph, a filer must also comply with the requirements of this subparagraph to designate a physically filed item filed as confidential. The filer must deliver the confidential item to Central Records in a sealed and labeled envelope (the confidential envelope). The confidential envelope must not include non-confidential documents unless directly related to and essential for clarity of the confidential document.

(i) All physically filed confidential material must be provided in a 10 x 13-inch manila clasp envelope. Larger envelopes or multiple envelopes are permitted only when necessary due to the material's size or volume. If multiple envelopes are necessary, each envelope must be sequentially numbered and indicate the total number of envelopes for the filing (e.g., 1 of 3).

(ii) The completed confidential-filing memorandum required under subparagraph (E) of this paragraph must be securely taped or adhered to the front of the confidential envelope.

(iii) In addition to paragraph (2)(A) of this subsection, if the item is not submitted in a confidential envelope in accordance with this subparagraph, Central Records will reject the item. The item may be re-filed in accordance with this section.

(iv) A physical filing designated as confidential that has been rejected by Central Records will be securely destroyed after rejection.

(G) Electronic filing. In addition to the requirements of subparagraphs (A) through (E) of this paragraph, a filer must designate an item filed electronically using the Interchange Filer as confidential by indicating that the item is to be filed confidentially (e.g., selecting a checkbox provided on the Interchange Filer).

(2) Challenge of confidentiality designation in a proceeding with a tariff or docket control number. The confidential designation of any filing made in a proceeding with an assigned tariff or docket control number may be challenged by any party via motion or by the presiding officer via order. A challenge to a confidential designation must specifically indicate the basis of the challenge and the portions of the filing that should not be confidential.

(A) If a confidential designation is challenged, the filing party has the burden of showing that the item should remain confidential. The filing party must respond to a motion challenging the confidentiality of a filing within five working days of the motion, or within the time period specified by the presiding officer.

(B) If the presiding officer determines that a confidential designation under this section is appropriate, the presiding officer will issue an order and allow the filing to remain confidential on the Interchange.

(C) The presiding officer will issue an order if the presiding officer determines that a confidential designation under this section is not appropriate. After such an order is issued, the filing party must void the filing in accordance with the requirements of this section. The filing party may re-file the item in accordance with this section and the order of the presiding officer.

(3) Challenge of confidentiality designation in projects and certain other commission proceedings. This paragraph applies only to filings designated as confidential in a proceeding without a tariff or docket control number, such as a project.

(A) The executive director or his or her designee may request, in writing, that a filer void a filing and non-confidentially re-file all or part of an item designated as confidential, including the basis for the request and a response deadline.

(B) If the filer does not agree to void the filing and re-file as requested, the filer must provide the executive director or his or her designee with a written response by the response deadline. The filer has the burden of showing the item should remain confidential.

(C) After considering the response, the executive director or his or her designee will notify the filer whether the filing may remain confidentially filed, stating the basis for the decision. If the executive director or his or her designee determines that a confidential designation under this section is not appropriate, the filer must void the filing consistent with the requirements of this section. The filer may re-file the item in accordance with this section and the executive director or his or her designee's determination.

(4) Posting of confidential information on the Interchange.

(A) The completed confidential-filing memorandum required under paragraphs (1)(D) and (E) of this subsection and the redacted version of the confidential filing will be posted non-confidentially on the Interchange as a single filing.

(B) The unredacted version of the item will be posted confidentially on the Interchange and will only be accessible by the persons listed under paragraph (6) of this subsection.

(5) Confidential re-filing of voided items. The filer may re-file an item confidentially in accordance with this subsection after submitting a request to void a filing under subsection (h)(6) of this section.

(6) Access to confidential information. Access to confidential filings is limited to persons that meet the criteria of this paragraph, as applicable. Disclosure of confidential information is subject to the ex parte requirements of this subtitle:

(A) A commissioner, commission employee in OPDM, or an employee in a commissioner's office may access confidential filings in any proceeding if the commissioner or employee completes, signs, and submits to Central Records an Employee Statement Regarding Non-Disclosure of Confidential Information (the confidential access form). Once the commissioner or employee has done so, he or she may access confidential filings in any proceeding before the commission in person or electronically. A commissioner, a commission employee in OPDM, or an employee in a commissioner's office may only disclose confidential information contained in such filings to a commissioner or other employee in OPDM or a commissioner's office who has also completed, signed, and submitted to Central Records the confidential access form and only if the disclosure does not violate Texas Government Code Chapter 551 (the Texas Open Meetings Act).

(B) A commission employee in Central Records or Information Technology or the supervisor of such an employee may access all confidential filings in person or electronically for clerical and

administrative tasks necessary to ensure the proper maintenance and functioning of the commission's electronic systems, including the correction or removal of filings, the posting of physical filings electronically to the Interchange Filer, or actions otherwise directed by a presiding officer in a specific proceeding.

(C) To access confidential filings filed with the commission in a specific proceeding with an assigned tariff or docket control number, a party to the proceeding must complete, sign, and file in the proceeding a protective order certification. The certification must comply with the protective order entered by the presiding officer in that proceeding. The protective order certification is no longer valid after the commission's plenary jurisdiction over the proceeding has expired. A commission employee that requires access to confidential material in the performance of his or her duties must complete, sign, and file in the proceeding a protective order certification to access confidential filings in person or electronically.

(D) To access confidential filings filed with the commission in a proceeding without a tariff or docket control number, such as a project, a commission employee that requires access to confidential material in the performance of his or her duties must request permission from the executive director or his or her designee.

(7) Public information. Designation of a document as confidential in a commission proceeding under this subsection is not determinative of whether that document would be subject to disclosure under the Texas Public Information Act, the Texas Open Meetings Act, or other applicable law.

(8) Records retention. A document in the possession of Central Records, including documents filed confidentially, will be maintained and disposed of as required by the commission's Records Retention Schedule as approved by the Texas State Library and Archives Commission. A confidential document in the possession of parties to a proceeding must be maintained, destroyed, or returned to the providing party in the manner prescribed by any protective order adopted in that proceeding.

(9) In camera inspection. A document presented for in camera inspection solely for the purpose of obtaining a ruling on its discoverability or admissibility must not be filed as a confidential document under this paragraph but must be submitted in the manner specified under §22.144 (relating to Requests for Information and Requests for Admission of Facts).

§22.72. Form Standards for Documents Filed with the Commission.

(a) Applicability. This section applies to all items required to be filed with the commission using the Interchange Filer.

(b) Form standards.

(1) Unless otherwise authorized or required by statute, the presiding officer, or commission rules, items filed physically or electronically with the commission must include in the item or specify on a cover sheet included with the item the following information:

(A) the style and control number of the proceeding for which the item is submitted, if available;

(B) a heading identifying the nature of the item submitted and the name of the filer; and

(C) the signature of the filer or the filer's representative in accordance with subsection (e) of this section, if applicable.

(2) The following apply to any submission of electronic material submitted on an external storage device for digital media.

(A) A filer is prohibited from submitting electronic material on an external storage device for digital media, unless the request is authorized by Central Records in writing under subparagraph (B) of this paragraph, required by a presiding officer in a proceeding, or permitted by the commission.

(B) The procedure for filing an external storage device for digital media is as follows:

(i) The filer must demonstrate to Central Records via written correspondence that the material is unique and not ordinarily capable of being electronically filed using the Interchange Filer. Central Records will review the written correspondence and make a determination regarding the request within a reasonable time period.

(ii) Upon authorization by Central Records, a filer may submit one or more acceptable external storage devices for digital media to Central Records. Such devices must be physically delivered at a designated shipping or mailing commission address listed on the commission's website by mail, courier, or hand delivery to Central Records.

(C) Central Records will maintain a list of acceptable external storage devices for digital media on the commission website.

(c) Format and filing standards.

(1) The following format standards are applicable to all filings.

(A) Items must be formatted in a manner that renders the information legible and generally accessible. Items must be formatted as follows, unless doing so would render the content illegible or the native format of the file uses another generally acceptable structure or format. A filed item must:

(i) be double-spaced with left and right margins not less than one inch wide, except that any letter, tariff filing, rate filing, or proposed findings of fact, conclusions of law, and ordering paragraphs may be single-spaced;

(ii) indent and single-space any quotation which exceeds 50 words;

(iii) be printed or formatted in a legible font and not less than 12-point type; and

(iv) be formatted to print on 8.5 x 11-inch paper.

(B) All pages of a filing, starting with the first page of the table of contents, must be consecutively numbered through the last page of the document, including any attachments, except attachments and exhibits to an application for electric, water, or wastewater certificate of convenience and necessity do not need to be consecutively numbered with the rest of the application.

(2) The following general standards are applicable to all filings, except subparagraph (A) does not apply to a filing made by a presiding officer, the Office of Policy and Docket Management (OPDM), or the Rules and Projects division (RAP).

(A) Each item that is ten or more pages in length and has multiple headings or subheadings must have a table of contents that lists the major sections of the item, the page number for the start of each major section, and identifiers for each major section of the item. Discovery responses and items filed in a rulemaking are exempt from this subparagraph.

(B) If a filing contains a barcode, the barcode must be covered or redacted.

(C) If a filing contains sensitive personal information of the filer or any other person that is not required for the disposition

of the case, such as social security numbers, driver license numbers, or account numbers, that sensitive personal information must be redacted.

(3) Items, except for maps, that are filed physically must be:

(A) printed on both sides of the paper or, if it cannot be printed on both sides of the paper, every page of the copy must be single sided; and

(B) printed on 8.5 x 11-inch paper, or if the content cannot be formatted legibly on letter-size paper, be folded to a size no larger than 8.5 x 11 inches.

(4) Handwritten documents must be legible and must comply with the requirements of paragraphs (2)(B) and (2)(C) of this subsection.

(d) Citation form. An item filed with the commission must substantially comply with the commission's Citation and Style Guide for the Public Utility Commission of Texas. Any citations to law or other legal authority in an item filed with the commission must also substantially comply with the Texas Rules of Form: The Greenbook (for Texas authorities), The Bluebook: A Uniform System of Citation (for all other authorities).

(e) Signature and other standards. All filings must:

(1) be signed by the filer or the filer's authorized representative. If the person signing the pleading or document is a licensed attorney, the attorney's state of licensure and bar number must also be provided;

(2) include the contact information of the filer or authorized representative of the filer, consisting of the following:

(A) a physical mailing address;

(B) a telephone number;

(C) an email address, unless the filer or the filer's authorized representative has filed a statement under §22.106 of this title (relating to Statement of No Access).

(3) include the date the document was signed and, if a proceeding involves parties, a certificate of service in accordance with §22.74 of this title (relating to Service of Pleadings and Documents).

(f) Page limits. The commission may establish page limits for filings in any proceeding. Additionally, commission counsel or the presiding officer may establish page limits for filings in a proceeding with an assigned tariff or docket control number. In establishing page limits, the commission, commission counsel, or the presiding officer may consider such factors as which party has the burden of proof and the extent of opposition to a party's position that would need to be addressed in the document. The commission or commission staff may establish page limits for filings in projects.

(g) Electronic filing standards. An electronically filed item must comply with the requirements of this subsection. Central Records will maintain a list of preferred electronic file formats on the commission's website. This subsection does not apply to items filed by a presiding officer, OPDM, or RAP.

(1) Electronic items must be filed in the native file format used to create and edit the file.

(2) Electronic items that are filed in a portable document format (PDF) must be filed in a format that permits searches of text.

(3) Electronic filings with interactive content, such as a Microsoft Excel spreadsheet, must have active links and formulas that were used to create and manipulate the data in the filing. Links and formulas may include descriptive and technical metadata required for electronic records to maintain and retain reliability, including metadata necessary to adequately support the usability, authenticity, or integrity as well as the preservation of a record.

(4) If the filing cannot be uploaded, the filer must contact Central Records to determine an alternative means of filing.

(h) Maps and GIS data filing standards.

(1) Electronic and physical copies of maps and GIS data must be filed in accordance with §22.71 of this title.

(2) Commission staff will maintain on the commission's website:

(A) a list of acceptable file formats for maps and GIS data in accordance with subsection (g) of this section; and

(B) a procedure for filing physical maps, including oversized maps, that a filer must comply with.

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 November 20, 2025.

TRD-202504269
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Effective date: December 10, 2025
Proposal publication date: May 23, 2025
For further information, please call: (512) 936-7244

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PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 33. LICENSING

SUBCHAPTER E. EVENTS AT A TEMPORARY LOCATION

16 TAC §§33.72, 33.77, 33.81

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to 16 TAC §33.72, relating to Term of Authorization, Annual Limitation on Authorizations; §33.77, relating to Request for Temporary Event Approval; and §33.81, relating to Purchase of Alcohol for a Temporary Event. The amendments are adopted without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6581). The amended rule will not be republished.

REASONED JUSTIFICATION. The proposed amendments are necessary to implement legislation. Senate Bill 1577 (89th Regular Session) amended Alcoholic Beverage Code §28.20 by authorizing a mixed beverage permit holder to temporarily sell distilled spirits at certain racing facilities. Before SB 1577 became effective, only wine and malt beverages could be sold under §28.20. The bill also expanded the types of events at which alcohol may be sold to include all types of events held at an authorized racing facility.

SUMMARY OF COMMENTS. TABC did not receive any comments on the proposed amendments.

STATUTORY AUTHORITY. TABC adopts the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 28.20(g). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 28.20(g) authorizes TABC to adopt rules to implement temporary events at certain racing facilities.

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 November 18, 2025.

TRD-202504204
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Effective date: December 8, 2025
Proposal publication date: October 10, 2025
For further information, please call: (512) 206-3491

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CHAPTER 34. SCHEDULE OF SANCTIONS AND PENALTIES

16 TAC §34.10

The Texas Alcoholic Beverage Commission (TABC) adopt amendments to 16 TAC §34.10, relating to Sanctions for Regulatory Violations. The amendments are adopted without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6583). The amended rule will not be republished.

REASONED JUSTIFICATION. The amendments to §34.10 implement Senate Bill 1355 (89th Regular Session), which made it a violation of the Alcoholic Beverage Code for the holder of a wholesaler's permit to become delinquent in payments to a distiller's and rectifier's permit holder for liquor sales. SB 1355 is codified at Alcoholic Beverage Code §102.33. The adopted amendments add a new administrative violation and corresponding penalty to the existing list of violations and penalties in §34.10(g) to account for the new violation created by SB 1355. The amendments also add new §34.10(h), which establishes a base penalty of $250 for such violations, but also provides that that amount may be modified by TABC based on the totality of the circumstances.

SUMMARY OF COMMENTS. TABC did not receive any comments on the proposed amendments.

STATUTORY AUTHORITY. TABC adopts the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31, 5.362, and 102.33(e). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 5.362 directs TABC to "adopt a schedule of sanctions that may be imposed on a license or permit holder" for violations of the Alcoholic Beverage Code or commission rules. Section 102.33(e) directs TABC to adopt rules to implement the credit restrictions for the sale of liquor by a distiller to a wholesaler under section 102.33.

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 November 18, 2025.

TRD-202504208
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Effective date: December 8, 2025
Proposal publication date: October 10, 2025
For further information, please call: (512) 206-3491

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CHAPTER 41. AUDITING
SUBCHAPTER B. RECORDKEEPING & REPORTS

16 TAC §41.28

The Texas Alcoholic Beverage Commission (TABC) adopts new 16 TAC §41.28, relating to Passenger Transportation Permit Storage Registration. The rule is adopted without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6584). The rule will not be republished.

REASONED JUSTIFICATION. The proposed rule implements House Bill 4285 (89th Regular Session) by establishing registration and notice requirements for certain commercial airlines that wish to store alcoholic beverages at a location other than an airport. Prior to the passage of HB 4285, Alcoholic Beverage Code §48.03 authorized commercial airlines that hold a passenger transportation permit to store alcoholic beverages at only one type of location--an airport regularly served by the permittee. HB 4285 expanded §48.03 by also authorizing the storage of alcoholic beverages at a location within five miles of the airport that is also in the same county as the airport.

SUMMARY OF COMMENTS. TABC did not receive any comments on the proposed rule.

STATUTORY AUTHORITY. TABC adopts this rule pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 48.03(b). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 48.03 authorizes TABC to promulgate rules relating to the storage of alcoholic beverages by commercial airlines who hold a passenger transportation permit.

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 November 18, 2025.

TRD-202504205

Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Effective date: December 8, 2025
Proposal publication date: October 10, 2025
For further information, please call: (512) 206-3491

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CHAPTER 45. MARKETING PRACTICES
SUBCHAPTER D. SPECIFIC REQUIREMENTS FOR MALT BEVERAGES

16 TAC §45.40, §45.44

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to 16 TAC §45.40, relating to Certificate of Registration for a Malt Beverage Product, and new 16 TAC §45.44, relating to Requirements Relating to Nonresident Brewer's Licenses. The amendments and new rule are adopted without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6585). The amended rule and new rule will not be republished.

REASONED JUSTIFICATION. The proposed amendments and new rule are necessary to implement House Bill 4463 (89th Regular Session), which adopted a primary American source of supply requirement for nonresident brewers who import malt beverages into Texas. This requirement was codified at Alcoholic Beverage Code §63.06. HB 4463 also amended Alcoholic Beverage Code §63.01(b) to authorize issuance of a single nonresident brewer's license to cover all the brewer's locations outside the state.

SUMMARY OF COMMENTS. TABC received one comment on the proposed amendments to §45.40(e) from Molson Coors Beverage Company. The commentor stated that the additional sworn statements required under §45.40(e)(1) - (3) are redundant to the certification requirements of the product registration application in the AIMS system and should be eliminated. The commentor also stated that removal of the sworn statement requirements aligns with the State Agency Digital Modernization provision in Government Code §2054.651.

AGENCY RESPONSE. TABC acknowledges that the application process in the AIMS system contains a statement attesting to the accuracy of the information contained in the application, including a question that the applicant is the primary American source. However, TABC disagrees that the requirements in §45.40(e) are redundant. Applications may be submitted in AIMS by a nonresident brewer's representative and the requirement in §45.40(e)(1) ensures that the agency receives the statement from the specific entity required to adhere to the primary American source requirement in Alcoholic Beverage Code §63.06. Additionally, the sworn statements required under §45.40(e)(2) and (e)(3) are not covered by submitting an application in AIMS because those statements must come from an entity or person other than the product registration applicant.

In terms of aligning the rule's requirements with Government Code §2054.651, the process already allows for documents to be submitted in a digital format, the agency has created a form adhering to the unsworn declaration requirements in Civil Practice and Remedies Code §132.001 (which "may be used in lieu of a written sworn declaration…or affidavit required…by a rule"), and proposed §45.40(f) authorizes a waiver of the sworn statements required under §45.40(e)(2) and (e)(3) for good cause shown by the applicant. For these reasons, TABC declines to make any changes to rule's text.

STATUTORY AUTHORITY. TABC adopts the amendments to §45.40 and new §45.44 pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31 and under Section 5 of HB 4463. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 5, HB 4463, directs TABC to, as soon as practicable, promulgate rules to implement changes in law made by the bill.

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 November 18, 2025.

TRD-202504206
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Effective date: December 8, 2025
Proposal publication date: October 10, 2025
For further information, please call: (512) 206-3491

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SUBCHAPTER G. REGULATION OF CASH AND CREDIT TRANSACTIONS

16 TAC §45.132

The Texas Alcoholic Beverage Commission (TABC) adopts new 16 TAC §45.132, relating to Wholesaler Delinquent to Distiller and Rectifier. The rule is adopted without changes to the proposed text as published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6587). The rule will not be republished.

REASONED JUSTIFICATION. The new rule is necessary to implement legislation. Senate Bill 1355 (89th Regular Session) sets forth requirements for liquor sales on credit by the holder of a distiller's and rectifier's permit to a wholesaler. The bill requires TABC to adopt implementing rules, including rules regarding the submission of supporting documentation by the holder of a distiller's and rectifier's permit. The new rule implements SB 1355 by providing a framework for reporting a wholesaler's delinquent payment and by establishing a process for agency action when a delinquency is reported.

SUMMARY OF COMMENTS. TABC received one comment on the proposed rule from the Texas Distilled Spirits Association. The commentor supports the rule as proposed and "believes this rule represents a common-sense approach to upholding the integrity of the three-tier system while supporting the growth and stability of Texas distilleries."

AGENCY RESPONSE. TABC appreciates the comment and the commentor's participation in stakeholder meetings during the rule drafting process.

STATUTORY AUTHORITY. TABC adopts this rule pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 102.33(e). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions

of the Alcoholic Beverage Code. Section 102.33(e) directs TABC to adopt rules to implement the credit restrictions for the sale of liquor by a distiller to a wholesaler under section 102.33.

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 November 18, 2025.

TRD-202504207
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Effective date: December 8, 2025
Proposal publication date: October 10, 2025
For further information, please call: (512) 206-3491

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TITLE 22. EXAMINING BOARDS

PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.1, §153.15

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.1, Definitions; and §153.15, Experience Required for Licensing.

The amendments are adopted without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5562) and will not be republished.

The amendments are made following TALCB's quadrennial rule review for this Chapter. The amendments add a definition for "Practicum Courses," and adds Practicum Courses approved by either the Appraiser Qualifications Board or TALCB as a type of experience that may be accepted to satisfy the experience requirements under Chapter 1103.

One comment was received in support of the approval and acceptance of Practicum Programs to satisfy the experience requirement. No change to the language was made as a result of this comment.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB; and §1103.153, which authorizes TALCB to adopt rules relating to the requirements for approval of a provider or course for qualifying or continuing education.

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

Filed with the Office of the Secretary of State on November 17, 2025.

TRD-202504182
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 7, 2025
Proposal publication date: August 29, 2025
For further information, please call: (512) 936-3088

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22 TAC §153.6

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.6, Military Service Member, Veteran, or Military Spouse Applications.

The amendments are adopted without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5565) and will not be republished.

The amendments to §153.6 are made as a result of statutory changes enacted by the 89th Legislature in HB 5629 and SB 1818, both of which become effective September 1, 2025. Both bills modify several provisions in Chapter 55 of the Texas Occupations Code relating to occupational licensing of military service members, military veterans, and military spouses. SB 1818 requires that a state agency promptly issue either a provisional license or a license. HB 5629 modifies the language to require a state agency to issue a license to an applicant that is a military service member, veteran, or spouse and who holds a current license issued by another state that is similar in scope of practice to the license being sought and is in good standing (a defined term) with that state's licensing authority. HB 5629 also modifies the procedure for out-of-state license recognition under §55.0041, Occupations Code. Finally, HB 5629 changes the time period within which a state agency must issue the license, from 30 days to 10 business days from the filing of the application. The amendments to §153.6 are made to reflect these changes in accordance with the reciprocity process in Chapter 1103 Occupations Code.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related to certificates and licenses that are consistent with applicable federal law and guidelines adopted by the AQB; §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the Appraiser Qualifications Board; and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct. The amendments are also adopted under Texas Occupations Code, §§55.004 and 55.0041, including as amended by HB 5629, which require the issuance of licenses under certain parameters to military service members, military veterans, or military spouses.

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 November 17, 2025.

TRD-202504184
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 7, 2025
Proposal publication date: August 29, 2025
For further information, please call: (512) 936-3088

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22 TAC §153.19

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.19, Licensing for Persons with Criminal History and Fitness Determination.

The amendments are adopted without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5567) and will not be republished.

The amendments are made as a result of statutory changes enacted by the 89th Legislature in SB 1080, which became effective on May 27, 2025. SB 1080 modified several provisions of Chapter 53 of the Texas Occupations Code relating to the revocation of an occupational license from certain license holders and the issuance of an occupational license to certain applicants with criminal convictions. Additionally, the change is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB; and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

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

Filed with the Office of the Secretary of State on November 17, 2025.

TRD-202504181
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 7, 2025
Proposal publication date: August 29, 2025
For further information, please call: (512) 936-3088

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22 TAC §153.42, §153.43

The Texas Appraiser Licensing and Certification Board (TALCB) adopts new rules 22 TAC §153.42 and §153.43.

The new rules are adopted without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5569) and will not be republished.

New rule §153.42 outlines the requirements and approval process for Practicum Course Providers and Practicum Courses; and new rule §153.43 outlines compliance procedures and prohibited activity of Practicum Providers.

One comment was received in support of the approval and acceptance of Practicum Programs to satisfy the experience requirement. No change to the language was made as a result of this comment.

The new rules are adopted under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB; and §1103.153, which authorizes TALCB to adopt rules relating to the requirements for approval of a provider or course for qualifying or continuing education.

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

Filed with the Office of the Secretary of State on November 17, 2025.

TRD-202504183
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 7, 2025
Proposal publication date: August 29, 2025
For further information, please call: (512) 936-3088

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PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 272. ADMINISTRATION

22 TAC §272.5

The Texas Optometry Board (Board) adopts amendments to 22 TAC Part 14 Chapter 272 - Administration §272.5 - Definitions. The Board adopts this rule with no changes to the proposed text

as published in the September 26, 2025, issue of the *Texas Register* (50 TexReg 6282). The adopted rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

Texas Optometry Act §351.353 sets out parameters for the initial examination of a patient for whom a prescription for glasses or contacts is written. The Board finds it necessary to define what constitutes an initial visit for purposes of regulating this section of the statute especially as it relates to inspections of optometric practices under §351.1575 of the Texas Optometry Act.

This rule defines "initial visit" as the time between eye exam visits can be up to three years before the optometrist would have to comply with requirements of the statute. The three-year time between visits is generally found in insurance contracts and has become a standard in optometric practice. Additionally, the Board wants to define initial as practice specific not provider specific - as long as the subsequent provider in the same practice has access to the patient's complete patient chart from all previous visits.

COMMENTS

In addition to publication in the *Texas Register*, the Board sent an email communication to all of its licensees in early October notifying them of the proposed rule change. It received seven comments/questions on the proposal.

Three (3) comments were supportive of the rule as written. No changes necessary.

One (1) comment opposed the rule as written stating "defining a new patient as anything other than a first-time presentation to the practice will significantly increase our administrative workload with minimal corresponding benefits to patient care." The Board disagrees with this comment and declines to make changes.

Two (2) comments sought clarification for specific examples presented.

1. Medical eye visit followed by refraction visit, when would the 10 findings be required? The Board points to the statute which only requires the 10 findings on the first visit for which a contact/glasses prescription is written. If the patient first presents for a medical reason, the optometrist would not be required to complete the tests. It is only when the patient presents for a contact/spectacle prescription for the first time that the 10 tests be required - even if that visit occurs after a medical visit. The Board declines to make changes.

2. Patients from previous office followed optometrist to new practice and optometrist has access to patient records? The rule states that if the patient returns to the same provider or practice within three years of the initial visit and the provider/practice has access to the patient's complete record, the 10 tests would not be required. The Board declines to make changes.

One (1) comment questioned exam requirements as it relates to visual field/accommodation testing as it relates to the age of the patient. This comment is not relevant to the proposed rule, but has been referred to the Rules Committee for discussion.

STATUTORY AUTHORITY

This rule is adopted under the Texas Optometry Act §351.151 and §351.353. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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 November 19, 2025.

TRD-202504244
Janice McCoy
Executive Director
Texas Optometry Board
Effective date: December 9, 2025
Proposal publication date: September 26, 2025
For further information, please call: (512) 305-8500

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 34. STATE FIRE MARSHAL

SUBCHAPTER H. STORAGE AND SALE OF FIREWORKS

28 TAC §34.811

The commissioner of insurance adopts amendments to 28 TAC §34.811, concerning the requirements for a pyrotechnic operator license. The amendments are adopted without changes to the proposed text published in the September 19, 2025, issue of the *Texas Register* (50 TexReg 6200). The section will not be republished.

REASONED JUSTIFICATION. House Bill 1899, 89th Legislature, 2025, changed the age requirement for a fireworks license in Occupations Code §2154.101(b) from 21 to 18. The Texas Department of Insurance (TDI) adopts the amendments in §34.811(g)(2) to reflect that change and also adopts additional nonsubstantive changes.

Details of the section's adopted amendments follow.

Amendments in subsection (b) replace "examinees" with "applicants" for term consistency and add "a test" after "fail" for clarity. An amendment in subsection (c) moves the word "only" to the grammatically correct place in the sentence. An amendment in subsection (f) replaces "makes application" with "applies" for plain language preferences. Amendments in subsection (g) add "who" and remove "the following," add "has not" and "is not," and remove "be" for grammatical correctness; and another amendment in the subsection replaces "18" with "21" to implement HB 1899. Amendments in subsection (h) add "intended" and "full" for clarity and consistency with the language used on the website referenced by the subsection.

The amended sections are necessary to implement HB 1899 and to make other nonsubstantive changes to conform the rule to fit current TDI style.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on October 20, 2025. TDI received one comment against the proposal. There were no commenters in support of the proposal.

Commenter: An individual commented against the proposal.

Comment on §34.811

Comment. The commenter against the proposal does not believe 18-year-olds are responsible enough to be shooting pyrotechnic fireworks. The commenter believes the age should remain 21.

Agency Response. TDI declines to make the change. HB 1899 lowered the age for pyrotechnic operators from 21 to 18. TDI is bound by statute to amend the rule to lower the age.

STATUTORY AUTHORITY. The commissioner adopts the amendments to §34.811 under Occupations Code §2154.052(a) and (b) and Insurance Code §36.001.

Occupations Code §2154.052(a) provides that the commissioner administer Occupations Code Chapter 2154 through the state fire marshal. Occupations Code §2154.052(b) provides that the commissioner adopt and the state fire marshal administer rules necessary for the protection, safety, and preservation of life and property, including rules pertaining to the issuance of licenses pertaining to fireworks in the state.

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.

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 November 21, 2025.

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Jessica Barta
General Counsel
Texas Department of Insurance
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Proposal publication date: September 19, 2025
For further information, please call: (512) 676-6555

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES

SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §4.12

The Texas Department of Public Safety (the department) adopts amendments to §4.12, concerning Exemptions and Exceptions. This rule is adopted without changes to the proposed text as published in the October 17, 2025, issue of the *Texas Register* (50 TexReg 6865) and will not be republished.

The amendment removes the exception to commercial driver license holder English language proficiency requirements applicable to intrastate commerce only, so that English language proficiency requirements for commercial driver license holders under 49 C.F.R. §391.11(b)(2) will apply to both interstate and intrastate commerce.

The Texas Department of Public Safety, in accordance with Texas Transportation Code, Chapter 644, held a public hearing on Thursday, October 30, 2025, at 10:00 a.m. The purpose of the hearing was to receive comments from all interested persons regarding the adoption of proposed amendments to §4.12, concerning Exemptions and Exceptions. No comments were received at the public hearing nor were any other written comments submitted regarding the adoption of this rule.

This rule is adopted pursuant to Texas Transportation Code, §644.051, which authorizes the director to adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial motor vehicles; and authorizes the director to adopt all or part of the federal safety regulations by reference.

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 November 21, 2025.

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D. Phillip Adkins
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For further information, please call: (512) 424-5848

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